



California State Teachers'  
Retirement System  
Executive Office  
PO Box 15275  
Sacramento, CA 95851-0275  
www.CalSTRS.com

December 27, 2012

**TO:** All County Superintendents of Schools  
District Superintendents of Schools  
County Offices of Education  
Community College Districts  
Charter School Administrators and  
All Employing Agencies

**FROM:** Jack Ehnes  
Chief Executive Officer

**SUBJECT:** Employer Directive 2012-07  
California Public Employees' Pension Reform Act of 2013

### **PURPOSE**

This directive notifies employers of changes to Education Code and Government Code sections contained in Chapter 296, Statutes of 2012 (AB 340—Furutani), known as the California Public Employees' Pension Reform Act of 2013, that becomes effective January 1, 2013.

### **SCOPE**

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts, and any agency that employs persons to perform creditable service under the CalSTRS Defined Benefit (DB) and Defined Benefit Supplement (DBS) programs.

### **DISCUSSION**

Chapter 296 applies differently to employees depending on when they first became employed to perform activities creditable to CalSTRS.

CalSTRS 2% at 60: First *hired* to a position to perform activities subject to coverage by the DB Program on or before December 31, 2012. An existing member is also someone who may have refunded, reinstated, retired, started as a nonmember or elected to have their creditable service covered by another retirement plan, including Social Security.

CalSTRS 2% at 62: First *hired* to a position to perform activities subject to coverage by the DB Program on or after January 1, 2013.

### **ACTION**

If you hire a person to perform service that is creditable to the DB Program before January 1, 2013, establish his or her account in the Secure Employer Web site before December 31, 2012. All members with accounts established prior to January 1, 2013 will be under CalSTRS 2% at 60.

Employers will be prohibited from backdating a status date for any CalSTRS 2% at 62 accounts established on or after January 1, 2013.

If a member is defaulted into CalSTRS 2% at 62 in error, please contact your CalSTRS Member Account Services Representative for further instruction.

### **Compensation Cap**

Chapter 296 added section 7522.10 to the Government Code, which establishes a limit on compensation used to calculate benefits for CalSTRS 2% at 62, including compensation credited to the DBS Program. For CalSTRS 2% at 62, the cap on compensation is equal to 120 percent of the 2013 Social Security wage base and will be adjusted annually based on changes to the Consumer Price Index for All Urban Consumers.

Beginning January 1, 2013, the compensation cap for CalSTRS 2% at 62 is \$136,440.

### **ACTION**

CalSTRS 2% at 62:

- Report the full compensation earnable and actual compensation earned.
- Do not submit contributions on compensation over the compensation cap.

Edits implemented in the Secure Employer Web site will prevent employers from submitting contributions to the DB Program for CalSTRS 2% at 62 members whose earnings exceed the cap.

Employers may elect to offer a defined contribution plan for the contributions on salary above the cap to CalSTRS 2% at 62 members. However, the employer contribution rate cannot be greater than the 8.25 percent employer contribution rate for the DB Program.

For members under CalSTRS 2% at 62 who earn more than one year of service credit in a school year, contributions for that compensation will continue to be credited to the DBS Program provided that the compensation does not exceed the compensation cap.

### **Creditable Compensation**

Chapter 296 added section 22119.3 to the Education Code and added section 7522.34 to the Government Code. These sections define and limit the types of compensation creditable to the DB and DBS programs for CalSTRS 2% at 62 as follows:

1) Creditable compensation is:

- A. The normal monthly rate of pay or base pay of the member;
- B. Paid pursuant to a publicly available pay schedule;
- C. Paid in cash to all persons in the same class of employees on a full-time basis.

For compensation to be creditable, it must be included in the full-time equivalent or specifically identified on a salary schedule or other publically available document.

2) Creditable compensation paid to CalSTRS 2% at 62 members excludes:

- A. An allowance;
- B. A bonus;
- C. Cash in-lieu of receiving a benefit;
- D. Compensation that is payable for a specified number of times;
- E. Compensation paid for the purposes of enhancing a benefit.

### **ACTION**

For members under CalSTRS 2% at 62, employers cannot report special compensation creditable to the DBS Program only (account code 71) to CalSTRS. Edits implemented in the Secure Employer Web site will prevent employers from submitting special compensation to the DBS Program only for CalSTRS 2% at 62.

Employers may only report compensation paid to CalSTRS 2% at 62 members that meets the definition of creditable compensation under Education Code section 22119.3 and Government Code section 7522.34. Pay schedules may include individual employment contracts or agreements, traditional step and column salary schedules, or other publicly available documentation that delineates pay for a class of employees. Pay schedules must be publicly available, and employers must provide CalSTRS with copies upon request.

Certain payments, such as master's stipends, are considered creditable compensation as long as they are included in the full-time equivalent or specifically identified on a salary schedule or other publically available document. To report these types of compensation, use the existing contribution code 6 and a new assignment code 72.

