



# CITY OF RANCHO CUCAMONGA

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August 1, 2022

Agenda Item 5a, Attachment 3c  
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Board of Directors  
California Public Employees' Retirement System  
C/O Andrew White, Regulation Coordinator  
PO Box 942720  
Sacramento, CA 94229-2720

TRANSMITTED VIA EMAIL

Re: CalPERS Proposed New Retired Annuitant Regulation

Dear Members of the Board:

Thank you for the opportunity to provide comment on your proposed adoption of Section 574.1, "Definition of Limited Duration Employment," of Article 4 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations ("CCR"). This proposed section of the CCR seeks to clarify the meaning of the term "limited duration" regarding retired persons serving after retirement, as well as other limits to temporary assignments for active employees.

With regard to the hiring of retirees, we oppose the proposed CCR. Though a clear definition of "limited duration" is beneficial in concept, this definition is highly problematic, and would exacerbate the challenges employers are already facing in providing services to the public. The proposed restrictions are not simply limited to time limits; if they were, we would be more likely to welcome a new regulation that provides clarity. A four-year limitation (instead of the proposed two years), for example, would be a reasonable time limit and we would encourage the CalPERS Board of Directors ("Board") to consider such a limit.

However, the new regulation changes the definition of "limited duration" and imposes NEW parameters on the hiring of retirees that extend beyond the time permitted to serve. These NEW restrictions including the following in the definition of "limited duration":

- A position involving work that is substantially different from work that the retired person performed after retirement in another position for the same CalPERS-covered employer; or
- A position with a different CalPERS-covered employer from any previous CalPERS-covered employer the retired person performed work for after retirement.

To the first point found in Section 574.1 (a) (1), it is highly unlikely that a public agency would engage one of its retirees to do work that is substantially different from the work that employee did before retirement or did for another agency in retirement; to do so would defy logic. The most common scenario is that the employer calls back a retiree precisely because they did that same work previously and has that expertise. If we need an accountant to fill in, we will call one of our retired accountants; we would not seek out a retired building inspector. This part of the regulation quite simply makes no sense.

To the second point in that same subsection, this would seem to limit retirees from working assignments for previous employers. While retirees occasionally engage in work for different employers other than

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their own previous agency, very typically they will come back to fill in or augment staff at their previous employer. As employers, we are not familiar with the skills and abilities of retirees from other agencies; how would an agency even go about hiring someone else's retirees to help? We cannot imagine that the Board is encouraging agencies to run open recruitments for retirees from other agencies, which could very well be the outcome of the proposed regulation. Again, while well-intentioned, this provision makes little sense in addressing the issue at hand.

The ability to hire back our own agency's retirees provides an important resource to support our City services and current staff in special situations. For example, our city is about to begin a year-long replacement of our financial software system with a completely new system. As our current Finance, Human Resources, and IT staff works on the development and implementation of the new system, we will need people familiar with our current software and work processes to fill in on a temporary basis to keep the business of the City moving forward. Our best resource in this situation would be to tap our retirees from these departments, who can come to fill in with little training or loss of productivity. 3

Stepping back from the details of the proposed regulation, we are also very concerned about any additional limits on the ability of public agencies to hire retirees in light of the unprecedented labor shortage that all employers are facing in California. To examine this issue and provide data to the Board, the City engaged the University of Riverside's ("UCR") School of Business, Center for Economic Forecasting and Development to prepare the attached white paper on the status and drivers of the current labor shortage (Enclosure). As the paper indicates, there are a number of demographic shifts driving this issue that will take many years to address (job openings in the public sector have doubled over the last decade). More importantly, the paper cites several recommendations policy makers can proactively work on that focuses on changing circumstances of the economy. This includes providing governments the maximum flexibility to address employment gaps by relaxing requirements and staffing rules. The important work of our public agencies requires skilled and available employees. Our CalPERS retirees are an invaluable resource to help us bridge this workforce gap in the near term. Any regulation to further limit the availability of retiree assistance will greatly impact the public that we serve.

As you consider these demographic shifts and the reality of the labor shortage, would ask the Board to consider new and creative ways to expand our ability to hire retirees. For example, the Board could require employers to pay the employer contribution rate on the hours worked by a retiree; the retiree could contribute the employee share. There might even be some sort of additional 5-10% payment by the employer per hour paid to CalPERS for each cycle of 960 hours worked. A contribution and payment system like this would allow for flexibility to hire retirees, while providing revenue into the pension system; an additional 5-10% payment would incentivize employers to limit the use of retirees and seek to hire active members whenever possible.

On a separate issue, we would note that reductions and slower recovery in government labor markets have broader equity implications as historically governments employ more women and workers of color, create pathways to middle class, offer better benefits and greater job security, and offer more full-time employment opportunities (U.C. Berkeley Labor Center). State and local governments have generally achieved greater workplace diversity than the private sector. In 2019, women made up approximately 60% of all public-sector workers and nearly 50% of Black women and 21% of Black men are employed in the primary industries of state and local government (Economic Policy Institute). Unnecessary strain on an already fragile workforce threatens to undermine hard fought racial and gender equity gains as lingering labor shortages jeopardize public services and compound government sector recovery.

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On behalf of the City of Rancho Cucamonga, I urge the Board to reject the proposed regulation, and direct its staff to engage with stakeholder public agencies to set reasonable time limits on retiree reemployment, without creating other limits that hinder our ability to serve our communities. 4

Sincerely,



L. Dennis Michael  
Mayor

Enclosure: UCR School of Business, Center for Economic Forecasting and Development White Paper

cc: Rancho Cucamonga City Council  
Jason Gonsalves, Gonsalves and Sons  
League of California Cities, [cityletters@cacities.org](mailto:cityletters@cacities.org)  
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Link to Report (Enclosure):

[https://ucreconomicforecast.org/wp-content/uploads/2022/08/UCR\\_WP\\_Big\\_Shortage\\_Worker\\_Scarcity\\_July22.pdf](https://ucreconomicforecast.org/wp-content/uploads/2022/08/UCR_WP_Big_Shortage_Worker_Scarcity_July22.pdf)

**From:** [Darin McCandless](#)  
**To:** [Regulation Coordinator](#)  
**Cc:** [Jay Varney](#)  
**Subject:** Comments regarding time limitations on use of retired annuitants  
**Date:** Monday, August 1, 2022 10:16:22 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

**[External Email Caution]**

Comments to the proposed regulations defining “limited duration” as it relates to CalPERS retirees serving after retirement (Retired Annuitants):

1. The proposed regulations seek to define “limited duration” as stated in relevant Gov. Code Sections and Regulations, however it simply imposes a one-size fits all cap without consideration of the fact that needs, and circumstances vary among member agencies. 1
2. The Initial Statement of Reasons identifies “variance in the duration of working-after-retirement appointments” as a problem the proposed regulation intends to address. To the contrary, variance across jurisdictions is emblematic of the exact reason why flexibility is necessary when utilizing Retired Annuitants. Namely, needs and ability to recruit qualified applicants, particularly at the executive level, also varies significantly throughout member agencies. 2
3. A cap on use of Retirees severely limits public safety departments’ ability to reach out to experienced retirees for much needed seasonal or emergency help. Many of these retirees retire relatively young and could be a useful resource to agencies well beyond 4 years. 3
4. The proposed regulatory action defines “limited duration” among other things as: “an appointment that involves *work that is substantially different* from work that the retired person performs after retirement in another position for the same CalPERS-covered employer...” the inference is that an agency could circumvent the 4-year limitation by bringing back a retired annuitant for a subsequent 4 years at a different position as long as the work involved was “substantially different” than the prior position. This begs the question, what defines “substantially different?” The proposed regulation seems ripe for abuse by having retirees continue to do the same work in a different position under the guise of “other duties as assigned.” 4



**Darin McCandless** | Deputy CAO

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**VIA EMAIL ONLY TO: [REGULATION\\_COORDINATOR@CALPERS.CA.GOV](mailto:REGULATION_COORDINATOR@CALPERS.CA.GOV)**

Andrew White, Regulation Coordinator  
California Public Employees' Retirement System  
P.O. Box 942720  
Sacramento, CA 94229-2720

Re: Comments to Proposed Regulation Defining "Limited Duration"

Dear :

I am a partner with Best, Best & Krieger, a law firm with eight offices throughout California representing over 700 clients consisting of public agencies and school employers who contract with CalPERS to provide pension benefits to employees. My team and I currently represent many of these employers in matters concerning the Public Employees' Retirement Law ("PERL").

This correspondence is being sent on behalf of these clients in response to CalPERS' request for public comment regarding the proposed regulation defining "limited duration" for the purposes of retired annuitant ("RA") appointments under California Government ("Gov.") Code<sup>1</sup> §§21224 and 7522.56, as well as temporary upgrade pay ("TUP") appointments under 2 California Code of Regulations ("CCR") §571. We appreciate the opportunity to provide additional analysis and an external perspective.

After careful deliberation, we conclude that the proposed regulation (**Exhibit A**), will place new adverse limitations on contracting employers beyond just the 24-month limitation, restricting appointments that are currently compliant and last less than 24 months. In addition, the proposed regulation incorporates several implied administrative burdens that complicate RA appointments, which is unnecessarily burdensome on employers.

CalPERS can achieve the same outcome as what's being proposed by simply defining a time-limit of "limited duration," and any related extension request process, without further curtailing the definition of "appointment," requiring a duty statement and additional action by an

<sup>1</sup> Undesignated statutory references are to the California Government Code, unless otherwise noted.



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employer’s governing entity, or the unnecessary implied administrative work that accompanies the proposed regulation. This is consistent with CalPERS’ required consideration of alternatives that are “as effective as, and less burdensome to affected private persons than the proposed action” and “more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law” under Gov. Code Section 11346(a)(13).

“Limited duration” only applies to RA appointments which require “specialized skills needed in performing work of limited duration” (“skill appointments”) under Gov. Code §§21224 and 7522.56. As such, the following discussion will take place solely within that context.

Implied Lifetime Post-Retirement Employment Limitation

1

The most apparent and drastic implication stems from subsection (a)(1) of the proposed regulation, defining a skill appointment and the inferences made when applying other limitations added throughout the regulation.

Under the proposal, a skill appointment would be defined as follows:

“a position involving work that is **substantially different** from work that the retired person performed after retirement in another position for the same CalPERS-covered employer, or a position for a different CalPERS-covered employer the retired person performed work for after retirement”(emphasis added).

