

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

BILL ANALYSIS

Assembly Bill 205

Assembly Member Goldberg
(As introduced 1/28/03)

Proponents:

California Alliance for Pride and Equality (Sponsor); ACLU; California School Employees' Association; California State Employees' Association; American Federation of State, County, and Municipal Employees; Gray Panthers; National Association of Social Workers

Opponents:

Committee on Moral Concerns

SUMMARY

Assembly Bill 205 extends all of the rights, protections, benefits, responsibilities, obligations and duties of current, former and surviving civil married spouses to current, former and surviving registered domestic partners in California. This bill provides that California shall treat registered domestic partners as if federal law recognizes the partnership as California does, and that any formal, same-sex union created in another state shall be recognized as a registered domestic partnership in California. It also outlines the criteria for establishing a new domestic partnership and the requirements and methods for terminating an existing partnership.

LEGISLATIVE HISTORY

Chapter 373, Statutes of 2002 (AB 2777—Nation) authorizes the Board of Supervisors of Los Angeles, Santa Barbara and Marin Counties to provide domestic partners of county employees the same survivor benefits received by spouses of eligible county employees.

Chapter 893, Statutes of 2001 (AB 25—Migden) establishes domestic partnerships for opposite-sex couples where only one partner is over the age of 62 and is eligible to receive social security old-age benefits, and extends to domestic partners various rights and privileges provided to married couples.

Chapter 588, Statutes of 1999 (AB 26—Migden) establishes requirements for domestic partnerships between two adults of the same sex who meet specified criteria and provides for their registration with the Secretary of State. Authorizes state and local employers to offer health care coverage and other benefits to domestic partners who have submitted certificates of eligibility or Declarations of Domestic Partnerships to the Board of Administration of the Public Employees' Retirement System.

Proposition 22, 2000 – Passed by California voters by a majority of 61.4%; added a provision to the Family Code restricting the type of marriage recognized in California as only those between a man and a woman. Intended to prevent California from having to recognize same-sex

marriages that take place in other states, should other states redefine marriage to include same-sex unions. As of the year 2000, no other state recognized a civil contract or any other relationship between people of the same sex as a marriage. Followed similar resolutions passed by the United States Congress and signed by President Clinton.

CURRENT PRACTICE

Survivor Benefits

California State Teachers' Retirement System (CalSTRS) pays lifetime, monthly family and survivor allowances to members' named beneficiaries or option beneficiaries and their eligible dependent children. Upon a member's death, the member's surviving spouse can elect to receive either a monthly benefit or a lump-sum payment. In the event that there are eligible dependent children, they also receive a monthly allowance if the surviving spouse elects to receive a survivor benefit. If there is no surviving spouse, CalSTRS pays a lump-sum payment to the member's named beneficiary, regardless of the relationship of the beneficiary to the member. If the member does not name a beneficiary and there is no surviving spouse, the member's estate receives the benefit.

Current law requires a marriage to be at least 12 months in length for the spouse of a member to be eligible to receive a survivor benefit; however, AB 106 (Corbett & Dutton) deletes this requirement in the case of a member's death that is the result of an accident or illness that was not diagnosed at the time of marriage. In the event that a member dissolves or annuls his/her civil marriage, a court may order a settlement that establishes benefits for the former nonmember spouse.

Disability Benefits

CalSTRS provides monthly disability allowances to eligible members and their dependent children/stepchildren. In the event of a qualifying disability, the disabled member receives a monthly disability allowance, which is increased by 10% for each eligible, dependent child of the member. When the disabled member reaches normal retirement age, the monthly disability allowance converts to a service retirement allowance and the member continues receiving a monthly benefit.

Domestic Partners

CalSTRS does not recognize a domestic partner, as defined in the California Domestic Partner Rights and Responsibilities Act of 1999, as having any legal rights as a spouse to a benefit under the CalSTRS. However, members may name whomever they choose as their beneficiary or option beneficiary, including a domestic partner. The named beneficiary or option beneficiary receives the member's benefit if there are no community rights of a former marriage or a person contesting any distribution of the benefit in question.

CalSTRS Publications

CalSTRS currently has many different brochures, pamphlets, forms and Web site data that refer to married spouses, dependent children and dependent parents. In addition, the Teachers'

Retirement Law (TRL) contains many provisions that relate to member/participant's spouses, dependent children and dependent parents.

DISCUSSION

According to the author, hundreds of provisions of state law that provide certain privileges and responsibilities to civil married couples do not apply to domestic partners. The author believes that granting these rights and responsibilities to registered domestic partners and their children furthers California's interests in promoting stable and lasting family relationships and protects family members from the economic and social consequences of abandonment, separation, the death of loved ones and other life crises.