### **Contribution Rates**

Section 7522.30 was added to the Government Code by Chapter 296. This section establishes the contribution rate paid by members under CalSTRS 2% at 62 based on the normal cost of pension benefits. At its November meeting, the Teachers' Retirement Board adopted a normal cost of 15.9 percent for pension benefits under CalSTRS 2% at 62, based on analysis by the system's actuary. Based on this action, the contribution rate paid by a CalSTRS 2% at 62 members will be the same 8 percent rate currently set in statute for CalSTRS 2% at 60 members. There also is no change to the 8.25 percent employer contribution rate for compensation paid for any DB Program member.

Education Code section 22909 allows employers to pay all or a portion of the employee contributions, if that payment is made on behalf of all members in the same class of employees. However, Chapter 296 prohibits employers from paying employee contributions for CalSTRS 2% at 62 members, unless the prohibition would impair the obligations of an existing contract. Consequently, if such a contract currently exists, an employer may continue to pay all or a portion of employee contributions until the expiration of that contract, and upon expiration of that contract, may do so only if all members in the class of employees are CalSTRS 2% at 60 members. Employers may, however, continue to "pick-up" their employee's contributions, pursuant to Education Code section 22903, for the purposes of deferring income taxes, as authorized by Internal Revenue Code Section 414(h)(2) and Revenue and Taxation Code Section 17501.

### **ACTION**

Contribution rates for all members, regardless of the benefit structure, and employers remain the same as set forth in Education Code sections 22901, 22950 and 22951. However, member contribution rates for CalSTRS 2% at 62 may change in the future.

Do not pay any portion of the employee contributions for CalSTRS 2% at 62 members unless an existing contract provides for such payment. Continue to pay all or a portion of the employee contributions for CalSTRS 2% at 60 members upon the expiration of that contract or a future contract only if all members in the same class of employees are CalSTRS 2% at 60 members.

### **Employer Election to Offer One-Year Final Compensation**

Currently, Education Code section 22135 gives districts the ability to negotiate with employee organizations to provide one-year final compensation for all classroom teachers, as defined, who meet criteria specified in that section. Under Chapter 296, pursuant to added Government Code section 7522.32, CalSTRS 2% at 62 members' final compensation may only be averaged over at least three school years. Consequently, districts may still negotiate with employee organizations to provide one-year final compensation for CalSTRS 2% at 60 members who are classroom teachers only if all of their classroom teachers in the DB Program who meet the criteria specified in section 22135 are CalSTRS 2% at 60 members.

### **ACTION**

Employers can continue to negotiate with employee organizations to provide one-year final compensation only if all of their classroom teachers in the DB Program who meet the criteria specified in section 22135 are CalSTRS 2% at 60 members.

### **Members Convicted of a Felony**

Chapter 296 adds Government Code sections 7522.72 and 7522.74, which state if any member, regardless of their benefit structure, is convicted of committing a felony in the course of his or her official duties, any benefits that member accrued after committing the felony will be forfeited. Any benefits the member accrued prior to committing the felony will remain intact. Any contributions made by the member to CalSTRS after the date the felony was committed will be returned, without interest.

### **ACTION**

A member convicted of a felony in the course of his or her official duties and the prosecuting agency are required to notify that member's employer within 60 days of the conviction.

The member and the employer are then required to notify CalSTRS within 90 days of the conviction. At a later date, we will provide more information regarding the process to notify CalSTRS of such felony convictions. In the meantime, if you become aware of such a conviction, please contact CalSTRS Legal Office by email at [LegalServices@CalSTRS.com](mailto:LegalServices@CalSTRS.com) or by mail at the following address:

CalSTRS-Legal Services  
PO Box 15275, MS #3  
Sacramento, CA 95851

### **Postretirement Employment**

Chapter 296 amends Education Code sections 24214 and 24214.5, which affect employers' ability to hire retired teachers and administrators to fill vacancies, depending on when a member retired.

Existing restrictions apply to retirees and members who retire on or before December 31, 2012. New restrictions apply to members who retire on or after January 1, 2013.

CalSTRS will publish a separate employer directive regarding postretirement work, exemptions and earnings limits.

### **Other Provisions Affecting Members**

#### **Nonqualified Service Credit**

Chapter 296 adds Government Code section 7522.46, which prohibits any member from purchasing nonqualified service credit, also known as airtime, after December 31, 2012. In order for a member to purchase nonqualified service credit, he or she must be vested, and CalSTRS must receive the appropriate CalSTRS form by 5:00 p.m. on December 31, 2012.

#### **Retirement Age and Career Factor**

Chapter 296 adds Education Code sections 24202.6, 24202.7 and 24202.8, which make changes to the retirement age for CalSTRS 2% at 62. The normal retirement age for these members is 62 with a 2 percent age factor. The maximum age factor is 2.4 percent at 65 and the minimum age a CalSTRS 2% at 62 member can retire is age 55 with 5 years of service. Additionally, the career factor is eliminated for these members.

#### **Replacement Benefits Program**

Chapter 296 adds Government Code section 7522.43, which prohibits CalSTRS 2% at 62 members from receiving any benefits above the federal limit, known as the Replacement Benefits Program.

#### **Retroactive Benefit Increases**

Government Code section 7522.44 was added by Chapter 296, which stipulates future benefit enhancements for all members will only apply to service performed on or after the operative date of the improvement.

No employer action is needed for these other provisions affecting members.

If you have any questions, please contact your CalSTRS Member Account Services Representative.