The proposed regulation then imposes a “twenty-four **consecutive** month limit”<sup>2</sup> for that appointment, which may be extended a number of times “up to twelve **consecutive** months per extension,”<sup>3</sup> where “the first day following the end of the initial limit of twenty-four consecutive months or the first extension limit of twelve consecutive months **initiates time counted towards the limit** of twelve consecutive months for the first or second extension, as applicable”<sup>4</sup> and a retiree “who has served in an appointment for twenty-four consecutive months **must not continue to serve in that appointment until the appointment is extended in accordance with this subdivision**”<sup>5</sup> (emphasis added).

As discussed in more detail below, the combination of these requirements together has the consequence of enacting new limitations on post-retirement employment. Again, these appointments are in the context of those requiring *specialized skills*. In our experience, it’s more common for civil service employees to perform post-retirement work that corresponds to the

<sup>2</sup> Proposed California Code of Regulations (“Proposed CCR”) section 574.1(a)(2)

<sup>3</sup> Proposed CCR section 574.1(a)(4)

<sup>4</sup> Proposed CCR section 574.1(a)(5)

<sup>5</sup> Proposed CCR section 574.1(a)(9)





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experience they gained during their career, and perform that work for public agencies that are located close to where they live, especially employers they worked for during their career. It's also uncommon for a retiree to gamer skills that are so broad in application that they apply to multiple types of work that are "substantially different" or are portable enough to be needed by multiple agencies within their geographic area.

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From the perspective of a retiree, the proposed regulation is unnecessarily punitive for those that want to utilize their skills to assist a single employer across multiple appointments during their retirement in a way that *already complies with the PERL*, i.e. an appointment under 960 hours per fiscal year for an agency that requires their specialized skills, and is otherwise compliant. While the CalPERS staff report on the proposed action (**Exhibit B**) did not include a discussion of the difference between vacancy RA appointments, emergency RA appointments or skill appointments, the report identified that more than half of all RA appointments already last less than 24-months, with three quarters being less than 48-months, so the overall limitation to length is not at issue here.

The implied constraint in the proposed language has to do with the requirement that further post-retirement employment with the same employer must be for "substantially different" work, which is not currently a requirement. It's reasonable to assume that, at a minimum, this limits retirees to using a specific skill set for an employer once, when connected to the rest of the regulation. Specifically, that a retiree would only be able to work a single skill appointment as a consecutive period, and any subsequent appointment must be at a different employer or for "substantially different" work. Unless future work is "substantially different," this has the result of prohibiting retirees from performing their specialized work in a skill appointment no more than once for a single employer, for the entirety of their retirement.

At this point, it should be noted that much of the intent behind CalPERS' guidelines for retired annuitants stems from the reasonable prevention of retirees "double-dipping" or receiving a pension benefit, and full-time salary or work a schedule that would normally qualify them for CalPERS membership. However, the legislative scheme behind the retired annuitant statutes have generally been broadened over their history, from beginning with Governor appointees in 1955, to a wider application and 30 working days in 1957, then 60 working days in 1969, then 90 working days in 1979, finally culminating in the current threshold of 960 hours in 1989.

In fact, the last time the statute was substantially changed was to increase the working hours in a single fiscal year from 720 to 960 under AB 1937 and AB 2363 in 1989. While AB 1937 focused on only increasing the hours from 720 to 960, AB 2363 sought to increase the hours by the same amount, implement ongoing post-retirement employment education for retirees and modifying the partial retirement program. The author of AB 1937 opined that "existing post retirement employment limitations are too restrictive" (**Exhibit C**).

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As shown on the initial Bill Analysis, CalPERS' staff position was to oppose AB1937. Staff's reasoning was that the threshold increase could entail "possible abuse of post-retirement employment" because the "intent was to allow the employment of trained employees in times of emergency or on special one-time assignments" and was not "to use retirees in place of regular workers." Those comments appear to refer to multiple one-time assignments from the perspective of how an employer uses retirees, with no mention of restricting individual retirees to a single appointment at a single employer for similar work.

The addition of "substantially different" work doesn't provide a disincentive, from an employer's perspective, largely because if it makes practical sense for an employer to use a retiree with special skills for a limited duration appointment, decreasing the pool of available retirees doesn't mean an employer will immediately turn to regular workers. It does, however, mean that individual retirees can't use their specialized skills as much as the current law allows. Moreover, CalPERS' staff report for the proposed regulation implies that retirees were not used for long periods of time in place of regular workers. Again, CalPERS recognizes that most RA appointment last less than 24-months, with the three-quarters lasting less than 48-months.

Ultimately, the CalPERS Board supported AB 2363, including the increase of hours, and adopted a neutral position on AB 1937 (**Exhibit D**). As we now know, both bills were chaptered and RAs were allowed to work up to 960 hours in a single fiscal year. But again, part of the stated legislative intent of the last major change to the statute was to increase the hours because existing limitations were perceived as too restrictive. To go back and restrict the types of appointments, that would otherwise be compliant, is not consistent with past legislative intent.

It is also understood that this issue intersects with the importance of CalPERS' designation as a qualified plan under Section 401(a) of the Internal Revenue Code. However, the proposed regulation only imposes new *limitations*. It stands to reason that if the plan is currently in qualified status in regard to post-retirement employment, then it would continue to be with or without the proposed regulation including the requirement for appointments at the same employer to be for "substantially different" work.

That being said, the type of work that seems the least affected here would be executive or C-suite work that is portable enough to be applicable to many different employers. However, from experience, we have seen that skill appointments are also commonly utilized for specialized work performed by rank and file positions such as investigators, technicians, engineers, analysts, and work that is generally only applicable to public services.

Those retirees without specialized executive experience will see the largest decrease in post-retirement employment options from what is already compliant. While skill appointments are not intended to be a consistent long-term solution for individuals supplementing their

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retirement income, there are many who do perform limited duration work from time-to-time throughout their retirement. At a time when more and more public servants have limited options, and for whom economic pressures due to inflation pose a constant threat, the proposed regulation stands to punish those employees, beyond simply limiting a single skill appointment to 24 or 48 consecutive months.

1 cont

As a common example, this creates new limitations on executive skill appointments. Take the following hypothetical situation for instance, which is similar to situations we have seen in the past: a previous city manager is retained in a skill appointment a few months after retiring to help bring the newly hired city manager up to speed, because of the institutional knowledge that they possess, which would otherwise be lost to the city (assuming all other criteria are met, such as the 180-day wait period waiver, etc.). The appointment lasts 6 months. Two years after that, the City encounters a significant problem with a contract that took place while the first city manager was employed. Despite the original city manager having specialized skills and knowledge to help the city for a limited duration, they would be unable to work under a skill appointment subjected to the proposed regulation, because the work would not be “substantially different.” As written and because this would be a separate appointment, they could not do so *even if they worked under CalPERS’ presupposed common exception of less than 120 hours per fiscal year.*

There are also many questions that come to mind, borne from actual situations we commonly see. Concerning the second skill appointment, could it be allowed if the city requested, and CalPERS approved, extensions for the original appointment for the 2-year period in between when the work was needed, and would that be approved by CalPERS? What if the second skill appointment was needed 4 years after the initial skill appointment? Is the “substantially different” requirement reset if a member reinstates from retirement and retires again?

It is also unclear if the second appointment would be “substantially different” from the first, if partially encompassed by the initial appointment. For example, the same city manager being appointed to a second skill appointment, but one that aligned with the human resources director position, because of their specialized skill and knowledge as it pertains to negotiations for the city. That work is technically encompassed as part of their initial city manager skill appointment and would not appear to be “substantially different.”

In all of the examples above, retirees are *currently able to perform that work for appointments lasting less than 24 or 48 months*, as long as the appointment is otherwise in compliance. While clarification on the *time-limit* for “limited duration” would be helpful for employers and retirees alike, the curtailment of similar skill appointments at a single employer seemingly contradicts the intent behind the sequence of legislative amendments and increases the statutes complexity.

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Imposition of Additional Administrative Burdens and Complexity

Another additional requirement imposed by the proposed regulation is, because nearly half of all skill appointments exceed 24 months, all skill appointments beyond that point require a formal duty statement. Under the proposed section 574.1(a)(4)(A), a contracting agency’s governing body must now take action to approve a resolution in a public meeting in order to extend a skill appointment past 24-months. That resolution would need to include a reason why the work cannot be performed “satisfactorily by non-retired employees.”

2

Relevant here, is that section 574.1(a)(6) only requires employers to retain these approvals, and makes no mention of whether CalPERS would review such approvals. Meaning that, after a skill appointment has been completed, an agency’s explanation of why non-retirees are unable to perform the work “satisfactorily” could result in a compliance violation and bring the full consequences of Gov. Code Section 21220, such as reinstatement, on the retiree. Since a definition of “satisfactorily” in this context is not provided, it is unclear what qualifies in this regard. This adds unnecessary complexity and risk to the law, and further constrains what is already allowed under the statute.

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Not only is the additional public approval cumbersome for governing bodies, but the timeline governing the need for specialized work is not always accommodating, and this unnecessary step may not only delay the appointment itself, but could prevent the work from being done.<sup>6</sup> Completing specialized work timely or within a specific timeframe is a common impetus for skill appointments in the first place, and a governing body may not be able to have a public meeting with 1 or 2 months of knowing that the specialized work will need to continue.

4

Further, section 574.1(a)(6) is unclear concerning whether a duty statement would now be required for all skill appointments or only for those requiring extensions past the initial 24 months. In both circumstances, though, requiring a formal duty statement for all skill appointments is another added constraint from what is currently allowed under the statute. It is unreasonable to require agencies to approve a formal duty statement for all limited duration skill appointments when the intent of the appointment focuses on a specialized skill and not a position. In fact, CalPERS has regularly informed its contracting employers that extra help appointments cannot be to any regular position of the employer. Thus, this requirement runs in direct conflict with the intent of the statute. The context of Gov. Code Sections 21224 and 7522.56 is that the work would not be on a full-time basis and does not require performing all duties of a given position.

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In fact, the compensation limitation for skill appointments is based on a comparison to “other employees performing comparable duties.” If the intent was to limit skill appointments to

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<sup>6</sup> See section 574.1(a)(5) concerning time counted towards extensions





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formal classifications with duty statements, it is reasonable to assume that the statute would have specified that requirement. But, the language and context of the statute implies that *there will be* situations where the work performed during a skill appointment would not directly correspond to a formal position or classification’s duties, and in those situations, the compensation is still limited to what is received by employees performing *comparable* work, not identical work.

