INITIAL STATEMENT OF REASONS
Updates to Penalties and Interest Regulations

Introduction

Existing regulations, first codified in 2012, are intended to ensure CalSTRS receives payroll files and contributions in a timely manner. The regulations also ensure that the system is made whole for any investment income not earned and state contributions that CalSTRS does not receive due to late reporting of creditable compensation and late remittance of contributions. More than 10 years after being codified, there are scenarios the current regulations do not contemplate due to legislative and regulatory changes and the greater frequency of emergency situations, such as wildfires, that impact employer operations. Additionally, there are specific CalSTRS pension administration system constraints and outages of the secure employer website that impact employers' ability to submit new or corrected information, resulting in penalty and interest assessments. Lastly, assessments of interest on outstanding invoice balances are not clearly specified in existing regulations.

Problem Statement

Existing regulations do not contemplate scenarios involving circumstances beyond the control of employers or where the employer acted under the direction of CalSTRS. Existing regulations are silent as to whether those scenarios exempt employers from the assessment of penalties and interest. Additionally, existing regulations do not clearly specify whether interest is charged on invoiced balances not paid in full by the employer within a specified timeframe.

Purpose, Necessity and Rationale

The proposed amendments to existing regulations address the assessment of penalties and interest under scenarios described above by providing additional exemptions to those assessments. More specifically, employers would be exempt from the assessment of penalties and interest when:

- An employer's operations are impaired because of a natural or human-made emergency.
- An employer reported information or remitted contributions under direction given by CalSTRS consistent with the requirements of AB 1667 (Cooper) based on either of the following:
    - Resources that interpret and clarify the applicability of creditable compensation and creditable service laws (Education Code section 22325), or
    - An advisory letter (Education Code section 22326).
- The assessed penalties and interest are a result of an outage of the CalSTRS secure employer website or a constraint of the pension administration system.

The proposed amendments to existing regulations specify several scenarios in which employers would be exempt from the assessment of penalties and interest in alignment with the intent of the existing regulations. While natural emergencies, such as wildfires, have occurred in the past, such emergencies are now more frequently experienced by employers, impacting their operations, including their ability to submit required information and contributions. Also, with the enactment of AB 1667 (Statutes of 2022, Chapter 754), there are specific scenarios in which an employer may report information under direction given by CalSTRS, but the CalSTRS pension administration system may deem the employer subject to a penalty or interest assessment. In such a scenario, assessing penalties and interest for adhering to direction given by CalSTRS would be inconsistent with the intent of the existing regulations. On other occasions, an employer may attempt to report information, but an outage of the CalSTRS secure employer website prevents the timely submission of the information. Additionally, there are constraints of the pension administration system that require employers to make adjustments to information they previously submitted that result in an assessment of penalties and interest that are directly caused by those constraints. By exempting employers from the assessment of penalties and interest in these scenarios, the regulations will be more consistent with their original intent and provide employers with greater clarity.

The proposed amendments to existing regulations clarify that interest is charged on outstanding invoices for balances not paid in full within 30 days of the invoice date and that CalSTRS can assess interest on outstanding invoice balances if not paid in full within a specified timeframe. By clarifying these issues, employers are better able to understand their reporting obligations and the circumstances under which CalSTRS will assess this type of interest.

Studies, Reports or Other Documents Relied Upon

None.

Economic Impact Analysis

CalSTRS has considered the impact of these regulations on business, with consideration of industries affected and information supplied by interested parties, including the ability of California businesses to compete with businesses in other states.

CalSTRS has determined that the regulations proposed do not constitute a major regulation because there are no direct economic impacts on California businesses. The proposed changes ensure that CalSTRS continues to be made whole for any investment income not earned and any state contributions that are lost due to late reporting of creditable compensation and late remittance of contributions, while specifying additional scenarios under which employers are exempt from assessment of penalties and interest.

Specifically:

- The action will not affect the creation or elimination of jobs within the state.
- The action will not affect the creation of new businesses or the elimination of existing businesses within the state.
- The action will not affect the expansion of businesses currently doing business within the state.
- The action will have no effect on the health and welfare of California residents and no effect on worker safety and the state's environment.

Benefits Anticipated

Anticipated benefits of these regulations include reduced administrative workload in processing disputes for employers by clarifying situations under which employers will be exempt from assessed penalties and interest, which will also help employers determine if they should dispute the penalties and interest.

Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business

These regulations do not place any additional licensing, record keeping or compliance requirements on businesses. These regulations solely affect school districts, community college districts, county offices of education and other employing agencies that submit reporting information and contributions directly to CalSTRS. Therefore, the proposed regulations will not have a significant statewide adverse economic impact on businesses.

Conferring with Interested Persons

Pursuant to Government Code section 11346.45, CalSTRS has involved parties who would be subject to the proposed regulations prior to the notice of proposed adoption of these regulations. CalSTRS staff provided information to, and solicited input regarding this proposed action from, stakeholder groups, including representatives from various school employers, Association of California School Administrators, California Teachers Association, California County Superintendents, California Retired Teachers Association and California Federation of Teachers. CalSTRS staff has provided information to the Department of Finance regarding the proposed regulations.

Alternatives Considered

These regulations promote legal compliance by providing employers with clear and specific scenarios under which employers are not subject to penalties and interest for late contributions and reports. One alternative is to not specify the scenarios that would be exempt from the assessment of penalties and interest and to allow employers to dispute assessments and seek a CalSTRS decision on a case-by-case basis, but this approach would likely be more administratively difficult because there could be inconsistent application. Therefore, specifying in regulation the scenarios that would exempt employers from assessed penalties and interest is the most viable alternative.

No alternative has been proposed that would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that accomplishes the intent of the statute being implemented.

CalSTRS has not identified any alternative that would lessen any adverse impact on small businesses. No alternative has been proposed that would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that accomplishes the purposes of the statute being implemented.