

**Title 5. Education. Division 3. Teachers' Retirement System.**

**Chapter 1. Teachers' Retirement System.**

**Article 15.5. Penalties and Interest for Late Remittances and Late and Unacceptable Reporting by Employers.**

**§ 27007. Assessment of Penalties for Late Contributions – Defined Benefit Program**

(a) A late contribution shall be subject to a penalty ~~equal to 5% of the creditable compensation upon which the contribution was based~~ if that contribution is received after March 1<sup>st</sup> of the state fiscal year that immediately follows the state fiscal year in which the contribution was due.

(1) The penalty shall be assessed on the creditable compensation upon which the late contribution was based. For purposes of this subdivision, creditable compensation shall include only creditable compensation for which member contributions are credited under the Defined Benefit Program.

(2) The penalty shall be the greater of the following:

(A) The state appropriation rate, pursuant to Sections 22954, 22955 and 22955.1 of the Education Code, that is in effect on the first day of March immediately preceding the date the contribution was received.

(B) Five percent.

(b) Interest on late contributions shall be imposed as follows:

(1) If less than 95 percent of contributions due have been received by the ~~6<sup>th</sup>~~ sixth working day, interest shall be charged on the balance of those contributions due and compounded daily based on the regular interest rate in effect that day.

(2) For contributions received more than 15 working days after the date those contributions are due, interest shall be charged on the balance of contributions due and compounded daily based on the regular interest rate in effect that day.

(c) The penalty and interest assessed on late contributions provided for in this section shall not apply to adjustments made to contributions for a month prior to the effective date of this article.

(d) Adjustments to contributions remitted in a prior month shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and

(4) The adjustments are remitted to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.

(e) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, contributions for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:

- (1) The date the substitute or part-time position is paid is based upon a published salary schedule;
- (2) That date is no more than 31 calendar days following the last day of the month in which the compensation being reported was earned; and
- (3) ~~95% percent~~ of the contributions due are received five working days immediately following the date the substitute or part-time position is paid, and the balance of contributions due are received no more than 15 working days following the date the employee is paid.

(f) Contributions that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. ~~95% percent~~ of the contributions that are exempt under this subdivision shall be due five working days immediately following the month in which compensation is awarded and shall be late thereafter, and the balance of contributions are due 15 working days following the month in which compensation is awarded and shall be late thereafter.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive change in the creditable compensation paid to a member for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. ~~95% percent~~ of the contributions that are exempt under this subdivision shall be due five working days immediately following the month in which the period of time expires and shall be late thereafter, and the balance of contributions shall be due 15 working days following the month in which the period of time expires and shall be late thereafter.

*Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Sections 22119.2, 22119.3, 22905, 23002; and 23003, Education Code.*