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It's After January 1, 2013....What Should We Do With Our Retired Annuitants?



By Sabrina Thomas

Since the new year began, the phone has been ringing off the hook. Anxious clients are calling because they are not quite sure how to handle employment situations for retired annuitants. Given the continuing fiscal pressures on public agencies, many are being forced to consider rehiring these retirees — and part of the worry is the fear of running afoul of the newly enacted California Public Employees' Retirement System rules. In addition, public entities are being asked to defend this hiring practice in the face of civil servants still being furloughed, and in some cases, laid off.

Public employers should have questions and concerns related to the new rules. Since the recent enactment of Assembly Bill 1028, Senate Bill 1021, and the infamous Assembly Bill 340, also known as the Public Employees' Pension Reform Act of 2013 (PEPRA), there have been significant changes to the waiting period for, use of, and frequency of hiring retired annuitants.

In late summer 2012, state employee unions pressured Governor Jerry Brown for a policy mandating that state agency payrolls be purged of retired annuitants. The unions' argument was simple: it is unfair to furlough rank-and-file workers while retirees draw both a pension and a paycheck. The largest union, State Employees International Union, took steps to ensure the protection of its members by entering into a side agreement with the Brown administration to eliminate all retired annuitant positions. Specifically, the agreement stated: "The State shall eliminate all non-mission critical^[1] retired annuitants, who are performing SEIU bargaining unit work, by September 1, 2012. No retired annuitant shall be hired while the personal leave program...is in effect unless there is a mission critical need."^[2]

SEIU is so serious about enforcing the agreement that it has enlisted its members to serve as "whistleblowers" in their respective agencies. In a call to action letter, SEIU asked its members: "Are...non-mission critical annuitants still performing the

work of Local 1000 members in your office?”^[3] Included is a link to a short form where members can provide information that will enable SEIU to investigate each situation.^[4]

What Is a Retired Annuitant?

By definition, a retired annuitant is a temporary^[5] appointment with a CalPERS-covered entity, for a limited appointment of a limited duration for someone with specialized skills, or it is employment required in an emergency to prevent stoppage of public business.^[6] The Public Employment Retirement Law (PERL) generally prohibits CalPERS employers from hiring retirees unless they first are reinstated. However, existing law^[7] authorizes a retired member of the Public Employees’ Retirement System to work for a state agency or any other employer in the system for up to 960 hours in a fiscal year without reinstatement from retirement^[8] or loss or interruption of retirement benefits.^[9] While the limitations for a retired annuitant are not extensive, they are definitive, with serious consequences for specific infractions.

At first glance, these criteria appear to be straightforward, with little room for misinterpretation or confusion, yet anything dealing with public retirement is rarely simple. One only needs to look at how some retired annuitants refer to themselves as “independent contractors”^[10] to understand the potential for confusion and significant consequences. A retired annuitant who is an independent contractor is not subject to the 960-hour or other limit.

PERL does not define the term “independent contractor.”^[11] Many contracts or employment agreements entered into by public agencies and retired persons give the retired person status as an independent contractor. However, if CalPERS determines an employment contract does not meet the criteria, CalPERS will deem the individual improperly hired. CalPERS will require that the individual — if he or she wishes to continue working — be reinstated from retirement and pay back any and all retirement benefits earned while employed, which could easily total tens, if not hundreds of thousands, of dollars.

For example, in 2012, the *Orange County Register* reported that a retiree for the City of Stockton^[12] collected retirement benefits for 15 months while acting as — and being compensated for — the position of interim fire chief. CalPERS informed the interim fire chief that he would have to resign from his position or reinstate to regular employment and reimburse CalPERS for pension benefits received during his tenure in that position.^[13] He was further told that his effort to cloak himself as an independent contractor was contradicted by the details of his job.^[14] According to the *Register*, the retiree’s response to CalPERS’ ultimatum was to resign rather than reimburse approximately \$216,000 in pension benefits.^[15]

For employers, the consequences are equally severe. If the employer is found at fault, it will be liable for contributions on the salary paid to the retiree, plus interest and administrative expenses.

