

INITIAL STATEMENT OF REASONS

TITLE 5. EDUCATION

DIVISION 3. TEACHERS' RETIREMENT SYSTEM

CHAPTER 1. TEACHERS' RETIREMENT SYSTEM

ADDING ARTICLE 16, SECTIONS 27000 THROUGH 27010, TITLE 5 CALIFORNIA CODE OF REGULATIONS (PENALTIES AND INTEREST FOR LATE REMITTANCES AND LATE AND UNACCEPTABLE REPORTING BY EMPLOYERS)

INTRODUCTION

The regulations being proposed by the Teachers' Retirement Board ("Board") reflect efforts spanning the last several years to reduce System administrative costs associated with late and incorrect contribution remittances and reporting from employers (school districts, county offices of education, community colleges, and charter schools). Over the past 40 years, the California Legislature has passed various Defined Benefit Program and Cash Balance Benefit Program laws related to late remittance of member and employer contributions and late or incorrect reports of compensation and contributions.

In support of existing Teachers' Retirement Law, California Education Code sections 22000 through 28101 ("the Law"), the Board proposes to adopt regulations to govern the treatment of late and incorrect contribution remittances and employer reports for both the Defined Benefit Program and Cash Balance Benefit Program. Additionally, the Board's proposed regulations allow for employers to dispute and appeal CalSTRS' calculations of penalty and interest amounts due.

RATIONALE

The Board has exclusive authority to administer the California State Teachers' Retirement System ("CalSTRS" or "the System") under Article XVI, section 17 of the California Constitution. In addition, California Education Code section 22207 authorizes the Board to perform any acts necessary for the administration of the System and the plan in carrying into effect the provisions of the Law. Education Code section 22305 provides that any rules and regulations adopted by the Board have the force and effect of law. The Board, whenever it exercises its regulatory authority, focuses on its fiduciary responsibility to the membership, and this proposal is consistent with that objective.

During the last few years, CalSTRS has implemented a robust Web-based tool for employers. This Web site provides employers with a mechanism for submitting accurate and timely contribution remittances and reports of contributions and compensation to the System. Web site tools present immediate feedback to employers on the accuracy of their contribution and compensation reporting, allowing employers to make corrections prior to remittance and reporting deadlines established in the Education Code.

With these tools now available to employers, the proposed regulations clarify how the System will enforce compliance with the existing Education Code requirements,

specifically concerning due dates for contributions and reports, and the penalties employers will incur for violating those provisions of the Law. The penalty and interest amounts assessed are intended to recover lost investment earnings, lost state contributions, and excess administrative costs that result from late and incorrect remittances and reporting by employers.

Late and/or incorrect contribution and compensation reporting can have a direct impact on member benefit calculations, causing both over- and underpayments to members and their beneficiaries. In addition to the financial and administrative cost impact of these errors on the fund, retiring members can experience numerous changes to their monthly benefit amounts as a direct result of the late or incorrect employer reporting. Fluctuating benefit amounts may adversely affect a member's or beneficiary's standard of living. Furthermore, members make retirement decisions based on the information their employers have reported to CalSTRS. If that information is inaccurate, a member's ability to make an informed retirement decision is impaired, causing lost benefits and appeals to the Board for relief.

By stemming the tide of late and incorrect employer reports, these regulations will reduce the number and value of member benefit over- and underpayments, increase the effectiveness of pre-retirement counseling by encouraging accurate account information, provide for timely collection of state contributions due, ensure timely investment of all contributions, and improve the actuarial valuations used to determine the fund's future obligations to members and beneficiaries. With the adoption of the proposed regulations, the System is further supporting its mission of meeting its fiduciary responsibility to the membership.

The proposed regulations do the following:

1. **Section 27000**

This section delineates the report formatting that employers must comply with when submitting reports to CalSTRS. The file specifications employers use to report service under the Defined Benefit Program and Cash Balance Benefit Program are listed and incorporated by reference. These specifications have been incorporated by reference pursuant to 1 CCR § 20 because it would be cumbersome and impractical to publish the specifications in the California Code of Regulations due to the volume and technical nature of the information in each specification.

