

# CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

## BILL ANALYSIS

<b><u>Assembly Bill 1586</u></b>	Assembly Committee on Public Employees, Retirement and Social Security (As introduced 2/21/03)
<b><u>Position:</u></b>	Sponsor
<b><u>Proponents:</u></b>	Teachers' Retirement Board
<b><u>Opponents:</u></b>	None known

### SUMMARY

Assembly Bill 1586 makes the following minor changes to the benefit programs administered by the California State Teachers' Retirement System (CalSTRS):

- Permits the recalculation of benefits paid to part-time and adult education community college employees who were members of the Defined Benefit (DB) Program prior to July 1, 1996 to correct inadvertent reductions in benefits paid as a result of legislation enacted in 1996 and 1998;
- Permits part-time classified employees to participate in the Cash Balance (CB) Benefit Program.

### LEGISLATIVE HISTORY

Chapter 364, Statutes of 2001 (AB 649—Negrete McLeod) would have required community college districts to offer an alternative retirement plan and Social Security to all their part-time employees. It also would have permitted community colleges to offer classified part-time employees the CB Benefit Program. However these provisions were deleted and bill was amended to ratify a Memorandum of Understanding for state employees in bargaining units five and eight. The former provisions of AB 649 were amended into AB 1710, which was vetoed by the Governor due to the increased cost to community college districts, as well as the State General Fund.

Chapter 390, Statutes of 1995 (AB 1122—Cannella) establishes appropriate minimum standards for full-time when employed on a part-time basis in a community college, for the purposes of crediting service in CalSTRS.

Chapter 592, Statutes of 1995 (AB 1298—Duchney) established the CB Benefit Program administered by the CalSTRS to provide retirement benefits for certificated part-time public school employees.

P.L. 101-508 Omnibus Budget Reconciliation Act of 1990, among other things, mandated Social Security coverage for previously uncovered governmental employees, such as part-time, temporary, and seasonal (PTS) employees, and allowed governmental retirement systems to offer coverage under their plans to these PTS employees in lieu of Social Security.

## **CURRENT PRACTICE**

### "Full Time" for Part-Time Community College Instructors

Members of the DB Program accrue service credit based on the ratio of earned compensation to the compensation earnable, which is the compensation that would be earned if the member worked in that position on a full-time basis. Prior to July 1, 1996, the compensation earnable for a part-time community college instructor was equal to the hourly rate of pay multiplied by 1,050 hours. Although 1,050 hours represented the amount of work that a full-time community college faculty member might work in a year, including activities such as office hours and paid preparation time, such a standard does not apply to a part-time instructor, who receives pay only for instructional hours. The maximum amount of instructional hours a full-time faculty member might work generally equals 525 hours per school year.

Beginning in July 1996, changes were made to the definition of full-time equivalent (FTE), the basis for determining compensation earnable for part-time community college instructors. Currently, the FTE for part-time instructors is a minimum of 525 hours. The minimum FTE for an adult education instructor in a community college is 875 hours. By reducing the FTE from 1,050 hours to a level more appropriate for part-time employment, members accrue credited service at a more appropriate rate. Because final compensation is based on the member's compensation earnable, and the compensation earnable is based on the FTE, reducing the FTE reduces the member's final compensation. If the final compensation was based on employment after July 1, 1996, it would be based on a lower FTE and therefore would, itself, be lower. As a result, a member whose career was largely based on a high FTE from service prior to July 1, 1996, but whose final compensation is based on a low FTE would receive a lower benefit than a member whose FTE was the same through the member's entire career.

### Cash Balance Benefit Program

The CalSTRS CB Benefit Program is an alternative retirement program for certificated public school employees hired to perform creditable service for less than 50 percent of the full-time equivalent of the position. School districts, community college districts and county offices of education may choose to provide the CB Benefit Program to their eligible certificated employees in lieu of offering Social Security, or as a choice between Social Security and another alternative retirement plan. The CB Benefit Program has a contribution rate of four percent of salary for employers and four percent of salary for employees. Although collective bargaining agreements may negotiate different contribution rates under the CB Benefit Program, the employer must contribute a minimum of four percent of an employee's salary and the sum of the contributions must equal or exceed eight percent.

Generally, classified school employees hired to perform creditable service for less than 50 percent of the FTE for a position and full-time seasonal and temporary employees who work fewer than six months, cannot be members of CalPERS unless a school district, community college district or county office of education formally resolves to provide such employees the opportunity to elect coverage under CalPERS. Classified employees who work less than half time may elect coverage, if offered by their employer, under Social Security or an alternative retirement plan in lieu of Social Security. There are currently approximately 3,500 classified,

part-time employees employed in California community colleges and 140,000 part-time classified employees employed in K-12 schools.

