

Senate Bill No. 1496

CHAPTER 408

An act to amend Section 20398 of the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[Approved by Governor September 27, 2008. Filed with
Secretary of State September 27, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1496, Ashburn. Public Employees' Retirement System: member classifications.

Existing law classifies certain police officers, sheriff deputies, and firefighters who have responsibility for the direct supervision of state peace officer/firefighter personnel as state peace officer/firefighter members under the Public Employees' Retirement System (PERS). Employees classified as safety members under PERS, including state peace officer/firefighter members, are generally entitled to higher benefits and subject to higher contribution rates than employees classified as miscellaneous or general members. Member contributions to PERS are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would instead provide that those peace officers and firefighters are classified as state peace officer/firefighter members if the majority of their duties consists of responsibility for the direct supervision of state peace officer/firefighter personnel, conducting investigations or audits of investigatory practices and other audits of, or in, the Department of Corrections and Rehabilitation, or the administration of programs of an agency, department, or other organizational unit that is primarily responsible for active law enforcement or active firefighting/fire suppression, except as specified. The bill would define administration for these purposes. The bill would also include in that classification individuals hired prior to January 1, 2009, who do not meet the criteria for this classification if those individuals have been continuously employed in positions that were deemed to come within the classification prior to January 1, 2009. The bill would also require the Department of Personnel Administration to annually determine which classes meet these conditions and report its findings to the Legislature and to this system, to be effective July 1 of each year. The bill would prohibit an agency or department from designating a classification as a state peace officer/firefighter member classification without prior approval from the Department of Personnel Administration. The bill would make an appropriation by increasing the amount of employee contributions to the Public Employees' Retirement Fund.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 20398 of the Government Code is amended to read:

20398. “State peace officer/firefighter member” also includes:

(a) (1) State officers and employees designated as peace officers as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and 830.5 of the Penal Code, or a firefighter whose principal duties consist of active firefighting/fire suppression, who is either excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, if the majority of his or her duties consists of one of the following:

(A) Responsibility for the direct supervision of state peace officer/firefighter personnel specified in Sections 20391, 20392, 20393, and 20395.

(B) Conducting investigations or audits of investigatory practices and other audits of, or in, the Department of Corrections and Rehabilitation.

(C) Administration of programs of an agency, department, or other organizational unit that is primarily responsible for active law enforcement or active firefighting/fire suppression.

(2) For purposes of this subdivision, “administration” means the actions of the employee designated as a peace officer/firefighter member in a position that is in the direct chain of command over an agency, department, or organizational unit in which the majority of employees are state peace officer/firefighter members as described in Section 20391, 20392, 20393, or 20395.

(b) “State peace officer/firefighter member” shall not include persons whose primary responsibilities are limited to personnel administration, budgeting, public affairs, data processing or information technology, governmental relations, or legal support, or administration or oversight of these responsibilities.

(c) “State peace officer/firefighter member” shall include individuals hired prior to January 1, 2009, who do not meet the criteria in subdivision (a) if those individuals have been continuously employed in positions that were deemed to come within the “state peace officer/firefighter member” classification pursuant to this section prior to January 1, 2009.

(d) The Department of Personnel Administration shall annually determine which classes meet the conditions described in this section and are not classes specified in Sections 20391, 20392, 20393, and 20395, and report its findings to the Legislature and to this system, to be effective July 1 of each year. An agency or department shall not designate a classification as a “state peace officer/firefighter member” classification pursuant to this section without prior approval from the Department of Personnel Administration.

(e) Members who are reclassified pursuant to this section may file an irrevocable election to remain subject to their prior retirement formula and

the corresponding rate of contributions. The Secretary of the Department of Corrections and Rehabilitation may, upon appointment to that office on or after January 1, 1999, file an irrevocable election to be subject to the industrial formula and the corresponding rate of contributions. The elections shall be filed within 90 days of notification by the board. Members who so elect shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for the service included in the federal system.

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