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Announcements

Circular Letter

November 3, 2020

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Distribution: IV, V, VI, X, XII, XVI

To: All CalPERS Employers
Subject: Governor's Executive Order N-81-20

Purpose

The purpose of this Circular Letter is to inform you of the impact of Executive Order N-81-20 on CalPERS retirees employed as retired annuitants with all CalPERS employers.

Work Hour Limitations

Governor Gavin Newsom declared a state of emergency in the following counties: Butte, Del Norte, Fresno, Glenn, Humboldt, Lake, Lassen, Los Angeles, Madera, Mariposa, Mendocino, Monterey, Napa, Nevada, Plumas, San Bernardino, San Diego, San Mateo, Santa Clara, Santa Cruz, Sierra, Siskiyou, Solano, Sonoma, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba due to the impact of wildfires.

Governor Newsom issued Executive Order N-81-20 to ensure adequate state staffing and help streamline and expedite disaster response and recovery efforts in communities impacted by the devastating wildfires. Consistent with applicable federal law, the work hour limitation for retired annuitants was suspended from the date the state of emergency was declared (in the county where the retired annuitant is deployed) until the state of emergency is lifted for **each** impacted county.

The intent of the executive order is to suspend reinstatement and the retired annuitant work hour limitation of 960 hours per fiscal year. Any hours worked as a retired annuitant to expedite disaster recovery efforts in an impacted county during the state of emergency will not be counted toward the 960-hour limit for the fiscal year. CalPERS will continue to monitor the hours worked for retired annuitants covered by this order and send communication to the retired annuitant to confirm when a violation is found and if it is accepted under the exception.

Wait Period Exceptions

Under Executive Order N-81-20, the 180-day break in service requirement under Government (Gov.) Code 7522.56(f) is also suspended for retired annuitants hired to expedite disaster recovery during the state of emergency. In addition, under subdivision (c) of section 586.2 of Title 2 of the California Code of Regulations (CCR), the declaration of a state of emergency exempts retired annuitants from the 60-day separation in service requirement under subdivision (a)(2) of CCR section 586.2.

No Exceptions for Retirees Under Normal Retirement Age

However, the prohibition under subdivision (a)(1) of CCR section 586.2 on any predetermined agreement between an employer and an impending retiree who has not attained normal retirement age continues to remain in effect, consistent with federal law.

Start Dates

The start date for the state of emergency in the counties of Butte, Del Norte, Glenn, Humboldt, Lake, Lassen, Los Angeles, Mendocino, Monterey, Napa, Nevada, Plumas, San Mateo, Santa Clara, Santa Cruz, Sierra, Solano, Sonoma, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba is August 18, 2020.

The start date for the state of emergency in the counties of Fresno, Madera, Mariposa, San Bernardino, and San Diego is September 6, 2020.

The start date for the state of emergency in the county of Siskiyou is September 10, 2020.

The suspension of the retired annuitant work hour limitation will remain in place until the state of emergency is lifted.

Continued Compliance

Agencies must continue to enroll and report retired annuitants to CalPERS. The remaining working after retirement provisions in Gov. Code sections 21221(h), 21224(a), and 7522.56(b) will continue to apply. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule, divided by 173.333 to equal an hourly rate. Also, a retired annuitant shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.

The executive order applies to work performed by a retired annuitant helping to expedite recovery efforts in one of the impacted counties. State agencies must notify the director of the California Department of Human Resources of any individual employed pursuant to these waivers. Notification should be sent to CAStateofEmergency@calhr.ca.gov. Public agencies and schools must notify CalPERS of any individual employed pursuant to these waivers. Notification should be sent to ExecOrderReview@calpers.ca.gov.

Questions

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

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