



Regular Meeting

Item Number 19h – Open Session

Subject: Initiate Rulemaking Process for Updates to Penalties and Interest Regulations

Presenter(s): Joycelyn Martinez-Wade

Item Type: Consent Action

Date & Time: September 14, 2023 – 0 minutes

Attachment(s): Proposed Text of Updates to Penalties and Interest Regulations

PowerPoint(s): None

Item Purpose

Staff is seeking approval to initiate the formal rulemaking process, pursuant to the Administrative Procedure Act, to adopt updates to the existing Penalties and Interest regulations that would provide additional exemptions to the assessment of penalties and interest under specified circumstances and also provide clarification related to interest charged on unpaid balances.

Recommendation

Staff recommends that the board approve initiation of the formal rulemaking process and direct staff to schedule a public hearing to coincide with the January board meeting.

Executive Summary

The proposed regulatory text (Attachment 1) clarifies that interest will be charged on outstanding balances not paid in full within 30 days of the invoice date and provides that, along with existing exemptions, assessment of penalties and interest would be exempted 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 through a resource or advisory letter under the provisions of AB 1667.
- 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.

Background

Existing regulations, first enacted in 2012, are intended to ensure CalSTRS receives payroll files and contributions in a timely manner. At the November 2022 meeting, staff presented an [agenda item](#) and received board approval to begin preliminary rulemaking activities to adopt amendments to the existing Penalties and Interest regulations that add clarifying language and address some common scenarios that have arisen over the past decade. The proposed updates to the existing regulations provide clarity by codifying existing practices around charging interest on outstanding invoices and provide additional exemptions to the assessment of penalties and interest that address scenarios not contemplated by the existing regulations. These updates would provide more effective and efficient administration of the Penalties and Interest regulations.

Next Steps

With the board’s approval, staff will initiate the formal rulemaking process. The board may elect to preschedule a public hearing, or it can direct staff to schedule one if it is requested by the public no later than 15 days before the close of the written comment period.

The board may choose to conduct a hearing in person. If the board elects to do so, the hearing could potentially be scheduled to coincide with its January 2024 meeting. Under this scenario, the earliest the board could adopt the regulations would be at its March 2024 meeting, if no changes to the proposed regulations are needed, and the regulations could be codified as early as July 1, 2024.

Alternatively, the board may delegate the hearing to the Chief Executive Officer. Delegating the hearing will enable more flexibility in the timing of the hearing. Staff would still potentially bring the proposed regulations before the board for adoption at the March 2024 meeting, if no changes to the proposed regulations are needed. Staff notes, however, that representatives from member organizations have previously communicated that they believe the board should conduct public hearings, rather than delegating to the Chief Executive Officer, as a best practice.

Strategic Plan Linkage: Goal 1: Trusted Stewards – Ensure a well-governed, financially sound trust fund.

Board Policy Linkage: Board Governance Manual: Section 5A – Legislation – Sponsor or support legislation and regulations that: Provide more effective and efficient administration of the retirement plan.