Status of Retired Annuitant Post AB 1028

The purpose of AB 1028, according to CalPERS, was to clarify existing law. The bill^[16] amended Government Code sections 21221(h), 21224, and 21229.^[17] PERL authorizes two types of hiring options for retirees. The first is described under section 21221(h), which deals with vacant positions; and the second, described under section 21224, addresses temporary work engagements. Section 21221(h) authorizes appointments to existing yet vacant positions on an interim basis when (1) the vacant position requires “specialized skills” and the effort to recruit a permanent replacement is still pending, or (2) appointment to the vacant position is required on an emergency basis “to prevent a stoppage of public business.”^[18]

The second option, under section 21224, authorizes finite but potentially long-lasting work engagements required to address unplanned or irregular work needs when (1) there is an emergency to prevent a stoppage of public business, or (2) the services of a retiree possessing specialized skills are needed for a “limited duration.”^[19]

Government Code section 21221(h) applies to governing bodies of a CalPERS contracting agency.^[20] The five key changes to Government Code section 21221(h) are that (1) a retiree can be appointed to a governing body of a contracting agency as an interim appointment to a vacant position during recruitment for a permanent replacement; (2) the employing agency and retiree only get one “bite at the apple” in that the retiree may only work in an interim appointment one time; (3) the compensation for the interim appointments cannot exceed the maximum published and publicly available pay schedule for the vacant position;^[21] (4) the interim appointment, itself, is limited to 12 months from the appointment date, notwithstanding any extension to work more than 960 hours; and (5) the interim appointment cannot continue past the 12-month term under section 21224 or 21229.^[22]

CalPERS issued a circular letter^[23] to clarify the impact and significant changes under AB 1028. Most notably, the letter indicates that AB 1028 amended sections 21224 and 21229 to include the words “temporary,” “appointment,” “specialized,” and “skills.” The word “specialized” is meant to clarify that retirees must have “specialized skills” to perform the job, which is generally determined by the employer. CalPERS did not further clarify “specialized skills” in its circular letter, presumably because the necessary skills are unique to a particular agency and/or position.

The word “temporary” is meant to clarify that retired annuitants are to work as temporary “extra help”^[24] appointments during an emergency to prevent stoppage of business or to perform work of limited duration. ^[25] Still, the AB 1028 amendments to Government Code sections 21221(h), 21224, and 21229 were not without controversy. Public agencies needed clarity on some key questions the bill left unanswered. For instance, annuitants working prior to AB 1028 wanted to know if they were subject to the new changes. Others wanted to know what happens if

they become elected officials while serving as annuitants in a different capacity. And, everyone wanted to know the potential penalties to both the agency and the annuitant if found to be violating the new law. Several months later, the legislature introduced SB 1021 to “clean up” the confusion.

Clean-Up Bill and More Changes for Retired Annuitants

Senate Bill 1021. On June 27, 2012, Governor Brown enacted SB 1021. Hidden in the labyrinth of changes affecting the Department of Corrections and Rehabilitation and civil litigation were weighty alterations to Government Code section 21221(h).[26] Importantly, the bill imposed three major shifts in the content of employment contracts entered into with retired annuitants hired under section 21221(h).

First, retired annuitants’ pay is based on an hourly rate subject to a codified formula. Purposely, section 21221(h) provides that the salary “shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a published pay schedule for the vacant position divided by 173.333 to equal an hourly rate.”[27]

Second, the law provides that a retired annuitant appointed pursuant to section 21221(h) “shall not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate.”[28] The plain language of the section precludes a retired annuitant from receiving any benefits, which would include many that are commonly found in interim employment contracts, such as paid sick leave, cell phone stipends, and automobile allowances.

Finally, section 21221(h) previously permitted the governing body of an agency employing a retired annuitant to obtain from CalPERS an extension of temporary employment beyond the 960 hours in a fiscal year. SB 1021 removed that possibility. Section 21221(h) now provides that a retired annuitant appointed under that section shall not work more than a combined total of 960 hours in any fiscal year, regardless of whether he or she works for more than one agency.