The System Actuary assumes there are half as many domestic partnerships in California's teaching population than in the population of California, as a whole. Under this assumption, approximately .025 percent of the 400,000 active teachers are members of registered domestic partnerships; this .025 percent equates to less than 100 of the 17,000 Californians currently in registered domestic partnerships. In addition, the Actuary assumes the number of domestic partners in the teaching population will increase by approximately 4.25% per year, which coincides with the statewide average annual increase in total salaries.

Among other things, AB 205:

- Extends all of the rights, benefits, protections, responsibilities, obligations and duties that are enjoyed by and imposed upon current, former and surviving spouses of a civil marriage to the current, former and surviving members of a registered domestic partnership;
- Affords the legal equality of registered domestic partners to spouses in a civil marriage;
- Affords the legal equality of the termination or dissolution of a registered domestic partnership to the annulment, dissolution or legal separation of a civil marriage;
- Provides that California law will treat registered domestic partners as if federal law recognized the union as California does;
- Requires California recognize as valid any legal union formed in another state;
- Requires the superior courts have jurisdiction over the termination or dissolution of registered domestic partnerships;
- Establishes criteria for determining whether a registered domestic partnership shall be terminated or dissolved;
- Prohibits a registered domestic partner from entering into another registered domestic partnership until the previous partnership is legally terminated and six months have passed;
- Requires the Secretary of State mail informational documents to current registered domestic partners informing them of the changes and inform all who seek a registered domestic partnership in the future of the new laws;
- Requires state agencies to update their forms to include domestic partnership and domestic partners when referring to marriage or married spouses.

Specifically, AB 205 impacts the following CalSTRS programs:

Survivor Benefits

- If a CalSTRS member dies and has a Declaration of Domestic Partnership on file with the Secretary of State, the surviving domestic partner has the same opportunity as the surviving spouse of a married member to receive a survivor benefit of either a lump-sum payment or a monthly allowance;
- If the member's registered domestic partner has children, they are the stepchildren of the member and are therefore, eligible to receive a monthly allowance if the surviving domestic partner decides to take the survivor benefit;
- If the member dies and leaves dependent children, those children become the custody of the registered domestic partner and are also eligible to receive a monthly allowance if the surviving domestic partner decides to take the survivor benefit.

Disability Benefits

- A CalSTRS member who receives a disability allowance may also receive an additional 10% for each dependent child, including the children of the member's registered domestic partner who are the stepchildren of the member.

Nonmember Spouse Rights/Benefits

- A nonmember/nonparticipant spouse or nonmember/nonparticipant domestic partner has the right to separate DB, DBS and/or CB Benefit Program accounts and may receive annuities and benefits from these accounts;
- A nonmember/nonparticipant spouse or nonmember/nonparticipant domestic partner has various rights with respect to the member or participant's accounts through community property laws.

Federal Tax Laws

CalSTRS complies with federal tax regulations to maintain status as a qualified pension fund. Under these laws, the System withholds federal taxes from benefit payments at a rate of 20% for members' surviving spouses and 10% for all other beneficiaries. Staff recommends applying the 10% tax-withholding rate to benefits paid to surviving domestic partners because the 20% tax rate is only for surviving spouses.

Federal law permits a surviving spouse to rollover the death benefit to an IRA account. Federal law does not allow the rollover of benefits to a domestic partner because it does not recognize same-sex unions. Because this is a federal law and CalSTRS wishes to maintain its status as a qualified pension fund, staff recommends compliance with these rollover restrictions.

While AB 205 states that California will treat registered domestic partnerships as if federal law recognized the union with the same validity, federal law does not extend the 1,049 federal rights and benefits associated with marriage to domestic partnerships.

Teachers' Retirement Law

AB 205 clearly states that its provisions will apply to CalSTRS programs and operations, regardless of whether the System amends the TRL to include language related to domestic partnership. The System will amend its codes after the bill is chaptered through the 2004 Technical Housekeeping bill.

Staff conducted a comprehensive review of the TRL and determined there are approximately 100 individual sections that refer to "spouse", "nonmember spouse", "surviving spouse", "former spouse", "nonparticipant spouse", "dependent children", "children", "stepchild" and "dependent parent". Staff recommends amending the TRL definitions of these terms to include references to domestic partnership to avoid making amendments to each, individual section within the TRL. However, staff recommends not amending domestic partnership language into Section 23812, which restored benefits previously denied to remarried surviving spouses, if the remarriage occurred prior to October 16, 1992, because as of that date, California did not recognize domestic partnerships in any legal capacity.

FISCAL IMPACT

Benefit Program Cost – The System Actuary estimates that the total present value cost of extending benefits to domestic partners, their dependent children and dependent parents to be approximately \$37 million over the next 30 years.

Administrative Costs – CalSTRS information technology staff estimates a one-time cost of \$70,000 to modify the START database; the costs to Web Services to update information on the CalSTRS Web site are minor and absorbable.