## **DISCUSSION**

Specifically, Assembly Bill 1586 makes two changes related to part-time employees:

### Recalculating DB Program benefits for part-time and adult education community college instructors

The previous FTE, 1,050 hours, created a situation where a part-time instructor who worked 60 percent of a full instructional load, or 315 hours, earned .300 years of credited service (315/1,050), rather than .600 years of credited service. Consequently, members with part-time employment did not accrue credited service as quickly as they should, and therefore, did not qualify, or vest, for DB Program benefits. To address this problem, the minimum standard for a part-time instructor was set at 525 hour to reflect the amount of service a part-time community college instructor could actually perform. Because FTE affects the determination of final compensation, it also affects their CalSTRS benefits. The reduction in FTE, although intended to provide a more appropriate accrual of credited service and determination of final compensation, had the unintended consequence of reducing some member's benefits below the amount the member would otherwise have received. This impact exposes CalSTRS to potential litigation from members who contend that CalSTRS unconstitutionally impaired their retirement benefits. CalSTRS cannot address this issue administratively, because the Constitution requires it administer the law, even if unconstitutional, unless an appellate court orders otherwise. The intent of AB 1586 is to provide a legal basis for correcting this unintended reduction in some member's benefits.

Under this bill, CalSTRS would recalculate the retirement benefits of part-time and adult education community college instructors who were employed in a community college prior to July 1, 1996 and retired after that date. The benefit that results from this recalculation would be compared to the benefit the member is currently receiving and the greater of the two benefits would be paid to the member. Part-time and adult education community college employees who began employment prior to July 1, 1996 and who retire in the future would also have their benefits calculated using both the FTE as it was in 1996 (1,050 hours), compared to the benefit that they would receive under the current FTE established by their employing district.

### Permitting classified employees as members of the CB Benefit Program

For many employees, participating in an alternative retirement plan such as the CB Benefit Program is the most appropriate retirement plan choice because these programs provide immediate vesting, and participants benefit from the contributions made both by themselves and their employer. For others, participating in Social Security is the most appropriate choice for retirement benefits, because they are very close to qualifying for Social Security benefits, or their primary employment is covered by Social Security, which would be reduced if they were in some other retirement plan. By expanding the retirement options available to part-time community college employees, AB 1586 permits such employees to participate in the retirement plan that best meets their needs.

Some school districts have been unwilling to offer the CB Benefit Program to their employees because they prefer to offer an alternative retirement plan that is available to all of their employees. In addition, classified school employees who work less than full time have few choices with regards to retirement plan coverage and are prohibited from becoming members of CalPERS. By allowing part-time classified employees into the CB Benefit Program, employers can offer one plan in which all of their employees can participate.

By allowing part-time classified employees to participate in the CB Benefit Program, rather than in Social Security or another alternative plan, community college districts will experience a fiscal impact; it could result in higher or lower costs to the districts depending on whether the contribution rate for the CB Benefit Program is higher or lower than the rate imposed by the current option and how many part-time classifieds choose the CB Benefit Program over other the alternatives. The community college district would, however, make the decision whether to offer the CB Benefit Program to their classified employees.

### **FISCAL IMPACT**

#### Benefit Program Cost

Part-time FTE – No additional benefit cost, assuming that the existing law would subject CalSTRS to litigation regarding a reduction in benefits.

CB Benefit Program – No net benefit cost increase; the increased liability to the CB Benefit Program will be offset by increased program contributions.

#### Administrative Costs/Saving

Part-time FTE – Estimated total one-time cost to recalculate the retirement allowance for up to 353 retired part-time community college instructors who retired after July 1, 1996 is approximately \$75,000 (1 PY). Additionally, requires ongoing resources of \$75,000 (1 PY) per year to calculate and determine the correct retirement allowance for up to 18,100 part-time community college instructors who began employment prior to July 1, 1996 and will retire in the future.

CB Benefit Program – Additional resources to handle a possible increase in workload to be determined.

### **BOARD POSITION**

Sponsor. To fund the administrative costs of this bill, an appropriation of \$150,000 should be amended into the bill. In addition, the intent of the bill is to permit all part-time classified employees to participate in the CB Benefit Program if it is offered in a school district, community college district and county office of education. One provision of the bill inadvertently limited participation to part-time community college employees. CalSTRS recommends amendments to include all part-time classified employees in the definition of creditable service.

AB 1586 is consistent with the Board's mission to provide a financially sound retirement benefit to all of California's educators; the bill addresses a problem that otherwise might subject CalSTRS to successful litigation by affected members and presents an opportunity to expand eligibility under the CB Benefit Plan, making it more attractive for employers to consolidate retirement coverage for all their employees that work less than half time.