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Announcements

Circular Letter

September 29, 2021

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

To: All CalPERS Employers
Subject: Governor's Executive Order N-13-21

Purpose

The purpose of this Circular Letter is to inform you of Executive Order N-13-21 and the impact to CalPERS retirees employed as retired annuitants with a CalPERS contracting employer.

Work Hour Limitations

Due to recent wildfire activity, Governor Gavin Newsom declared a state of emergency for the counties of Siskiyou, Lassen, Plumas, Butte, Alpine, Nevada, Placer, Trinity, Tehama, Shasta, and El Dorado.

On August 20, 2021, the governor issued Executive Order N-13-21 to help communities impacted by the wildfires fully recover. Consistent with the applicable federal law to ensure adequate staffing to expedite disaster response and recovery, the work hour limitations under Government (Gov.) Code sections 21224(a) and 7522.56(d) for retired annuitants were suspended. The suspension of the work hour limitations will remain in effect from the date the state of emergency was declared for the county the retired annuitant is deployed until each of the impacted county's state of emergency is lifted.

The intent of the executive order is to suspend reinstatement and the retired annuitant 960-hour work limitation per fiscal year. Any hours a retired annuitant worked during the state of emergency in an impacted county covered by this executive order will not be counted toward the 960-hour limit for the fiscal year.

Wait Period Exceptions

Under Executive Order N-13-21, the 180-day wait period requirement under Gov. Code 7522.56(f) is also suspended for retired annuitants hired to ensure adequate staffing 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 bona fide separation requirement under subdivision (a)(2) of CCR section 586.2. However, be aware that the prohibition under subdivision (a)(1) of CCR section 586.2 of 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 following start dates for each state of emergency in each county are:

- July 16, 2021 – Siskiyou (Lava Fire), Lassen and Plumas (Beckwourth Complex Fire)
- July 23, 2021 – Plumas (Dixie and Fly Fires), Butte and Lassen (Dixie Fire), and Alpine (Tamarack Fire)
- August 5, 2021 – Siskiyou (Antelope Fire), Nevada and Placer (River Fire)
- August 10, 2021 – Trinity (McFarland and Monument Fires), Tehama (McFarland and Dixie Fires), and Shasta (McFarland Fire)
- August 17, 2021 – El Dorado (Caldor Fire)

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) and 7522.56(e) will continue to apply:

- Compensation for the appointment shall not be less than the minimum monthly base salary nor 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.
- 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.

CalPERS will continue to monitor work hours for retired annuitants and send communications to confirm when a violation is found and whether it complies with working after retirement laws.

The executive order applies to work performed by a retired annuitant to ensure adequate staffing in one of the impacted counties. For state agencies, the director of the California Department of Human Resources (CalHR) must be notified of any individual employed pursuant to these waivers. Notification should be emailed to [CalHR's California State of Emergency mailbox](#). Public agencies and schools must notify CalPERS of any individual employed pursuant to these waivers. Notification should be emailed to [CalPERS' Executive Order Review mailbox](#).

CalPERS will continue to monitor the retiree's employment to ensure it remains compliant. If any potential violation is identified, CalPERS will immediately notify the employer and the retiree.

Questions

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

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Employer Account Management Division