6 cont

Moreover, the duty statement requirement further limits the type of currently compliant work that can be performed under a skill appointment. This is because skill appointments sometimes encompass or incorporate duties of multiple positions or current duty statements within the retired annuitants assigned work, because of their specialized skill.

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In some cases, and to avoid running afoul of CalPERS’ retired annuitant rules, some project-based work intended to be completed by an independent contractor is done by a retired annuitant in a compliant skill appointment. This project-based work is unlikely to correspond to a formal duty statement. A plain reading of the language implies that the usage refers to a formal duty statement, but if the intent is not to reference a formal duty statement, but just an explanation of duties performed during the skill appointment, the regulation should then clarify that point and define the term “duty statement.”

These additional administrative actions for skill appointments will be a drain on public resources as public agencies need to spend additional time not only completing the tasks, but interpreting the complexity within the proposed language.

Temporary Upgrade Pay

Again, the intent to provide an explanation for the use of “limited duration” in the definition of TUP is going to be helpful for both contracting agencies and members. However, the proposed language here also injects unnecessary complexity and excludes TUP work that is already compliant and limited to 24 months.

8a

The definition of an “appointment” here is also unclear and implies additional restrictions to when this compensation can be compliant. It appears that the language only includes compensation received for an employee’s appointment to a higher position or classification *when that upgraded position or classification was immediately subsequent to a permanent appointment held by another individual.*

Currently, TUP appointments less than 24 months can include situations where an employee is appointed to an upgraded position or classification that was vacated for some time due to budgetary concerns, illness, unforeseen separation, or difficulties in recruiting for that position. Compensation for those appointments would not be compliant under the proposed





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regulation, since the appointment was not “immediately subsequent to a permanent appointment.” Here, as above, the unnecessary definition can be removed and achieve the same result, i.e. limit appointments to 24 months and remove subsection (b)(1). 8a cont

While rare, classic members with 3-year final compensation periods do hold TUP appointments for more than 24 months due to unexpected events. Important to note here, is that special compensation earned solely within an member’s final compensation period is not compliant and excluded from calculations.<sup>7</sup> Because of this intersection, there are situations where compensation for those TUP appointments would not be compliant under the proposed language for members who have not received TUP before in their career, and end up receiving compensation for a TUP appointment of less than 24 months which happens to fall entirely within their 36-month final compensation period. The proposed regulation does state that time spent working in current TUP appointments will not count towards the 24-month limit, if the proposed language is adopted. However, this language is clarifying in nature and, if applied retroactively, would make these situations noncompliant and result in adverse benefit adjustments to impacted members. 8b

In our experience, most TUP appointments are completed within 24-months, which is a reasonable time-frame. But, we wanted to bring this implication to the Board’s attention so that the proposed language is revised to ensure it is not applied retroactively. Alternatively, the time limitation could be increased to 48 months, instead of 24 months, which is also consistent with the emphasis on 48 months as it relates to skill appointments. 8c

Conclusion

While we are familiar with the subject matter, the proposed regulation was not easily understood and its application not immediately clear. The proposed regulation is unnecessarily complicated. It is unlikely that contracting agencies will be able to decipher what constitutes a compliant skill appointment under the proposed regulation in their normal course of work without committing additional resources each time a retiree is appointed. 9

For the reasons above, we submit that the proposed regulation does not provide a clear definition of “limited duration,” is overly complex, and further limits appointments which are already compliant and within the proposed time limit. As such, we urge the CalPERS Board of Administration to not approve the proposed regulation *in its current form*.

Ultimately, much of the expected confusion and negative impacts to retirees could be avoided by removing the requirement for subsequent skill appointments at the same employer being for “substantially different” work, removing the requirement for duty statements, and simply

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<sup>7</sup> See 2 CCR 571(b)(7).  
 [REDACTED]



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limiting the proposed regulation to clarifying that a skill appointment is 24 months, with 12-month extensions up to 48 months that need to be documented by the agency, rather than certified in a public meeting with additional explanations. Appointments lasting longer than 48 months could then follow the process in proposed section 574.1(a)(7), where there are specific exceptions and CalPERS approves additional appointment extensions. This is “equally as effective in implementing the statutory policy” by defining “limited duration” and is “more cost-effective” and “less burdensome to affected private persons than the proposed action.”

9 cont

Please contact the undersigned should you need further information.

Sincerely,



of BEST BEST & KRIEGER LLP

- cc: Henry Jones, CalPERS Board President (via e-mail only)
- Marcie Frost, CEO, CalPERS (via e-mail only)
- Matthew G. Jacobs, General Counsel, CalPERS (via e-mail only)
- Brad Pacheco, DEO, Communications and Stakeholder Relations, CalPERS (via e-mail only)



Link to Proposed Regulation (Exhibit A):

[https://www.calpers.ca.gov/docs/board-agendas/202204/pension/item-6a-attach\\_a.pdf](https://www.calpers.ca.gov/docs/board-agendas/202204/pension/item-6a-attach_a.pdf)

Link to CalPERS Pension & Health Benefits Committee Agenda Item 6a, April 2022  
(Exhibit B):

[https://www.calpers.ca.gov/docs/board-agendas/202204/pension/item-6a\\_a.pdf](https://www.calpers.ca.gov/docs/board-agendas/202204/pension/item-6a_a.pdf)

PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
1989-90 REGULAR SESSION  
BILL ANALYSIS

AB 1937 (Leslie)  
Original

PERS POSITION: OPPOSE  
(Staff Position  
Only)

SUMMARY

The bill amends Section 21153 regarding post retirement employment to provide that a retiree can work for a PERS employer without reinstatement up to 120 working days or 960 hours in a calendar year.

BACKGROUND

The author believes existing post retirement employment limitations are too restrictive. Section 21153 presently provides a retiree may work without reinstatement up to 90 working days or 720 hours in a calendar year.

PERS is opposed to this bill because we are concerned about possible abuse of post-retirement employment. The intent was to allow the employment of trained employees in times of emergency or on special one-time assignments. It was not the intent to use retirees in place of regular workers.

Section 20336 (d) provides in pertinent part that a person will be excluded from membership unless they work more than 125 days if employed on a per diem basis or, if employed on other than a per diem basis, 1,000 hours within the fiscal year. The 1989 calendar year will have 247 work days or 1,976 working hours. This bill comes very close to employment that would, in terms of time worked, be subject to membership.

FISCAL IMPACT ON STATE BUDGET

Unknown. Two retirees occupying the same position consecutively would almost fill one position, a position in which the retiree receives his or her retirement allowance plus a salary which is not subject to retirement contributions and the employer makes no retirement contributions.





**Legislative Office**  
P.O. Box 942705  
Sacramento, CA 94229-2705  
(916) 326-3689

May 8, 1989

MAY 8 1989

Honorable Tim Leslie  
California State Assembly  
State Capitol, Room 4226  
Sacramento, CA 95814

Dear Assemblyman Leslie:

Re: AB 1937

At its April 19, 1989 meeting the PERS Board of Administration adopted a neutral position on your Assembly Bill 1937.

Staff is available to work with you and your staff.

Sincerely,



Barry Hacker  
Chief, Legislative Services

BH:RC:mg

Attachment

LEGISLATIVE INTENT SERVICE (800) 666-1917



AB 2363 (Tucker)  
Analyzed: 8/3/89

**ASSEMBLY COMMITTEE ON PUBLIC EMPLOYEES,  
RETIREMENT, AND SOCIAL SECURITY  
REPUBLICAN ANALYSIS**

AB 2363 (Tucker) -- PARTIAL RETIREMENT

Version: 7/5/89

Lead: Chuck Quackenbush

Recommendation: Support

Vote: Majority.

Summary: Lowers the age of eligibility for "partial retirement" at PERS from 62 to 55; increases the maximum limit of full time employment permitted a retired member from 90 to 120 working days or 960 hours, rather than the current limit of 720 hours without disturbing the employee's retirement status; authorizes structured seminars for PERS members, for persons below the age of 45. Current law authorizes only unstructured counseling.  
Fiscal effect: Unknown.

Supported by: CSEA, PERS Opposed by: Unknown.  
Governor's position: Unknown.

Comments: Current law permits state-employed PERS members age 62 and eligible to retire, to apply for partial retirement while reducing paid worktime. This bill would permit a PERS First Tier member aged 50 or a Second Tier member aged 55, with 20 years service, generally to participate in the partial retirement plan. In the absence of opposition from the administration, seems no reason to oppose.

Assembly Republican Committee vote

PER&SS -- 5/2/89

( ) Ayes:  
Noes:  
Abs.:  
N.V.:

Ways & Means -- 6/14/89

(21-0) Ayes: All Other Republicans  
Abs.: Seastrand

Consultant: Jim Bald



# California POLICE CHIEFS Association Inc.

P.O. Box 255745 Sacramento, California 95865-5745 Telephone (916) 804-3527 FAX (916) 481-8008  
Email: [cpca@californiapolicechiefs.org](mailto:cpca@californiapolicechiefs.org) • Website: [californiapolicechiefs.org](http://californiapolicechiefs.org)

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Madera  
Associate Member  
STEVEN SHAW, Deputy Chief  
Desert Hot Springs

August 18, 2022

Mr. Andrew White, Regulation Coordinator  
California Public Employees' Retirement System (CalPERS)  
P.O. Box 942720  
Sacramento, CA 94229-2720

Sent Via Email: [Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)

**RE: Comments on Proposed Rulemaking - Office of Administrative Law  
File Number Z-2022-0607-10; Section 574.1, "Definition of Limited  
Duration Employment," of Article 4 of Subchapter 1 of Chapter 2 of  
Division 1 of Title 2 of the California Code of Regulations**

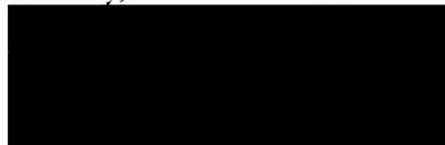
Dear Mr. White:

The California Police Chiefs Association shares many of the concerns recently shared by the League of California Cities with regards to the above referenced rulemaking, which seeks to define "limited duration" employment as used in Government Code sections 7522.56, 21224, and 21229. Our agencies are struggling to hire officers, leaving many agencies critically understaffed. The use of retired annuitants is critical to the basic functioning of many agencies.