Section 21221(h) still requires that appointments be on an “interim” basis while the agency is actively recruiting to permanently fill the vacant position, and the appointment may exceed one year; but again, in no event shall the appointment exceed 960 hours in each fiscal year.[29] In other words, it appears that a retired annuitant may now serve for more than one year until a permanent appointment is made (not exceeding the 960 hours in the year), but the retiree only can be appointed once pursuant to section 21221(h).[30]

Lastly, SB 1021 deleted the following sentence: “The governing body of a contracting agency shall appoint a retired person only once under this subdivision.” Now the sentence reads: “A retired person shall only be appointed once to this vacant position.” While the two sentences might appear to have little distinction, the appointment limitation under the new wording is tied to the number of times a

person can be appointed to the position rather than the number of times the person may be appointed under Section 21221(h). The new wording seems to give the employer the opportunity to appoint a retiree to fill a vacant position and then later appoint the same employee to fill another vacant position.[31]

Assembly Bill 340: California Public Employees' Pension Reform Bill (PEPRA). On September 12, 2012, Assembly Bill 340,[32] also known as PEPRA, was signed into law by Governor Brown. PEPRA applies to all public employers except the University of California, charter cities, and charter counties. The bill's author, Assembly Member Warren Furutani, explained that the bill's intent was to restore credibility to the public pension system and rid it of "the abusive practices engaged in by a few individuals...."[33] PEPRA generally forbids post-retirement employment, without reinstatement, for a period of 180 days after the employee's date of retirement from a public agency.[34]

A retiree now usually has a 180-day waiting period after retirement[35] before he or she can work as a retired annuitant. This applies only to retirees who seek employment as a retired annuitant after January 1, 2013. The 180-day waiting period is so vitally important that CalPERS issued a circular letter[36] to inform employers of the necessity of reporting permanent separation dates.[37] Specifically, the letter stated that with the implementation of PEPRA and PERL[38] amendments in AB 340, it is "extremely" important that the correct membership appointment details be maintained by employers in "myCalPERS." [39] Also, permanent separations should be reported once employment ends with an agency, especially for those employees nearing retirement.[40] Under CalPERS policies, reporting separation dates is not a new requirement. But now that retirees must wait 180 days before commencing work as a retired annuitant, the separation date becomes critically important for both retirees and the agency looking to hire them.[41]

Additionally, a retiree is limited to performing a cumulative 960 hours of work in a 12-month period for all employers in the same public retirement system.[42] If a retiree received any unemployment compensation, he or she is prohibited from working for the next 12-month period for any public employer.[43] PEPRA incorporates the requirement established for CalPERS agencies under AB 1028 that a retiree's rate of compensation may not exceed the maximum paid to current employees performing comparable duties. Retirees are ineligible under the section for another reappointment for the 12-month period following the end of the first appointment.[44]

For example, if Annuitant Alan retired on February 1, 2013, under PEPRA, he is not allowed to seek employment at another CalPERS or 1937 Act agency[45] until July 31, 2013 (180 days later). And if during 2013, Alan receives unemployment insurance compensation from an employer that provided retirement benefits under PERS, he is ineligible to work for a CalPERS or 1937 Act agency for a 12-month period prior to his appointment as a retired annuitant. So if Alan was appointed to a position on August 1, 2013, but received unemployment insurance benefits in June 2013, he would be ineligible to work for a CalPERS-covered employer until June or July 2014.[46]

Practice Pointers to Stay Off CalPERS' Radar

It may be helpful to analogize CalPERS to the Internal Revenue Service — as long as you pay what the IRS determines to be your fair share based on your income and qualified deductions, you are less likely to be subject to an audit. Correspondingly, if a CalPERS-covered public agency employer takes the initiative to show it is in compliance with the post-retirement employment rules for each of the retired annuitants in its employ, the public agency may be able stay off CalPERS' radar. Put differently, consider it a preemptive strike.

Again, other than school crossing guards, members of a board, commission, or advisory committee, or those in other specifically enumerated positions, a CalPERS retiree cannot work for a CalPERS agency without reinstatement, unless that post-retirement employment fits within specific statutory exceptions under Government Code sections 21221(h) and 21224. Thus, as an employing entity, it would be prudent to consider the following suggested guidelines before hiring a retiree annuitant.

(1) Self-auditing. Determine who on your payroll are retired annuitants, their positions, and the provisions under which they were hired.

(2) Advertising for new hires. CalPERS plans to start asking for recruitment flyers and other recruitment material related to new appointments under Government Code section 21221(h). It is prudent that materials for the appointments and the appointments themselves be executed for the stated purpose: the interim appointment pending the recruitment for and filling of the vacant position.

