

***FAQS YOU NEED TO KNOW***  
**PEPRA, PERS and Your Encore Career**

***([Cal-ICMA Encore Managers Committee](#) - 2/8/16)***

The adoption and implementation of the Public Employee's Pension Reform Act of 2013 (PEPRA) and subsequent clean-up legislation and PERS regulations have created greatly increased risk and some uncertainty for retired managers wanting to continue their public service in new ways. Please seek legal counsel for any challenging issues or ambiguities you may face.

***1) What is PEPRA and why does it matter for retired managers?***

PEPRA was the state law adopted to reform California's public pension systems and is noted primarily for increasing the age of retirement and reducing pension benefits for new members. However, PEPRA also further restricted subsequent re-employment of retirees by public agencies under the same retirement pension system.

***2) How important is paying attention to these rules?***

ABSOLUTELY CRITICAL! Purposeful or inadvertent violation of these rules could result in:

- Mandatory reinstatement as an employee contributing to the pension system;
- Return of all pension payments received since re-employed;
- Payment of all pension contributions since re-employed (by you & your re-employer);
- Payment of interest and administrative costs for the delayed pension contributions; and
- Loss of retiree medical and other benefits if provided by your prior retirement employer.

***3) Who oversees and implements PEPRA?***

For most retired managers, CalPERS is the primary PEPRA enforcement agency, but the rules also apply to re-employment under non-CalPERS systems. Note that the retired annuitant has equal if not greater responsibility than the re-employing agency to ensure compliance with PEPRA, and agencies are required to report all retired annuitants to their pension system (e.g., CalPERS). Further, although CalPERS does have an established appeal process, the burden is on the retired annuitant to disprove or invalidate CalPERS determinations.

***NOW THAT WE HAVE YOUR ATTENTION, WHAT ARE THE RULES?***

***4) How quickly can I go back to work for my prior or another public agency?***

You can NOT become re-employed as a retired annuitant for 180 days UNLESS:

- a) You are a sworn public safety officer returning to that line of work; OR
- b) Your re-employment is approved by the public agency's Council or Board as a non-Consent Calendar item to fill a critically needed unique managerial position (e.g., city manager).

There are also two special circumstances to be aware of:

- c) The exceptions above do not apply if you received an early retirement incentive; and
- d) Only former state employees may be state retired annuitants.

**5) *How long can I work as a retired annuitant?***

There is no limit as to the number of years you may work, but there is a strict limit of 960 hours worked in a single year. Each pension system defines its own year; CalPERS uses a fiscal year of July through June. The 960 hour combined limit may include all hours worked for any agency within reciprocal retirement systems that you are drawing a pension from (e.g., from both CalPERS and the reciprocal agency). Check with legal counsel for current interpretations.

**6) *What type of work can I do after the 180-day waiting period ends?***

Retirees cannot be hired into vacant permanent or regular staff positions (full time or part time) except as an “interim” appointee as described below. However, agencies can create a limited duration “retired annuitant” position for work that requires a) unique expertise or b) to meet a temporary, specific workload demand that current staffing cannot fulfill.

**7) *What if I just want to do “interim” work for a regular municipal position?***

Interim work is explicitly allowed only for managerial and executive positions, and subject to the following conditions: A) Specified duration, B) Same retired annuitant cannot be reappointed or extended, and C) Simultaneous with an active recruitment to fill the position permanently. The governing board for the public agency must approve the appointment.

**8) *How much can I be paid?***

For interim work or any other work equated to an existing classification, the retired annuitant cannot be paid any less or more than the previously established hourly rate for the position, and no other benefits or offsets may be provided (e.g., health, pension, housing, travel, etc.).

**9) *Well then, I’m just going to be a “consultant” and not worry about all this. Okay?***

NO!!! Calling yourself a consultant, whether working independently or through a firm, does not make it so, and CalPERS is watching for these potential violations. The legal standard is called a “common law employee” using the [IRS 20 factor test](#) that primarily rests on whether or not the employer controls the work performed on a day-to-day basis. Do not push the limits here without legal advice or submitting your consultant contract for CalPERS review in advance.

**Whew! Anything else?**

- Remember that these same rules apply to all agencies under the same retirement system.
- You cannot work again as a retired annuitant for 12 months after drawing unemployment.

**Additional information is available in the CalPERS [“Guide to Employment After Retirement”](#) and [“Circular Letter 200-002-14.”](#)**

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