1. **Proposed section 547.1(a)(7) should be amended to clarify the process by which the CalPERS Board will grant an exemption.** 1
2. **Proposed subdivisions (a)(3), (a)(4), (a)(5), and (a)(7) should be amended to allow appointment extensions and exemptions to be requested after the initial twenty-four consecutive month limited duration period, or any applicable extension, has expired.** 2
3. **Proposed section 574.1(a)(3) should be amended to allow local agencies to place appointment extensions on their consent calendar.** 3

The California Police Chiefs Association appreciates the opportunity to provide comments on this proposed rulemaking action.

Sincerely,



Christopher R. Catren  
President



# City Council

2100 Thousand Oaks Boulevard • Thousand Oaks, CA 91362  
 Phone 805/449.2121 • Fax 805/449.2125 • [www.toaks.org](http://www.toaks.org)

Bob Engler  
 Mayor

August 1, 2022

Andrew White, Regulation Coordinator  
 California Public Employees' Retirement System  
 P.O. Box 942720  
 Sacramento, CA 94229-2720  
 Via Email - [Regulation.Coordinator@calpers.ca.gov](mailto:Regulation.Coordinator@calpers.ca.gov)

**RE: SECTION 574.1, "DEFINITION OF LIMITED DURATION EMPLOYMENT," OF ARTICLE 4 OF SUBCHAPTER 1 OF CHAPTER 2 OF DIVISION 1 OF TITLE 2 OF THE CALIFORNIA CODE OF REGULATIONS (CCR)- AKA LIMITED DURATION EMPLOYMENT**

- **NOTICE OF OPPOSITION TO REGULATION CHANGE**
- **REQUEST FOR A PUBLIC HEARING**

Dear Mr. White:

The City of Thousand Oaks is in opposition of the proposed regulations regarding the limited duration of employment for CalPERS retirees. Retirees have been working for decades under the current regulation of 960 hours per fiscal year, which has been a tremendous benefit to public agencies. The proposed regulation provides limits to an agency's ability to use a retiree's expertise beyond four years. 1

Why is a retiree's expertise obsolete after four years? Is there an intent to penalize those who have dedicated their education and careers to public service? The proposed regulation will require agencies at the end of either two, three, or four years to separate a retiree. Because many have spent their entire careers in public sector, they will find it difficult to gain employment in private sector at the level that meets their experience and educational background, since private sector experience is usually desirable. Therefore, forcing public sector retirees who desire to work outside of public sector does not make sense and does not enhance economic and workforce development.

A retiree who returns to an agency they have previously worked provides a benefit to the organization as they have institutional knowledge that consultants don't possess; working in public sector is much different than private sector.

Most areas of public service are having difficulty finding qualified professionals to fill current openings and/or complete projects without significant training (Human Resources, Legal, Finance, Engineering, Planning, Water, Wastewater and Law Enforcement). Recruitments have become increasingly challenging and taking much longer to fill vacancies. One of the difficulties is enticing the younger generation to work in public service.

The other struggle is employees want more of a work/life balance and are not interested in the demands of higher-level positions.

Retirees have filled these gaps with their specialized skills and assisted agencies with facilitating the development of current leadership. Without the continued support of retirees, agencies run the risk of not providing necessary and continued services to our communities.

It is unclear why it is necessary to further limit beyond 960 hours per year a retiree's ability to work for a public agency. While there is no argument that there should be a limit on a retiree working in a vacant position without justification after a certain period, it does not make sense for projects where specialized skills are necessary. If an agency is forced to utilize consultants, we run the risk of hiring less qualified individuals who do not possess public sector experience. Furthermore, the cost of consultants is usually double that of directly hiring a retiree for pay commensurate with current agency staff. As such, we will be paying more for lower quality of work. If CalPERS' objective is to reduce what the taxpayers are paying for services, they are, in fact increasing taxpayer costs if we must hire more consultants.

2

The current pandemic is an example of having the ability to hire retirees is beneficial. We are now nearly two and one-half years into the State of Emergency with COVID-19 with no known end to the current situation. If an agency had a retiree assisting during this entire period under the proposed regulations, all the agencies using retirees would have to jump through administrative procedures to retain these individuals beyond two, and quickly emerging to year three – a further burden to them. Once the extensions are over, an agency has no options. This is a highly undesirable place to put agencies who have a sole purpose to serve their communities at the highest level.

3

The City supports all bargaining groups and is in no way seeking to hire retirees to subvert work from our represented work force. Instead, we seek to be able to supplement where and when needed as we have been able to do for decades. While the proposed regulations indicate that agencies can seek permanent exemptions for 120 hours per year, this is a significantly low number of hours to meet the demands of many projects and will provide a nominal benefit. Furthermore, putting a cap on the number of years a retiree can work does not make sense.

4

The City of Thousand Oaks opposes the proposed regulations regarding the definition of limited duration for retirees. It does not benefit agencies in any way, it will increase costs to taxpayers by forcing us to hire expensive consultants and will not enhance workforce development. In closing, we are requesting consideration to retain the current definition of 960 hours per fiscal year or modifying the current proposed regulation. We do not oppose a limitation for active employees working in temporary upgraded positions. We feel this issue warrants a public hearing by CalPERS Board of Directors.

Sincerely,



Bob Engler  
Mayor

cc: Assemblymember Jacqui Irwin  
Senator Henry Stern  
David Mullinax- Regional Public Affairs Manager, [dmullinax@calcities.org](mailto:dmullinax@calcities.org)  
League of California Cities, [cityletters@calcities.org](mailto:cityletters@calcities.org)  
Joe A. Gonsalves and Son

August 1, 2022

Andrew White  
Regulation Coordinator  
California Public Employees' Retirement System  
[Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)

Re: Proposed Regulations – Limited Duration Employment

Dear Mr. White:

I am writing on behalf of the City of San Buenaventura in opposition of the proposed regulations regarding the limited duration of employment for CalPERS retirees. 1

Retirees have been working for decades under the current regulation of 960 hours per fiscal year, which has been a tremendous benefit to public agencies. The proposed regulation provides limits to an agency's ability to use a retiree's expertise beyond four years.

Why is a retiree's expertise obsolete after four years? Is there an intent to penalize those who have dedicated their education and careers to public service? The proposed regulation will require agencies at the end of either two, three, or four years to separate a retiree. Many CalPERS retirees have spent their entire careers in public sector and to try and replace that experience with private sector would cause a huge impact on the ability to continue services in time of transitions. Therefore, forcing public sector retirees outside of public sector does not enhance economic and workforce development.

A retiree who returns to an agency they have previously worked provides a benefit to the organization as they have institutional knowledge that consultants don't possess; working in public sector is much different than private sector.

Most areas of public service are having difficulty finding qualified professionals to fill current openings and/or complete projects without significant training (Human Resources, Legal, Finance, Engineering, Planning, Water, Wastewater and Law Enforcement). Recruitments have become increasingly challenging and taking much longer to fill vacancies. One of the difficulties is enticing the younger generation to work in public service. The other struggle is employees want more of a work/life balance and are not interested in the demands of higher-level positions. Retirees have filled these gaps with their specialized skills and assisted agencies with facilitating the development of current

leadership. Without the continued support of retirees, agencies run the risk of not providing necessary and continued services to our communities.

It is unclear why it is necessary to further limit beyond 960 hours per year a retiree's ability to work for a public agency. While there is no argument that there should be a limit on a retiree working in a vacant position without justification after a certain period, it does not make sense for projects where specialized skills are necessary. If an agency is forced to utilize consultants, we run the risk of hiring less qualified individuals who do not possess public sector experience. Furthermore, the cost of consultants is usually double that of directly hiring a retiree for pay commensurate with current agency staff. As such, we will be paying more for lower quality of work. If CalPERS' objective is to reduce what the taxpayers are paying for services, they are, in fact increasing taxpayer costs if we must hire more consultants.

2

The current pandemic is an example where having the ability to hire retirees is beneficial. We are now nearly two and one half years into the State of Emergency with COVID 19 with no known end to the current situation. If an agency had a retiree assisting during this entire period under the proposed regulations, all the agencies using retirees would have to jump through administrative procedures to retain these individuals beyond two, and quickly emerging to year three – a further burden to them. Once the extensions are over, an agency has no options. This is a highly undesirable place to put agencies who have a sole purpose to serve their communities at the highest level.

3

The City supports all bargaining groups and is in no way seeking to hire retirees to subvert work from our represented work force. Instead, we seek to be able to supplement where and when needed as we have been able to do for decades. While the proposed regulations indicate that agencies can seek permanent exemptions for 120 hours per year, this is a significantly low number of hours to meet the demands of many projects and will provide a nominal benefit. Furthermore, putting a cap on the number of years a retiree can work does not make sense.

4

In summary, the City of San Buenaventura opposes the proposed regulations regarding the definition of limited duration for retirees. It does not benefit agencies in any way, it will increase costs to taxpayers by forcing us to hire expensive consultants and will not enhance workforce development. In closing, we are requesting consideration to retain the current definition of 960 hours per fiscal year or modifying the current proposed regulation. We do not oppose a limitation for active employees working in temporary upgraded positions.

Sincerely,



*Alex D. McIntyre*  
Alex D. McIntyre  
City Manager

**From:** [Thomas R. Manniello](#)  
**To:** [Regulation Coordinator](#)  
**Subject:** Proposed Regulatory Action on Section 574.1  
**Date:** Tuesday, June 28, 2022 12:47:06 PM

**[External Email Caution]**

Dear Regulation Coordinator:

I am submitting this comment on the proposed regulation for adoption in Title 2, Section 574.1, "Definition of Limited Duration Employment."

My comment is limited to proposed subdivision (b) of section 574.1 which is intended to define "limited duration" for purposes of "special compensation" under paragraph (3) of subdivision (a) of section 571. My comment breaks down into two separate issues:

1. It is not clear how this proposed regulatory text would interact with Government Code section 20480 which limits out of class appointments in a limited term position to no more than 960 hours in a fiscal year. (See CalPERS Circular Letter 200-029-21 for specific details.) It seems that a full time employee temporarily working out of class in an upgraded position is already effectively limited to less than half a year in the upgraded position by the 960 hour limit under the Government Code. Adopting regulatory text that seems to allow employers to continue the "limited duration" for up to 24 months is likely to confuse employers and lead to accidental violations of the 960 hour limit if employers believe that 24 months is the applicable limit. Can CalPERS please provide an explanation of the intent behind this regulatory provision and how it is supposed to interact with the limits under Government Code section 20480? 1
2. The wording of paragraph (1) of subdivision (b) of section 574.1 is confusing. The proposed text states "... an appointment must be immediately subsequent to a permanent appointment held by an individual for the same upgraded position/classification." What this seems to be saying is that the 24 month limit will only apply when the "limited duration" appointment is the first appointment after a permanent employee held the position. 2

**Assume the following hypothetical example:** an employer has a classification of "Custodian" and a separate higher classification of "Lead Custodian." The permanent employee holding the Lead Custodian position resigns their employment effective July 1, 2022. The employer appoints one of the Custodians ("Steve") to work out of class for a limited term while the employer conducts a recruitment process for the Lead Custodian position. This first out of class appointment is from July 1, 2022 through September 15, 2022 in order to comply with the 960 hour limit under Gov. Code § 20480. The recruitment is not successful and the employer has to repost the recruitment notice and go through a second hiring/interview process. The employer then appoints a different Custodian ("Margarete") to work out of class for a limited term while the employer conducts the second recruitment process for the Lead Custodian position. This second out of class appointment is from September 16, 2002

through November 30, 2022.

