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AB 1054 (Gipson (A) - Introduced 02/20/2025, amended 03/24/2025)

BY: SCOTT A. O'MARA & DANIEL J. PALASCIANO

AB 1054 was introduced earlier this year by Assemblyman Gipson, as an attempt to establish a Deferred Retirement Option Program (DROP) for CHP Officers and CalFire firefighters. The initial version of the bill introduced on 02/20/2025 was essentially an outline of the proposal to create the DROP system, however, there were no specifics as to how the DROP system would be set up, eligibility requirements, etc. That bill was referred to the Assembly Committee on Public Employment and Retirement (“Committee”) on 03/24/2025.

On that same date, an amended version of AB 1054, which was nearly identical to the initial bill, was recommended for re-referral to the Committee, and on 03/25/2025, the bill was re-referred to the Committee. However, a hearing before the Committee scheduled for 04/23/2025 was cancelled at the request of Assemblyman Gipson. No action has been taken on this bill since that time.

Prior to the cancelled P.E. & R committee hearing, there were proposed draft amendments to the bill that were circulated which were dated 03/24/2025. These draft amendments provided a version of the details about how the DROP system would operate, eligibility requirements, etc., that went far beyond the general intent statements of the first two versions of AB 1054.

While not adopted as part of the currently amended version of AB 1054, the draft amendments shine much light on the proposed workings of a DROP system. For example, included in the draft amendments is proposed Government Code §21717.8 (a)(2), which reads as follows:

(2) The member must waive and forfeit any application, claim, or right to any disability retirement benefit administered by any public retirement system of which they are a member, and where such an application, claim, or right to any disability retirement benefit is based on a condition relating to an illness or injury that occurred prior to their election to participate in the program, regardless of whether the illness or injury is industrial or nonindustrial.

While the language of this proposed section is not a model of clarity, it seems clear that the intent of this section is to prevent a CHP Officer or CalFire member who is in DROP from applying for

an Industrial Disability Retirement (IDR) when the basis of that application relates to any injury or illness that occurred prior to the member's decision to participate in DROP. This section is problematic for multiple reasons.

As a reminder, per Section 1 of AB 1054, the main intent of the proposed DROP program, as stated by the Legislature, is to encourage CHP and CalFire members to work beyond their planned service retirement date, due to the, "deficiency in the recruitment and retention of CHP officers and CAL FIRE firefighters which has resulted in a chronic shortage of needed personnel(.)" The Legislature goes on to state that, "the challenges now being confronted by both the CHP and CAL FIRE are dangerously protracted requiring increasing reliance on existing experiences and expertise." Further, the Legislature has found that the CHP now serves as a local and statewide law enforcement entity, and the Legislature further declares that CAL FIRE's handling of catastrophic disasters in the "new normal", and has significantly increased the complexity of its mission.

In response to this "deficiency in recruitment and retention" of qualified personnel, the DROP program has been introduced, which would increase not only the amount of available personnel for both agencies, but would specifically increase the amount of thoroughly trained, highly experienced personnel, at a time when the State of California is in dire need of such personnel.

Unfortunately, proposed Government Code §21717.8(a)(2) would most likely frustrate the intent of the DROP system, by deterring qualified personnel from electing to participate in DROP. This is because while many experienced CHP officers and CalFire firefighters have had injuries during their career, the vast majority of on-the-job injuries are successfully treated, and the injured worker returns to full duty, oftentimes for years without incident.

For example, a CHP Officer with a non-surgical back injury may be injured early in their career, get successfully treated, and then work for another 15 or 20 years in good health up until their planned service retirement date. That Officer then enters DROP and continues with his full duties. If that Officer suffers a second back injury while working in DROP that renders them unable to do their usual and customary duties, why should that Officer be barred for applying for an IDR?

Again, having such a condition put upon CHP Officers and CalFire firefighters *would likely dissuade them from opting into the DROP program.* If our CHP Officers above were to be injured on the job while working in DROP and was no longer able to work, he would not only lose the ability to continue working in the DROP program, with its concomitant financial benefits, but he would also be unable to apply for an IDR, which provides a significant tax benefit to safety personnel injured on the job. Especially if our CHP Officer were injured to the extent that they could no longer work at any job, their financial harm would be even greater.

Further, there does not appear to be a valid rationale to counter this argument. The benefit conferred by the IDR is a federal tax benefit, which does not cost the State of California anything. The State of California is not required to increase the member's retirement allowance, or contribute anything at all to the increased benefit that would come to a DROP member who was

granted an IDR. The only additional benefit conferred on an IDR recipient who was injured while in DROP comes through the federal government, not the State of California.

At such time as AB 1054 or another DROP bill becomes active in Sacramento, attention must be paid to the details of any such bill, especially if a provision such as the current proposed Government Code §21717.8(a)(2) is included. Based on the foregoing, it is clear there is no rational basis for AB 1054 or an updated DROP bill to include Government Code §21717.8 (a)(2). The only potential effect this section would have on the DROP system would be to deter from the DROP program many qualified and experienced personnel that AB 1054 is attempting to persuade to keep working in the first place.

It continues to be very important to monitor the maturation of AB 1054 to insure that the legislature does not penalize those officers and firefighters who participate in DROP by negatively impacting their right to an IDR. It will be difficult to create a meaningful solution to the current staffing crisis unless AB 1054 is eventually passed in a manner that does not cause harm to CHP Officers and CalFire firefighters. One way to prevent such harm is to make sure that currently proposed Government Code §21717.8(a)(2), or any similar such provision, is not included in the final legislation.

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