2. **Section 27001**

This section defines an acceptable report for the Defined Benefit Program. It also addresses the scope of reporting (all employees who perform creditable service) and explains how a monthly report that contains reporting from a prior month will be treated.

3. **Section 27002**

This section defines an acceptable report for the Cash Balance Benefit Program. It also addresses the scope of reporting (all employees who perform creditable

service) and explains how a monthly report that contains reporting from a prior month will be treated.

4. **Section 27003**

This section describes how penalties will be assessed for a late report involving the Defined Benefit Program. The deadline for when a report must be received to avoid being late is established. The treatment of a report adjusting previously remitted contributions is also provided for, as well as penalties for such a report when it is late. Specific exemptions from penalties for otherwise late reports are provided for, as well.

5. **Section 27004**

This section describes how penalties will be assessed for a late report involving the Cash Balance Benefit Program. The deadline for when a report must be received to avoid being late is established. Specific exemptions from penalties for otherwise late reports are provided for, as well.

6. **Section 27005**

This section specifies when a remittance of contributions is late for the Defined Benefit Program.

7. **Section 27006**

This section specifies when a remittance of contributions is late for the Cash Balance Benefit Program.

8. **Section 27007**

This section implements the penalties provided for in Education Code section 23003, subdivision (a), for the late payment of contributions to the Defined Benefit Program. It also specifies how interest will be assessed on late contributions and provides for exemptions from penalties and interest for certain otherwise late contributions.

9. **Section 27008**

This section describes how interest shall be assessed on late contributions to the Cash Balance Benefit Program.

10. **Section 27009**

This section establishes that an employer may request an administrative hearing to dispute the assessment of penalties and interest under this article. It also prescribes deadlines for requesting an administrative hearing.

11. **Section 27010**

This section establishes the date the regulations become effective.

DOCUMENTS INCORPORATED BY REFERENCE

“CalSTRS F496 File Specification,” revised on March 1, 2011.

“CalSTRS VDF File Specification,” revised on March 1, 2011.

TECHNICAL STUDY

The Board has conducted reviews of the employer remittance and reporting processes and the member account data integrity problems resulting from incorrect reporting over a three-year period. In drafting these regulations, the Board relied on experience in assessing penalties and interest on employers as a result of school district audits and prolonged or significant non-compliance with statutory remittance and reporting deadlines by individual employers. The minutes, including material considered by the Board in its deliberations on the promulgation of these regulations, are available on CalSTRS' Web site at www.CalSTRS.com, Learn About > CalSTRS > Teachers' Retirement Board > Public Meeting Notices and Agendas > February 6, 2009, Benefits and Services Committee meeting and Meeting Minutes, February 6, 2009, Regular Meeting. More background material can be found in Meeting Notices and Agendas for the Audits and Risk Management Committee from 2007, 2008, and 2009 meetings. Persons having difficulty accessing the Board agenda materials may contact the parties listed in the notice of proposed rulemaking for assistance.

CONFERRING WITH INTERESTED PERSONS

Pursuant to Government Code section 11346.45, staff at CalSTRS have held a series of meetings across the state with a variety of groups to discuss issues and concerns surrounding these proposed regulations. Early drafts of the regulations have been provided to interested persons and revisions have been made based upon the dialogue and feedback received.

ALTERNATIVES CONSIDERED

The System weighed the option of continuing to assess penalties and interest on a case-by-case basis. The System engaged in discussions, including reports from staff on the status of current collection efforts to recover overpayment amounts from members, the impact of overpayments on members, and the status of new Web site tools for employers. The System concluded that the only effective measure to ensure the fund receives all reports and contributions timely is to consistently assess the penalties and interest provided for under the Law.

The Board has not identified any alternative that would lessen any adverse impact on small businesses.

ECONOMIC IMPACT ON BUSINESS

These regulations do not place any economic burden on business as they do not place any additional licensing, record keeping, or compliance requirements on businesses.