2 cont

Under the proposed text of section 574.1(b)(1), Steve's temporary out of class appointment would meet the regulatory definition of "limited term" and Steve would be credited with the special compensation for his temporarily upgraded position under section 571(b)(3). This is because Steve's appointment was "immediately subsequent to a permanent appointment" in the same position. However, Margarete's temporary out of class appointment would NOT meet the regulatory definition of "limited term" because Margarete's appointment was immediately after Steve, and Steve was only temporarily filling the vacancy. Because Steve was not "permanent" as the Lead Custodian, Margarete will have worked the upgraded position for the same amount of time as Steve, but Margarete will not get credit for the special compensation under section 571 because her appointment does not meet the regulatory definition of "limited term" because it did not immediately follow a permanent appointment by another individual in the same position.

Employers often have to rotate out of class appointments for various reasons. The proposed regulatory text seems to create an anomalous result based solely upon the order in which the appointments to an out of class position are made. Can CalPERS please provide an explanation of the intent behind this regulatory provision and why the language of paragraph (1) of subdivision (b) is necessary?

Thank you for your consideration. Please provide me with copies of any changes or modifications to the proposed text of the regulation.

Thank you.

Tom



**Thomas R. Manniello | Attorney at Law**

4 Lower Ragsdale Dr., Ste. 200, Monterey, CA 93940

T: [831.646.1501](tel:831.646.1501) F: [831.646.1801](tel:831.646.1801)

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# CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

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(530) 822-7122

E-Mail: [djohnston@co.sutter.ca.us](mailto:djohnston@co.sutter.ca.us)  
CACEO website: [www.caceo58.org](http://www.caceo58.org)

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July 28, 2022

Mr. Andrew White, Regulation Coordinator  
California Public Employees' Retirement System (CalPERS)  
P.O. Box 942720  
Sacramento, CA 94229-2720

RE: Proposed adoption of section 574.1, "Definition of Limited Duration Employment," of Article 4 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR).

### ADVISORY COUNCIL:

- JOE HOLLAND  
Santa Barbara County
- REBECCA MARTINEZ  
Madera County
- CATHY DARLING ALLEN  
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- DEAN LOGAN  
Los Angeles County

Dear Mr. White:

On behalf of the California Association of Clerks and Elections Officials (CACEO) representing all 58 counties in the state, I would like to thank you for the opportunity to provide comments and feedback on this proposed rulemaking action, which seeks to define "limited duration" employment and provide clarity and uniformity for CalPERS-covered employers.

### ELECTED AREA CHAIRS:

- KATRINA BARTOLOMIE  
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This substantive and non-technical rulemaking action would substantially alter the longstanding requirement that a retired person may be temporarily employed for up to 960 hours in any given fiscal year without reinstatement by defining "limited duration" as a limit of 24 consecutive months per appointment of a retired person in the employ of a CalPERS-covered employer. This rulemaking action would have a significant impact on critical and difficult to fill positions within the elections workforce.

### LEGISLATIVE COMMITTEES

\*\*voting member

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Sacramento County

These new regulations come at a time of significant labor disruption and difficulty hiring election workers. Some counties regularly utilize retired persons to augment staffing levels during the election "season". Recently hiring adequate staffing has been especially difficult due to the pandemic and general climate surrounding elections as a whole.

While some of the positions can be and are filled by temporary employees, some of the work must be performed by experienced employees and retired annuitants are particularly well suited to the task. Even if a county extends the appointment of a retired person for the full 48 months currently allowed by the regulations, that amounts to only two election cycles.

Due to these difficulties, and due to the fundamental importance of secure, professionally managed elections to our democratic form of government, we request that the regulations exempt from its application all appointments to perform work related to elections, including but not limited to planning and preparation, candidate services, signature verification, ballot distribution,

July 28, 2022

polling places/vote centers, ballot counting, training, and all other activities related to the conduct of elections.

Again, CACEO appreciates the opportunity to provide comments on this proposed rulemaking action. Please do not hesitate to contact me at [djohnston@co.sutter.ca.us](mailto:djohnston@co.sutter.ca.us) with any questions about our comments.

Respectfully,

A solid black rectangular box used to redact the signature of Donna M. Johnston.

Donna M. Johnston  
CACEO President  
Sutter County Clerk-Recorder/Registrar



# California State Sheriffs' Association

*Organization Founded by the Sheriffs in 1894*

July 27, 2022

Andrew White, Regulation Coordinator  
California Public Employees' Retirement System  
P.O. Box 942720  
Sacramento, CA 94229-2720

## Re: Pending Regulations Defining "Limited Duration Employment"

Dear Mr. White:

Thank you for the opportunity to comment on the California Public Employees' Retirement System (CalPERS) Board of Administration's proposed regulatory action that would define "limited duration employment." I write on behalf of the California State Sheriffs' Association, which represents California's 58 elected county sheriffs in various matters including regulatory and legislative proceedings.

CSSA's concerns with the proposed regulation center on the responsibility of sheriffs' offices to protect the public safety and how the proposed definition of "limited duration," which would, with limited exception, limit the appointment of a retired person to 24 consecutive months in the employ of a CalPERS-participating employer, would make that job exceedingly more difficult and costly, especially in the context of current economic, employment, and societal realities.

In many, if not most counties, sheriffs' offices are experiencing significant difficulties in recruiting and retaining staff. Substantial vacancy rates and rising employment costs make it particularly challenging to fill necessary staff positions. Further, given the vital tasks law enforcement agencies undertake coupled with the public trust that is instilled within these offices, having qualified applicants, of which there is currently a shortage around the state, is more important than ever. Sheriffs' offices are also experiencing considerable numbers of resignations and retirements, which bring the recruitment challenges noted above more clearly into focus. The bottom line is that significant limitations on the ability to utilize retired annuitants to appropriately staff vital positions, protect the public safety, retain community trust, and conserve county resources are ill-timed and should not hamstring public safety agencies.

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*Legislative Director*

Letter to Regulation Coordinator Andrew White  
Pending Regulations Defining "Limited Duration Employment"

July 27, 2022

Page 2

Retaining flexibility as it relates the utilization of retired annuitants serves many benefits. Chief amongst those is the ability to have access to experienced staff, as opposed to those with less time on the job, who have already been trained in the disciplines in which they are asked to serve upon their return after retirement. The benefits derived from being able to appoint veteran staff who often require less in the way of initial training because they have done the job are many, including conserving agency training funds.

Sheriffs' offices undertake many roles in the community and having the ability to bring back knowledgeable staff to serve, including in specialized units or assignments, is crucial. County sheriff offices utilize retired annuitants in myriad ways including to work on cold cases, complete background investigations, serve in specialty units that are intermittently staffed (e.g., marine patrol), and perhaps most commonly, to provide vital court security services. Given the dynamic nature of court proceedings, the lack of control sheriffs have over court calendars, and the statutory mandate that sheriffs provide court security services, retired annuitants provide many, if not most, counties with the ability to be as nimble as possible to meet expected and unplanned security needs. Furthermore, many counties have been experiencing widening chasms between the funding the state provides for court security and the actual cost of providing those services, and this has been the case prior to any formal discussion about changing the nature of the use of retired annuitants. The addition of new judgeships, capital improvements to court facilities, increased reliance on specialty courts, and case backlogs created and exacerbated by COVID-19 all call for sheriffs' offices to have as much flexibility when it comes to protecting safe and effective access to judicial resources. In fact, the Governor's emergency suspension of the 960-hour limitation on retired annuitants because of the pandemic demonstrates how important the service of retired annuitants is.

Flexibility to serve public safety and community protection needs is paramount and we are concerned that the proposed definition of "limited duration" will disproportionately impact the ability of county sheriffs' offices to achieve those things. We urge you to exempt public safety agencies from the scope of this regulation or reconsider the regulation entirely. Thank you for your consideration of our concerns and please do not hesitate to contact us regarding these comments.

Sincerely,



Cory M. Salzillo  
Legislative Director

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1415 L Street, Suite 780  
Sacramento, CA 95814

T 916.447.2762

[www.cpoc.org](http://www.cpoc.org)



**CHIEF PROBATION OFFICERS**  
OF CALIFORNIA

July 29, 2022

Mr. Andrew White  
Regulation Coordinator  
California Public Employees' Retirement System  
P.O. Box 942720  
Sacramento, CA 94229-2720

**Subject: CPOC Comments on Proposed Adoption of Regulations  
Regarding Limited Duration Employment**

Dear Mr. White,

On behalf of the Chief Probation Officers of California (CPOC), we write to offer comments on the proposed language pertaining to defining limited duration employment and the impacts it would have on probation departments.

Probation Departments have a unique role in California because the probation infrastructure bridges the critical linkages between California courts, the communities we serve and both state and local corrections. Probation departments serve the courts by enforcing court orders, are responsible for the entire juvenile justice system including the administration and operations of juvenile facilities, and provide for the supervision and programming for adults. Probation works to protect the community, support the court, assist victims and helps rehabilitate youth and adults.

Recruitment and retention challenges have grown over the last several years and have become a top priority and focus of the probation profession. Our dedicated and trained professionals are foundational to carrying out the probation mission, helping to protect public safety and supporting youth and adults in making last changes in their lives through rehabilitative approaches. Retired annuitants play an important role in probation departments which supports and benefits the individuals we serve.

Retired annuitants may be used to fill mandatory coverage positions such as in a juvenile facility or to assist with part-time support to provide support in programming. Retired annuitants have experience, training and knowledge gained throughout their professional career that is beneficial to departments and to the youth and adults being served. It also provides consistency and familiarity for youth and adults.