(3) New hires. Put the annuitant's employment arrangement in writing either in the form of a formal contract or as a signed memo that identifies information such as:

- Which section is being used for the appointment? If the position is an interim appointment to a regular, permanent position, the safest course is to assume section 21221(h) authorizes it. If the position is truly "extra help," use section 21224.
- Is there an emergency or are specialized skills needed for the appointment? If the appointment is under section 21224, identify the appointment as one of a temporary/limited duration and describe the duration as definitively as possible.
- A description of the hourly compensation to be paid.
- A statement that the public agency has compared the retiree's hourly compensation to the base salary (in hourly terms) paid to other employees performing comparable duties as listed on a publicly available pay schedule, and finds the retiree's compensation does not exceed such other employees' compensation.
- A statement that no other benefit, incentive, compensation in lieu of benefits, or other forms of compensation in addition to the hourly pay rate are being provided to the annuitant.
- A statement of the absolute 960-hour cap (for all PERS employers) for the

fiscal year and how it will be monitored.[47]

(4) CalPERS circular letters. Refer to CalPERS Circular Letter Number 200-070-11 if you are unclear about determining the separation date, as it is critical for determining when the 180-day waiting period commences, as discussed above.[48]

(5) Annuitants and agencies. Refer to the State of California's Boomerang website, which has current information for retirees interested in post-retirement employment.[49]

(6) CalPERS website. Refer to the CalPERS website for questions posted by retirees about the legislative changes affecting post-retirement employment. For example, one retired annuitant asked:

How does AB 1028 affect RAs that subsequently become elected officials? Can that person collect PERS pension and also the pay for the elected position? Any restrictions? If found to be out of compliance with AB 1028, what is the penalty and is the employee or employer at risk, or both?

CalPERS responded:

CalPERS Reply: @xxx, Retirees can be elected to an office after retirement and receive pension and pay for the office. The rules are explained in our publication [Employment after Retirement](#) on page 5.

Possible Penalties for Non-Compliance

Failure to comply with the changes to the law could result in unexpected expense and apprehension for the retiree and the employer. Under Government Code section 21220, a retiree found to be working unlawfully can face serious penalties including reinstatement from retirement dating back to the beginning of the employment; return of any retirement allowance received from CalPERS during the employment; payment of employee contributions owed during the period of employment, plus interest; and reimbursement to CalPERS for the costs of administering the reinstatement.[51]

For an employer, violation means payment of employer contributions owed during the period of employment, plus interest; and reimbursement to CalPERS for the cost of administering the reinstatement.[52] Consequently, getting it right is critical to both the public agency and the retiree.

Food For Thought

On October 27, 2011, Governor Brown issued his 12-point pension reform plan.[53] Item six, entitled "Limit Post-Retirement Employment: All Employees," forecast what was to come, and the governor made good on his promise with the recent legislative

changes to laws governing post-retirement with CalPERS-covered entities. One of the plan's goals was directly aimed at placing limits on employment after retirement with CalPERS member agencies. The plan purported to strike a balance between the invaluable benefit of institutional knowledge, expertise, and experience that a retiree brings to his or her position as a retired annuitant and those highly publicized abuses where retired annuitants return to full-time employment exceeding the 960-hour maximum.

Governor Brown's current budget proposal includes a provision that would eliminate retired annuitants from the state payroll.^[54] Even so, over the next few years, the use of retired annuitants in state and local government is bound to evolve as public agencies look at long-term solutions for delivering services under greater financial constraints. Whether eliminating all retired annuitants is fiscally sound^[55] or even feasible, given the "specialized" expertise they bring to their employers, remains to be seen. What is clear is that in the wake of public outcry and frustration with public pensions, at the least it appears that CalPERS is taking a closer look at retirees and employers who abuse the statutory exceptions for post-retirement employment. And, don't forget...your employees may be reporting you to their union.

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[1] "Mission critical" is defined as a disruption in normal business, which may result in the failure of business operations.

[2] See Cal. Dept. of Human Resources, Memo to Personnel Management Liaisons (PML") 2012-034, *Student Assistants and Retired Annuitants* (Aug. 24, 2012), at 2-3.

[3] SEIU Side Letter Enforcement (Sept. 5, 2012), <http://seiu1000.org/2012/09/side-letter-enforcement.php#more>.

