

THE CALIFORNIA STATE UNIVERSITY
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Date: December 20, 2004

Code: **TECHNICAL LETTER**
HR/Benefits 2004-30

To: Human Resources Directors
Benefits Officers

From: Cathy Robinson, Assistant Vice Chancellor
Human Resources Administration

Subject: **Change in State Law – Post-Retirement Employment (SB 1439)**

Existing provisions of the Public Employees' Retirement Law provide retirees of the California Public Employees' Retirement System (CalPERS) the ability to return to work and receive compensation, if specific criteria are met, for up to 960 hours in a calendar year without reinstatement from retirement or loss or interruption of benefits. Government Code (GC) 21224 permits state agencies (including the California State University (CSU)) and other public employers to appoint retirees and utilize the unique skills of those retirees and to address emergency workflow situations for a limited time.

The Legislature believes this program has been subject to abuse in the past. Among these abuses has been the practice of some retirees collecting unemployment insurance compensation after the retiree has worked 960 hours in a calendar year. As a result, in a given year, the retiree of the system may collect three public stipends: a retirement allowance, a salary for up to 960 hours of work in a calendar year, and unemployment insurance compensation after the 960-hour limit has been reached. The Legislature believes this "triple dipping" process is inappropriate and a violation of the public trust. As a result, the Legislature passed and the Governor signed Senate Bill (SB) 1439 to curb this abuse of post-retirement employment.

Effective January 1, 2005, SB 1439 modifies GC 21224 and requires employers to exclude from hire retirees who have collected unemployment insurance compensation during the 12-month period prior to an appointment eligible under GC 21224 if the retiree received any unemployment insurance compensation arising out of prior employment subject to this

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GC section with the same employer. Furthermore, a retiree who accepts an appointment after receiving unemployment insurance compensation pursuant to this provision, must terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retiree shall not be subject to Section 21202 or subdivision (b) of Section 21220 (reinstatement provisions).

A copy of SB 1439 is provided as Attachment A.

If you have any questions, please contact Pamela Chapin in Human Resources Administration at (562) 951-4411, or via email at pchapin@calstate.edu. This Technical Letter is also available on Human Resources Administration's Web page at: <http://www.calstate.edu/HRAdm/memos.shtml>.

CR/pc

Attachment

**TECHNICAL LETTER
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ATTACHMENT A**

Text of SB 1439

SEC. 2. Section 21224 of the Government Code is amended to read:

21224. (a) A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or any other employer either during an emergency to prevent stoppage of public business or because the retired employee has skills needed in performing work of limited duration. These appointments shall not exceed a total for all employers of 960 hours in any calendar year, and the rate of pay for the employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(b) (1) This section shall not apply to any retired person otherwise eligible if during the 12-month period prior to an appointment described in this section the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with the same employer.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment. The retired person shall not be subject to Section 21202 or subdivision (b) of Section 21220.