For these reasons, we believe that setting for a time period pertaining to the proposed definition of limited duration would impede how departments are working with retired annuitants in order to supplement and support key departmental and community needs.

We would ask that language be included that exempts public safety departments from the scope of this proposed regulation in order to ensure that public safety departments can continue to work with retired annuitants to best meet the needs of our communities.

Sincerely,



Karen A. Pank  
Executive Director



August 1, 2022

Mr. Andrew White  
Regulation Coordinator, California Public Employees' Retirement System  
P.O. Box 942720  
Sacramento, CA 94229-2720

Re: Notice of Proposed Rulemaking to add section 574.1, "Definition of Limited Duration Employment".

Dear Mr. White,

The California Professional Firefighters (CPF), state council of the International Association of Fire Fighters, representing over 30,000 career firefighting and emergency medical service personnel statewide, writes to provide comment on the California Public Employees Retirement System (CalPERS) proposed regulations to add section 574.1, "Definition of Limited Duration Employment," of Article 4 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR).

CPF supports efforts to ensure clarity around the limited duration employment for both active-duty personnel and retired annuitants. Historically, CPF has advocated for clear limitations on limited duration appointments for active personnel, noting that this should not be a tool to increase the demands on rank-and-file personnel while preventing them from receiving the full benefits of a given appointment. To that end, additional clarity, as set forth in subdivision (b) of proposed Section 574.1 will ensure that it is clear employers need to utilize limited term appointments minimally. If a candidate can clearly do the job, they should be permanently appointed to such job.

With regard to subdivision (a), it is appropriate to limit the ability for an employer to leverage retired annuitants in a manner that prevents rank-and-file full time personnel from filling open positions. In this regard, we believe this regulation meets that test. While that test is an important one, we also note that there are unique circumstances in the State that may require a more nuanced statutory and regulatory approach as we move forward.

California's professional firefighters are among the most well trained and skilled firefighters in the world. This is not by accident, as the labor sponsor of the California Firefighters Joint Apprenticeship Committee, it is a priority for the CPF that new firefighters entering the profession have the skills and training they need to do their job safely and efficiently. Moreover, it is a priority

of our organization to ensure ongoing training and skill enhancement is available for all firefighters throughout their career.

California's fire service relies on pre-apprenticeship to develop the next generation of firefighter candidates and apprenticeship to ensure that our firefighters are the best trained and most effective in the world. Training firefighters importantly relies upon the unique skills of experienced firefighters to train the next generation. To that end, we believe it is important to recognize the unique nature of the California Firefighter Joint Apprenticeship Committee by ensuring that administrative requirements are streamlined and as least burdensome as possible. Retired firefighters with extensive experience are a unique resource that are used periodically but often play an integral role in training programs. Ensuring California law and any subsequent regulations recognize these unique needs is paramount.

As we work to develop the next generation of firefighters who will serve the public with courage and distinction, we must ensure that the rules and regulations allow those who served and faced the demands of the job to impart their experience through instruction.

We thank you for the opportunity to comment on these regulations and look forward to working with CalPERS to ensure that these regulations are implemented in a sound and efficient manner, particularly the requirements around record keeping and applications for extensions.

Should you have any questions, please do not hesitate to contact me at [dsubers@cpf.org](mailto:dsubers@cpf.org).

Sincerely,

A solid black rectangular box redacting the signature of Doug Subers.

Doug Subers  
Legislative Advocate  
California Professional Firefighters



**California  
School  
Employees  
Association**

Governmental Relations  
1127 11th St., Suite 346  
Sacramento, CA 95814

(916) 444-0598  
(800) 867-2026  
FAX (916) 444-8539

[www.csea.com](http://www.csea.com)

Matthew "Shane" Dishman  
*Association President*

Keith Pace  
*Executive Director*

*Member of the AFL-CIO*

*The nation's largest  
independent classified  
employee association*



August 5, 2022

Via Email: [Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)

Andrew White, Regulation Coordinator  
California Public Employees' Retirement System  
P.O. Box 942720  
Sacramento, California 94229-2720

**Re: Proposed Regulatory Action on the CalPERS Definition of Limited Duration Employment**

Dear Mr. White,

On behalf of the California School Employees Association, AFL-CIO, we write in support of the proposed definition on Limited Duration Employment at CalPERS.

The proposed regulation is necessary to clarify what is considered "limited duration" employment as stated in Government Code sections 7522.56, 21224, and 21229 for retired persons serving after retirement, and section 571(a)(3) of Title 2 of the California Code of Regulations (CCR) for employees required by their employer or governing body to work in an upgraded position or classification. Right now, PERL and PEPR do not explicitly define "limited duration" employment for either situation. All working-after-retirement appointments under these provisions are limited to 960 hours in a fiscal year, *but the authorizing statutes do not specify how long appointments of a "limited duration" can be.* As a result, there is significant variation in the duration of working-after-retirement appointments.

By creating a uniform timeframe of twenty-four consecutive months plus terms on appointment extensions, the proposed regulation will provide much-needed clarity and uniformity across the system as well as for CalPERS members and employers. For these reasons, we support the proposed regulation.

If you have any questions, please contact me at (916) 296-5864 or [cmyers@csea.com](mailto:cmyers@csea.com). Thank you.

Sincerely,

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION



Chris Masami Myers  
Assistant Director

CMM:ct

c: David Schapira, Director, CSEA Governmental Relations

*Our mission: To improve the lives of our members, students and community.*



# WHEELER RIDGE-MARICOPA WATER STORAGE DISTRICT

1 2109 Highway 166, Bakersfield, CA 93313 9630

T telephone: 661.858.2281 ♦ Fax: 661.858.2643 ♦ Water Orders: 661.858.2296  
www.wrmwsd.com

SHERIDAN NICHOLAS  
ENGINEER MANAGER

JAMES D. SMITH  
CONTROLLER

July 27, 2022

Andrew White  
Regulation Coordinator California Public Employees' Retirement System  
P.O. Box 942720  
Sacramento, CA 94229-2720  
By e-mail to [Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)

**Subject: District Comments Due August 1, 2022 Regarding  
CalPERS Proposed Adoption of Section 574.1, "Definition of Limited Duration  
Employment," of Article 4 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the  
California Code of Regulations, (hereafter "Proposed Regulation")**

Mr. White:

**Conclusion.** Wheeler Ridge-Maricopa Water Storage District (WRMWSD) supports the adoption of the Proposed Regulation as submitted for public comment for the reasons described below. The definition and flexibility provided in the Proposed Regulation are particularly important for small rural special districts who infrequently may need to employ a Retired Annuitant to which the Proposed Regulation would apply.

**Background and Support for the Conclusion.**

1. WRMWSD is a rural irrigation special district established in 1959 under the California Water Code. It provides irrigation water service to farmers within its 147,000 acre boundaries. WRMWSD is located at the southern end of Kern County. It has 45 employees (not including its 9 member elected Board of Directors) with 5 management employees including 2 engineers.
2. On March 15, 2022, the CalPERS Pension & Health Benefits Committee considered "Proposed Regulation for the Definition of Limited Duration Employment". Committee Member Eraina Ortega provided input on the regulation to address the needs of small and/or rural special districts (transcript attached), and the Committee asked staff to address those concerns. WRMWSD agrees with the comments of Member Ortega.
3. At the March 15 meeting, Terry Brennand, representing Service Employees International Union, commented on the need to fill jobs held by Retired Annuitants with full-time employees. In many cases, as shown in point 8 below, oftentimes the work done by a Retired Annuitant would and/or does not warrant a full-time employee.
4. At its April 18, 2022 meeting, the Committee approved a revised regulation to be released for public comment (the Proposed Regulation). WRMWSD regards the revised Proposed Regulation as (b) consistent with the input of Committee Member Ortega and (b) sufficient to address the needs of small rural special districts regarding Retired Annuitants.
5. Since 2010, WRMWSD has had 19 employees retire, and only two have returned as a Retired

- Annuitant. Only one is currently on the payroll. Use of Retired Annuitants is a rare practice.
6. The current Retired Annuitant’s primary responsibilities are to represent WRMWSD in matters related to the Delta Conveyance Project (a \$15 billion project) and Sites Reservoir Project (a \$4 billion project). These activities, which are critical to the future water supply of WRMWSD, require a high level of water management, engineering, and regulatory permitting expertise thereby limiting the pool of available labor.
  7. Water management demands on WRMWSD existing staff have increased in the last few years due to severe drought conditions and with the implementation of the state-mandated Sustainable Groundwater Management Act. Consequently, existing management staff time available to work on said projects has decreased substantially.
  8. Work on said Projects does not require anywhere near a full-time employee. The current Retired Annuitant averaged 13.3 hours per week in the 2021/22 CalPERS fiscal year. This is below the 20 hour limit (averaged over the year) for Retired Annuitants. It is a fallacy to conclude that a full-time employee is displaced by the Retired Annuitant or that a full-time employee should be hired for the necessary work described herein.
  9. In Kern County, it is impossible to hire a part-time person with the requisite expertise for work on these projects. Hiring of full-time engineering staff in general is extremely difficult. When WRMWSD conducted a state-wide recruitment for a Water Resources Manager in 2017, there were only 2 applicants. Local consulting engineers report similar difficulty in hiring qualified applicants.
  10. WRMWSD does not have the resources to add a full-time engineer for 1/3 time work on said Projects. Hiring a full-time person for the subject purposes would not be a prudent expenditure of public funds given that only about 1/3 time work is needed.
  11. The other alternative is for WRMWSD to hire a engineering firm to represent it on said Projects. Although the time to be dedicated by such a firm can be tailored to the actual hourly needs, their billing rates are more than double the hourly rate for a Retired Annuitant which compensation is limited under CalPERS rules to “comparable” positions at WRMWSD. Such alternative would not be a prudent expenditure of public funds.
  12. Therefore, the Proposed Regulation provides the necessary flexibility for WRMWSD to meet its needs to participate in said Projects in a cost effective and timely manner for the benefit of the farming customers of WRMWSD. The regulation originally proposed at the Committee’s March 15, 2022 meeting does not meet these needs.