[4] The form asks the represented employee to describe the activities being performed by the retired annuitant, how the work possibly mirrors that of a represented bargaining unit member, and why the represented member believes the work being performed is not mission critical, <https://seiu1000.seiu.org/page/signup/ra-and-sa-positions>.

[5] The word "temporary" may be somewhat nebulous even with the revisions to Government Code sections 21224 and 21229, as these sections do not clarify or define the amount of time a retired person may work for a CalPERS-covered entity

post retirement.

[6] *CalPERS, A Guide to Reinstatement from Retirement*, p. 3,
<http://www.calpers.ca.gov>.

[7] Government Code sections 21221(h) and 21224 provide exceptions to this rule so long as key eligibility requirements are met.

[8] A retired member of the CalPERS retirement system may return to permanent employment with a CalPERS employer to earn additional service credit towards a subsequent retirement, known as reinstatement from retirement. A retired member who returns to active employment with a CalPERS employer no longer receives a retirement allowance. *CalPERS, A Guide to Reinstatement from Retirement*,
<http://www.calpers.ca.gov>.

[9] Government Code secs. 21224, 21229.

[10] An “independent contractor” is “someone who contracts to do a piece of work according to his or her own methods, and is subject to his or her employer’s control only as to the end product or final result of work, and not as to the means and manner in which the work is performed. CalPERS, Circular Letter No. 200-154-04, May 3, 2004; see also *CalPERS Procedure Manual*, p. 2.6,
<http://www.calpers.ca.gov/eip-docs/employer/cir-ltrs/2004/200-154-04.pdf>.

[11] In *Metropolitan Water Dist. of Southern California v. Superior Court (Cargill)* (2004) 32 Cal.4th 491, the California Supreme Court explained that CalPERS looks to the common law definition of “employee” when determining whether an employer-employee relationship exists.

[12] The authors of this article represent the City of Stockton in labor and employment matters.

[13] Tony Saavedra, OC Watchdog, “To Remain Retired...Cease Employment Immediately,” *Orange County Register*, (Aug. 1, 2012),
<http://taxdollars.ocregister.com/2012/08/01/ex-orange-city-manager-accused-of-violating-pension-law/160085/>.

[14] Saavedra, *supra* note 13.

[15] *Ibid.*

[16] Assembly Bill 1028 came from PERS itself via the Committee on Public Employees, Retirement and Social Security. The bill made a number of changes to PERL including provisions “strengthening and clarifying rules regarding post-retirement employment” that were “identified by staff as necessary for the maintenance and good governance of CalPERS.” Cal. Assembly Comm. on Appropriations, Hearing Report at p.1 (April 13, 2011),
http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_138_cfa_20110412_152423_asm_comm.html.

[17] The bill summary presented at the first Senate hearing for AB 1028 stated that the requirements for employing annuitants “are not consistently spelled out in the statutes, creating potential for misinterpreting or abusing the requirements of the program,” and thus “this bill aligns various provisions governing retired workers to ensure that the program requirements are consistently applied.” Cal. Senate Comm. on Pub. Emp. & Ret., Bill Analysis at p.2 (June 27, 2011). PERS has taken the position that these changes are clarifications only and therefore declarative of existing law, http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0301-0350/ab_340_cfa_20110629_170658_sen_comm.html.

[18] Richard Padilla and Joaquin Vazquez, “What You Should Know About Hiring CalPERS Retirees,” *Western City*, (August 2012), <http://www.westerncity.com/Western-City/August-2012/What-You-Should-Know-About-Hiring-CalPERS-Retirees>.

[19] *Id.*

[20] “Contracting agency” means any public agency that has elected to have all or any part of its employees become members of CalPERS and that has contracted with the board for that purpose. Government Code sec. 20022.

[21] The requirements for a publicly available pay schedule include the position title for every employee, the pay rate for each position, and time base for each pay rate (e.g. hourly); are posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer’s internet website; indicate an effective date and date of any revisions, are retained by the employer and available for public inspection for not less than five years; and do not permit a reference to another document in lieu of disclosing the pay rate. Cal. Code Regs., tit. 2, section 570.5.

[22] CalPERS maintained that AB 1028 changes to sections 21221 and 21224 were simply clarifications to existing law. However, if it were this simple then why were so many agencies out of compliance with the law? The reality is that many state and contracting agencies were employing retired annuitants for multiple years, in various positions, including permanent ones, as long as they followed the general limitation of 960 hours per year. League of Cities, *Employment of CalPERS Annuitants*, Sept. 7, 2012 presented by Sheston, S.

