



# POST-RETIREMENT EMPLOYMENT POLICY

## PURPOSE

The purpose of this policy is to clarify how Government Code section 7522.56 applies to post-retirement employment of Sacramento County Employee's Retirement System (SCERS) retired members by or in service to participating SCERS employers.

## POLICY

This policy is applicable to all SCERS retired members returning to work for a SCERS participating employer, including the following: an employee working through a private third-party employer where that employee is providing direct services to a participating employer, an independent contractor of a participating employer, or a direct employee of a participating employer.

The phrase "an employee working through a private third-party employer where that employee is providing direct services to a participating employer" should be construed broadly. That term includes, without limitation, a retired member who (a) works for a private third-party company that has a contract with a participating employer, and (b) under that contract, performs work that involves serving and engaging with the participating employer. However, the term does not include a retired member who (a) works for a private third-party company that has a contract with a participating employer, but (b) performs work for the private company that is unrelated to that contract or the participating employer.

Section 7522.56 defines how quickly the retiree can return to work, how much the retiree can be paid, and how many hours the retiree can work annually. The SCERS Board further determines that only hours actually worked or taken within the calendar year or fiscal year, including overtime hours, will apply to the maximum limit of 960 hours as set forth in subdivision (d) of section 7522.56. Earned credit for vacation, sick leave, or compensatory time off (CTO) if not actually worked or taken, does not apply to the 960-hour maximum in subdivision (d).

This policy does not apply to a retired SCERS member working in private industry or for any other non-SCERS employer, so long as the employee is not providing direct services to a SCERS participating employer.

SCERS approval is not required for a SCERS retired member to return to part-time work for a participating employer under section 7522.56. However, subdivision (c) of section 7522.56 states that a retired person can return to work only during an emergency to prevent a stoppage of public business or because the retired person has the skills needed to perform work of a *limited duration* [emphasis added]. This policy determines that the term *limited duration* is a period of 36 continuous months.

This policy further determines that a participating employer may provide a retired member with a 12-month extension on an annual basis up to two times, for a total of an additional 24 months beyond the initial 36-month period, if each 12-month extension is approved by the participating employer's chief executive. Each 12-month extension does not need to be contiguous to the initial 36-month period or other 12-month extension.

A participating employer's chief executive may provide a retired member working in a public safety capacity additional 12-month extensions on an annual basis to fulfill public safety workforce needs.

For purposes of this policy, the County Executive can designate the Director of the Department of Personnel Services to approve extensions to the limited-duration periods on behalf of all Sacramento County departments.

## **APPLICATION**

It is the employer's responsibility to determine the appropriate use of retired members to meet public business needs in accordance with subdivision (c) of Section 7522.56.

Participating employers shall establish an administrative process to monitor and track SCERS retired members returning to part-time work, consistent with section 7522.56. The limited-duration period starts when the retired member begins working actual hours, not when the retired member is hired.

Participating employers shall provide SCERS a report, no less than semi-annually (by January 31 and July 31 of each year), disclosing the names of the retired members who have been employed, their hours worked, their duration of retired annuitant service, and any extensions to the 36-month period approved by the chief executive.

It is the participating employer's responsibility to monitor and manage the retired member's work hours to ensure compliance with this policy and statute. Participating employers shall notify SCERS when retired members have exceeded the maximum number of hours worked under Government Code section 7522.56.

Any retired member who works more than the maximum number of hours provided in section 7522.56, or who works beyond the initial 36-month reemployment limited duration period with a SCERS participating employer or third-party employer providing contract services to a SCERS participating employer, other than approved extensions, may be reinstated into full membership, and SCERS may suspend the retirement benefit to such retired members as provided by section 7522.56.

Such reinstatement to active employment will suspend the retired member's retirement benefit until such time as he/she decides to re-retire. Upon reinstatement, the employee and employer will both be required to pay contributions (including interest) for the period of unlawful employment. Upon re-retirement, should the retiree wish to return as a retired member to work for a SCERS participating employer, the return-to-work rules from section 7522.56 will again apply.

## EFFECTIVE DATE

This policy is effective July 1, 2019. On the effective date, members who are currently or who will be serving as retired member shall have the limited-duration period applied prospectively.

## BACKGROUND

In 2013, the California Legislature instituted broad pension reforms with the enactment of the Public Employees' Pension Reform Act (PEPRA). These reforms imposed additional restrictions on retired members looking to return to work without reinstatement.

## RESPONSIBILITIES

Executive Owner: Chief Benefits Officer

## POLICY HISTORY

| Date       | Description  |
|------------|--|
| 03-15-2023 | Board re-affirmed policy   |
| 03-18-2020 | Board approved policy  |
| 05-15-2019 | Board approved policy  |
| 03-20-2019 | Staff presented Board discussion draft of revised policy for dissemination to stakeholders |
| 08-01-2018 | Renumbered from 025  |
| 12-20-2017 | Board affirmed in revised policy format  |
| 06-17-2015 | Board amended policy   |
| 05-06-2015 | Board approved policy  |