Sincerely,



Engineer-Manager

Attachment

March 15, 2022 Meeting  
of the STATE OF CALIFORNIA  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM BOARD OF ADMINISTRATION  
- PENSION & HEALTH BENEFITS COMMITTEE

Excerpt from Minutes of said Meeting with the comments of Committee Member Eraina Ortega:

*“Thank you, Mr. Chair, and thank you, Ms. Ostrander for your staff's time working with CalHR on this. I think that I do remain concerned with the current draft. I'm intrigued by some sort of exemption process beyond the current time period. I want to make clear that I very much support limiting the use of what has sometimes become permanent part-time staff that are retired annuitants, and departments and other employers not training and doing their most -- making their best effort to recruit new employees into those positions. I think though that the draft today doesn't recognize that there are some professions and there are some rural areas where the actual workforce is quite limited, and those departments, I think, need some ability to be able to seek an exemption from the restriction.*

*I think the other thing that is missing in the draft as it reads today is there are annuitants who work very few hours per year, so they're not actually earning very much income. They're certainly not replacing any potential to recruit a new person, but they come in as an expert witness, or they come in to work on an audit or a particular issue that has something to do with, you know, long-standing court cases.*

*I know we -- CalHR has used a trainer on a particular type of personnel investigation who's a retired annuitant. That person works less than five hours a year. But the way it's drafted today, it just times out. It doesn't matter that that person comes in very infrequently to help out a department or CalHR. So I would like to see -- and maybe this exemption process would be the way to get there. Having not been able to read anything yet, I'd like to reserve a little bit of time to look at that and maybe the 45-day comment period is, in fact, that time.*

*But I think that the reality of how hard it is to recruit certain classifications, there are many, many departments. I'm sure CalPERS experiences this as well, where you just have failed recruitments. You do not get enough candidates to fill jobs. There are critical State operations that we need to have a little bit of flexibility to bring in an annuitant in those circumstances.*

*So for those reasons, I will not be supporting the draft today, but certainly will work with everyone in the 45-day period to see if we can get somewhere closer to what would work for us.”*

**City Manager's Office**

1010 Tenth Street, Suite 6100

Modesto, CA 95353

209.577.5200

Modestogov.com

July 28, 2022

Andrew White, Regulation Coordinator  
California Public Employees' Retirement System  
P.O. Box 942720

**RE: Opposition to Proposed Regulatory Action: Definition of Limited Duration Employment**

The City of Modesto would like to express our opposition to the proposed regulation that seeks to clarify and define "limited duration" employment for retired annuitants. The current proposed language is too restrictive and could make it difficult to support vital roles and train the next generation of public service workers in the City of Modesto.

According to a report published by NEOGOV, there is a crisis in public service employment. Since 2016, the number of applicants per job opening for public sector jobs have decreased by nearly 400%. Of the applicants, many are not qualified for the roles. 79% of agencies report not being able to find qualified candidates for open positions. Inability to fill positions has led to staff burnout, low morale, high overtime costs, voluntary turnover, and cuts to services.

Retired annuitants are vital to supplement many of the vacancies while searching for new applicants and have invaluable skills and institutional knowledge that can assist in training new employees. In addition to sharing their knowledge, many retired annuitants assist in special projects for the agency, and we find it helpful to utilize their skills in this capacity to allow full-time staff to focus on service delivery.

There is a highly competitive job market and public service agencies often cannot compete with the private sector for pay and flexible work schedules. To compete with the private sector, rules and regulations need to provide public service agencies more flexibility and autonomy in their human resource practices. Top-down approaches, like this one, hamstring our organization's ability to attract and train the best and brightest talent. In the end, it is the residents and taxpayers that rely on our services who will suffer the most from a lack of adequate service delivery due to a lack of adequate staffing.

The City of Modesto once again expresses our opposition to the proposed regulation that seeks to clarify and define "limited duration" employment for retired annuitants.

Regards,



Joe Lopez  
City Manager  
City of Modesto

CC: Stephen R. Qualls - [squalls@calcities.org](mailto:squalls@calcities.org)



**From:** [Teri Silva](#)  
**To:** [Regulation Coordinator](#)  
**Subject:** Comments re: Limited Duration Employment  
**Date:** Tuesday, June 28, 2022 7:40:21 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

**[External Email Caution]**

Dear CalPERS Board,

I do not support this action taken by CalPERS. Public sector agencies struggle to find qualified individuals to support our ongoing operations and everchanging government regulations that we must comply with. Having limited term employees is another tool in our options to provide continuous service to our residents. In addition, it allows us to find qualified individuals that have the capacity to come up to speed quickly and efficiency in providing support to government organizations.

I urge you to think of the agency needs and do not continue to limit our ability to provide the best service possible to our communities in an efficient manner.

Sincerely,

Teri Silva



**TERI SILVA** (pronouns: she/her/hers)

**Assistant City Manager**

Office of the City Manager

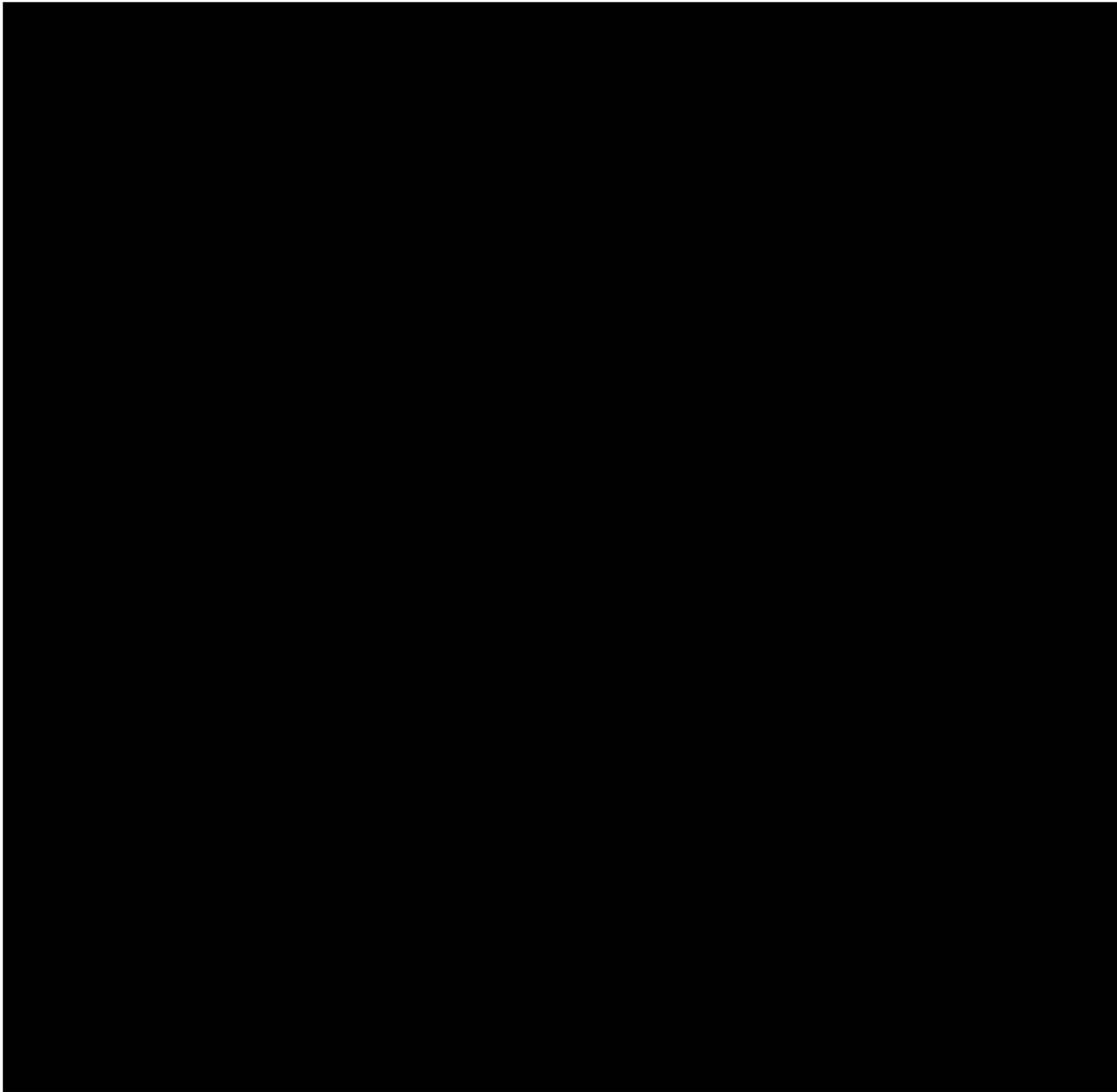
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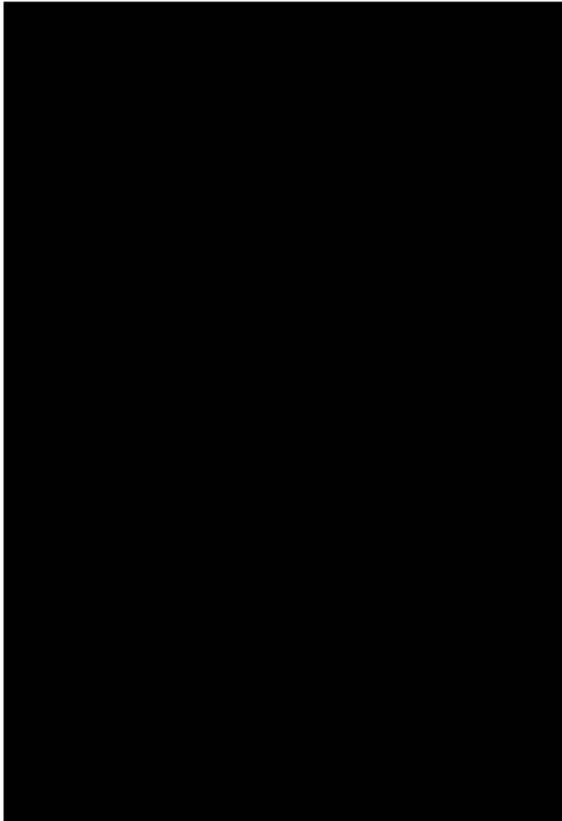


-----Original Message-----

From: Hal Rosendah [REDACTED]

Sent: Tuesday, May 17, 2022 6:43 PM





Question: Dear Honorable CalPers Board Members:

Recently, I read an article in the Sacramento Bee that the CalPers Board was considering new rules for retired annuitants. I wish to voice my strong opposition to the suggested rules.