[23] CalPERS, Circular Letter No. 200-002-12 (Jan. 12, 2012), <http://www.calpers.ca.gov/eip-docs/employer/cir-ltrs/2012/200-002-12.pdf>.

[24] *Id.* (explaining that some examples of extra help are elimination of backlog, special projects, and work in excess of what the employer’s permanent employees can do.)

[25] See *Id.*

[26] http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1021_bill_20120627_chaptered.html.

[27] Government Code sec. 21221(h).

[28] *Id.*

[29] See *Id.*

[30] Sheston, *supra* note 22.

[31] Padilla, *supra* note 18.

[32] Assembly Bill 340 (2011-12 Sess.), http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0301-0350/ab_340_bill_20120912_chaptered.pdf.

[33] “California’s public pension systems were established to provide retirement security for those who give their lives to public service. Recently, the benefits provided by those systems have been tainted by a few individuals who have taken advantage of the system. The abusive practices engaged in by a few individual[s] have put retirement benefits at risk for the vast majority of honest, hard-working public servants. Additionally, the practice of having someone retire on Friday and come back to work on Monday, able to collect a full retirement benefit along with a full paycheck, is something the public simply will not tolerate any longer....” Senate Comm. on Public Employees, Retirement & Social Security Comm. Analysis of Assem. Bill 340 (2011-2012 Sess.), as amended on June 23, 2011, http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0301-0350/ab_340_cfa_20110629_170658_sen_comm.html.

[34] Cal. Assem. Bill 340 (2011-2012 Reg. Sess.), http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0301-0350/ab_340_bill_20120912_chaptered.pdf.

[35] A retired annuitant may not be employed during the 180 days following retirement if the annuitant received a retirement incentive at the time of retirement. If an annuitant did not receive a retirement incentive, the 180-day waiting period would not apply if the retiree is a police officer or firefighter or if the employer certifies the employee is needed to fill a critically important position and the appointment has been approved by the governing board in a public meeting. Government Code sec. 7522.56 (f)(1), (4).

[36] CalPERS, Circular Letter No. 200-002-13, *Reporting Permanent Separation Dates and Validating Participant Appointment Details in MyCalPERS* (Jan. 4, 2013) (“Circular Letter No. 200-002-13”), <http://www.calpers.ca.gov/eip-docs/employer/circulars/2013/200-002-13.pdf>.

[37] Circular Letter, *supra* note 36.

[38] Public Employees’ Retirement Law, codified under the Government Code, beginning at section 2000.

[39] Circular Letter, *supra* note 36.

[40] *Ibid.*

[41] CalPERS, Circular Letter No. 200-070-11, *Permanent Separation Dates in MyCalPERS* (Oct. 28, 2011) (“Circular Letter No. 200-070-11”), <http://www.calpers.ca.gov/eip-docs/employer/cir-ltrs/2011/200-070-11.pdf>.

[42] Government Code sec. 7522.56(d).

[43] Government Code sec. 7522.56(e)(1).

[44] Government Code sec. 7522.56(e)(2).

[45] County Employees Retirement Law of 1937.

[46] The actual date of eligibility to begin work as a retired annuitant would depend on when Alan received his last unemployment insurance check.

[47] Sheston, *supra* note 20.

[48] *Id.*

[49] State of California Retirees Job Connection FAQs, https://boomerang.ca.gov/faqs_sr.aspx.

[50] <http://www.calpersresponds.com/issues.php/ab-1028>.

[51] Government Code sec. 21220(b).

[52] Government Code sec. 21229(c).

[53] Brown, *Twelve Point Pension Reform Plan*, (October 27, 2011), http://gov.ca.gov/docs/Twelve_Point_Pension_Reform_10.27.11.pdf

[54] Jon Ortiz, “Jerry Brown moves to eliminate retiree workers,” *Sacramento Bee* (June 13, 2012), <http://www.sacbee.com/2012/06/13/v-print/4557862/jerry-brown-moves-to-eliminate.html> (explaining that approximately 5,800 annuitants collected \$110 million from the state in addition to their pensions.)

[55] *Id.* (explaining that approximately seven cents of every \$10 paid to workers during the 2011 calendar year went to returning retirees.)