First of all, a term I saw referenced was "double-dipping." This term is offensive and completely inaccurate relative to the retired annuitant. Each one of these jobs are intended for full-time workers who either can't or won't take them. Whoever coined this term is obviously not aware of how hard it is to hire and retain good full-time help these days. Retired annuitants are all paid for valuable services; everything from school janitors, maintenance workers, analysts, and law enforcement personnel, to name a few. I understand that CalPers wants workers who are paying into CalPers. However these new rules, if passed, will strangle an already struggling workforce. Please don't pass these new rules. Sincerely, HR

---

**From:** CalPERS <[Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)>

**Sent:** Friday, June 17, 2022 9:01 AM

**To:** White, Andrew <[Andrew.White@calpers.ca.gov](mailto:Andrew.White@calpers.ca.gov)>

**Subject:** Notice of Proposed Regulatory Action: Limited Duration Employment

**[External Email Caution]**



# Notice of Proposed Regulatory Action: Limited Duration Employment

Notice is hereby given that the CalPERS Board proposes to take regulatory action on adoption of the “Definition of Limited Duration Employment,” of the California Code of Regulations. The proposal seeks to explicitly define and ensure consistent use of the term “limited duration” employment to provide clarity and uniformity for our employers, members, and other stakeholders.

- [Notice of Proposed Rulemaking \(PDF\)](#)
- [Initial Statement of Reasons \(PDF\)](#)
- [Text of Proposed Regulation \(PDF\)](#)

### Written Comment Period

Any interested person, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action by **11:59 p.m. on August 1, 2022.**

Comments may be submitted by e-mail to [Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov) or mailed to:

Andrew White, Regulation Coordinator  
California Public Employees’ Retirement System  
P.O. Box 942720  
Sacramento, CA 94229-2720

Economic and fiscal impact statements for this rulemaking action are available upon request. For more information, visit the [Regulatory Actions](#) page of the [CalPERS website](#).



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[This email was sent to andrew.white@calpers.ca.gov.](#)  
[To continue receiving our emails, add us to your address book.](#)

**From:** [Hal Rose](#)  
**To:** [Newsroom](#)  
**Subject:** [REDACTED]  
**Date:** Tuesday, May 24, 2022 7:41:37 PM

---

[External Email Caution]

Hello Ms. Morgan: So let me ask you this: Have you ever seen a governmental entity change its position because of something brought forward in a public comment period? My bet is NO. Neither have I. Most public comment periods are a soundboard for the deaf and in this case, it allows CalPers to check that box so it can move forward.

If the news article is correct it truly looks like CalPers is bending for a union lobbyist and not putting any thought into how this will damage the workforce. Why doesn't CalPers ask the lobbyist how well their agencies are doing with recruitment. I'm telling you, it is sad! The CHP is down 880 positions right now and could barely fill the next Academy class. About the only thing that seems to stop poor ideas like this is a lawsuit. I would not be surprised to see one.

Put that in your public comment!

Sincerely, Hal Rosendahl

On Tue, May 24, 2022 at 2:07 PM Newsroom <[Newsroom@calpers.ca.gov](mailto:Newsroom@calpers.ca.gov)> wrote:

Hello Hal Rosendahl,

Thank you for your comment about the proposed limited duration regulation that you read about in the Sacramento Bee. The proposed draft regulation is necessary to define what is considered limited duration employment for retirees working after retirement and to provide clarity and uniformity for the term with our CalPERS members, employers, and other stakeholders.

The next step is that the draft regulation will be submitted to the Office of Administrative Law for initial review and publication. The draft regulation will then be published to the California Regulatory Notice Register and the 45-day public comment period begins.

I will submit your comment as part of the open comment period on the proposed regulation as soon as the public comment period opens. We anticipate it will open in early June.

You can learn more about the proposal in our [board agenda item](#) and read the [draft regulation](#) that was heard before the CalPERS Board in April.

It's always the responsibilities of the contracted employers and members to comply with the laws that govern the hiring of retired annuitants. If you have any further questions or concerns, please call the CalPERS contact center at 1-888-CalPERS (225-7377).

Thank you,

Amy Morgan

Amy Morgan | Information Officer | CalPERS | Office of Public Affairs

**From:** [Rohan Wikramanayake](#)  
**To:** [Regulation Coordinator](#)  
**Subject:** Comments re: Limited Duration Employment  
**Date:** Monday, July 4, 2022 1:19:50 PM  
**Attachments:** [image001.png](#)

---

**[External Email Caution]**

Hello,

We utilize 1 retired person at the WPCP at Shift Supervisor position. This person has been of immense value to us. The issue at the plant is that we are extremely short on Shift Supervisors. The Water Board requires the presence of a Shift Supervisor to keep the plant running. And we have not been able to hire for this position for the last number of years (in fact, we have the position currently advertised for over 2 years).

The Shift Supervisor position is very unique. It deals with wastewater and hazardous materials as well as leading a team of 3 or 4 people. This person also need a Grade III wastewater license – which is hard to come by. There are not many qualified people around the Bay area and the country that fulfill these minimum requirements. So we are competing with many other plants across the U.S. We would like to have the ability to hire retired staff at this Shift Supervisor position until at least until we have all our Shift Supervisor positions filled.

Thank you for considering.



**Rohan A. WIKRAMANAYAKE, P.E.**  
**Division Manager, Water Pollution Control Plant**  
Environmental Services Department  
1444 Borregas Ave.  
Sunnyvale CA 94089  
Landline: +1 408 730 7788  
Mobile: +1 781 491 6177

**From:** [Vaniah De Rojas](#)  
**To:** [Regulation.Coordinator](#)  
**Cc:** [kquerrero@cacities.org](mailto:kquerrero@cacities.org)  
**Subject:** CalPERS proposes new regulations for part-time retiree work - Downey Comments  
**Date:** Friday, July 29, 2022 11:20:33 AM  
**Attachments:** [image001.jpg](#)  
[image025.jpg](#)  
[image026.jpg](#)  
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[image032.jpg](#)  
[image033.jpg](#)  
[image034.jpg](#)  
[image035.jpg](#)  
[image036.jpg](#)

**[External Email Caution]**

Good morning,

The City of Downey would like to submit the following comment in regards to CalPERS proposed new regulations for part-time retiree work.

*While the City of Downey believes that the definition of the time period is good and needed, we strongly feel that employers should have a greater flexibility in appointment and timeframe for part-time retiree work. This has become more evident in recent years with hard-to-fill positions, seasonal jobs, and areas with limited labor pools.*

Feel free to contact me with any questions.

Best,

**Vaniah De Rojas**  
 Acting Assistant City Manager  
 City Manager's Office



- 11111 Brookshire Avenue | Downey, CA 90241
- (562) 904-7284
- [vderojas@downeyca.org](mailto:vderojas@downeyca.org)
- [www.downeyca.org](http://www.downeyca.org)



**Downey City Hall is open to the public. Per the updated L.A. County Health Officer Order, effective March 4, 2022, indoor masking at all City facilities will be strongly recommended, but not required for vaccinated and unvaccinated individuals. Please protect yourself and others from COVID-19 by staying home if you are sick with a cough or fever, staying 6 feet away from others, and cleaning your hands frequently. Services to the public will continue to be provided by phone and email for those unable to visit City Hall. For specific information regarding other City operations and questions regarding COVID-19, residents can visit the City's website at <https://www.downeyca.org/coronavirus> or call the City's COVID-19 hotline at (562) 299-6711.**



## Office of the City Council

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July 29, 2022

CalPERS Board of Directors  
Pension & Health Benefits Committee  
400 Q Street  
Sacramento, CA 95811

VIA E-Mail: [Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov)

Re: Proposed Regulation for the Definition of Limited Duration Employment

Dear CalPERS Board of Directors,

The City of San Luis Obispo would like to share our concerns with the proposed regulation of the definition of "limited duration employment". The proposed language is overly restrictive and may prevent the City from being able to perform essential services to our community.

The proposed regulation would define "limited duration" as a limit of 24 consecutive months per appointment for retired persons serving after retirement, with an option of two extensions of 12 consecutive months per extension. The City of San Luis Obispo understands the intentions of the proposed regulations, but given the current hiring environment finds that they are overly restrictive, and the City would be better served by more flexibility.

The City of San Luis Obispo is located in a geographically isolated area and as a result has a limited local labor pool. The proposed new regulations will negatively impact the City. Given the current labor market nationwide, it is already difficult to recruit qualified candidates for many positions. That challenge is even greater when it comes to recruiting for individuals with specialized skillsets such as planners, engineers, information technology professionals, and specialty positions such as transit managers.

Further exacerbating the ability to recruit quality candidates are changes to CalPERS retirement system brought about by the PEPRAs retirement tier. These changes, while necessary, have already put the City at a competitive disadvantage to the private sector as the City can no longer point to the retirement benefits as a reason to leave higher pay in the private sector for the public sector. Allowing the City to hire retirees as limited-duration employees gives the City access to high-quality employees for short periods of time to fill gaps in the local labor pool, to accomplish knowledge transfer and new staff development, and to continue providing services to the community.

The City uses limited-term positions prudently to meet the needs of the City, but due to recruitment, retention and training needs, sometimes that results in individuals with

specialized skills working for more than a few years in a limited-term capacity, or being needed during successive staff transitions. The City and its residents who rely on the quality and consistency of its services are best served by flexibility at the local level to make these decisions about when to hire a limited-term position. One-size fits all rules at the state level cannot easily accommodate the volatile, fluid and evolving nature of labor markets like we are now experiencing and cannot accommodate rapidly evolving and unique changes in the day-to-day operational needs of most cities.

The City urges CalPERS not to adopt these proposed regulations and continue to allow local hiring decisions to be made at the local level, where decisions can be informed by the unique needs of a particular city and can accommodate evolving local labor market fluctuations.

Sincerely,

A black rectangular redaction box covering the signature of Erica A. Stewart.

Erica A. Stewart  
Mayor  
City of San Luis Obispo

c: Senator John Laird, Fax: (916) 651-4017  
Assembly Member Jordan Cunningham, Fax (916) 319-2135  
Johnnie Pina, League of California Cities, [jpina@cacities.org](mailto:jpina@cacities.org)  
League of California Cities (via email: [cityletters@calcities.org](mailto:cityletters@calcities.org))

**From:** [Sandy Jacobson](#)  
**To:** [Regulation Coordinator](#)  
**Subject:** Comments re: Limited Duration Employment  
**Date:** Friday, July 29, 2022 10:39:47 AM

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[External Email Caution]

Greetings:

In reading the proposed text I noted that there may be a situation where a covered member terminates the CalPERS contract. I assume that would be an example of when an exception may be granted but you may want to consider what happens to a retiree if a member terminates their contract.

JAKE [REDACTED]