

**BILL NUMBER: AB 224 (Negrete McLeod) As Amended 8/17/05**

## **SUMMARY**

Assembly Bill 224 is the annual California State Teachers' Retirement System (CalSTRS) technical "housekeeping" bill. The bill makes various technical and conforming changes to the Teachers' Retirement Law (TRL) to facilitate efficient administration of the State Teachers' Retirement Plan (Plan), which includes the Defined Benefit (DB) Program, the Defined Benefit Supplement (DBS) Program and the Cash Balance (CB) Benefit Program.

## **PURPOSE OF THE BILL**

AB 224 is necessary to clean-up grammatical errors, provide consistency between code sections and clarify misunderstood provisions of the law, which allows the System to administer the Plan effectively.

## **POSITION AND SUPPORTING ARGUMENTS**

Sponsor. This bill makes technical amendments necessary for continued effective administration of the System.

## **SUMMARY OF AMENDMENTS**

The amendments of August 17, 2005:

- Allow CalSTRS to automatically search for the highest period of final compensation for a member of the DB Program when calculating the member's benefit allowance amount;
- Specify the retired CalSTRS member appointed to the Teachers' Retirement Board (Board) by the Governor will receive the \$100 daily stipend for attendance at Board meetings that is provided to all members of the Board who are appointed by the Governor;
- Clarify a member participating in the Reduced Workload Program (RWP) is in violation of the program if he or she retires or otherwise separates from employment before completing the school year;
- Clarify the disability benefit application process for a member with between one and five years of service credit who suffers bodily injury due to an unlawful act of violence in the workplace;
- Provide the authority for former participants of the CB Benefit Program who were previously excluded from the CB Program due to the former "multiple employer restriction," to re-elect participation in the CB Benefit Program;
- Correct an erroneous reference to a Government Code section.

## **ANALYSIS**

The changes made by AB 224:

1. Allow CalSTRS to automatically search for a DB member's highest period of final compensation when calculating the member's benefit allowance amount;

2. Conform the TRL to reflect the current name of the San Francisco Employees' Retirement System;
3. Clarify Chapter 856, Statutes of 2003, which allows the Teachers' Retirement Board to set salary levels and performance standards for the positions of Chief Executive Officer, System Actuary, Chief Investments Officer and investment managers to specify they do not receive annual Merit Salary Adjustments;
4. Specify the retired CalSTRS member appointed to the Teachers' Retirement Board (Board) by the Governor will receive the \$100 daily stipend for attendance at Board meetings that is provided to all members of the Board who are appointed by the Governor;
5. Conform existing law referencing the location of the CalSTRS headquarters building to the changes made by Chapter 378, Statutes of 2004;
6. Clarify a member participating in the RWP is in violation of the program if he or she retires or otherwise separates from employment before completing the school year;
7. Clarify permissive service credit purchases by specifying the service that is to be purchased must have been from an employer-approved leave that was not covered by another public retirement system;
8. Standardize the terminology used when referencing the accumulated retirement contributions returned to a member in the DBS Program and ensure correct interpretation of the distribution of these funds under federal law;
9. Clarify the disability benefit application process for a member with between one and five years of service credit who suffers bodily injury due to an unlawful act of violence in the workplace;
10. Provides a process by which a member may cancel an application to terminate a service retirement allowance that is consistent with current practices that allow members to rescind various other actions within the same month as the effective date of the action;
11. Clarify that the period of 12 consecutive months, which a member must wait after retiring to return to work to qualify for a post-retirement earnings limit exemption, begins from the date of the member's most recent retirement;
12. Conform existing law describing the amount of service an employee in a part-time position is required to perform in a school year to the changes made by Chapter 474, Statutes of 2004;
13. Clarify that the preretirement option election form must include the signature of the member's spouse and that the spouse's signature must be within 30 days of the member's signature on the same form;
14. Change the reporting date for the Board to supply the Governor and Legislature with the level of purchasing power provided by DB Program benefits, as required by Chapter 802, Statutes of 1979, to reflect the current timeframe in which the Board is able to review and adopt the annual Purchasing Power Report;

15. Provide the authority for former participants of the CB Benefit Program who were previously excluded from the CB Program due to the former “multiple employer restriction,” to re-elect participation in the CB Benefit Program;
16. Correct an erroneous reference to a Government Code section;
17. Specify any section of any piece of legislation enacted during the first year of the 2005-2006 legislative session will prevail over amendments made by this bill.

## LEGISLATIVE HISTORY

Chapter 378, Statutes of 2004 (AB 2680—Negrete-McLeod), expands the geographic area in which CalSTRS may locate its headquarters facility.

Chapter 474, Statutes of 2004 (AB 3076—Mullin), bases the threshold for mandatory membership in the DB Program on a community college employee’s basis of employment for the school year, rather than on the amount of service performed in any single pay period.

Chapter 912, Statutes of 2004 (AB 2233—Assembly PER&SS), the CalSTRS annual technical housekeeping bill, which makes technical and conforming changes to the TRL for continued efficient administration of the System.

Chapter 856, Statutes of 2003 (SB 269—Soto), allows the Board to set salary levels and performance standards for the positions of Chief Executive Officer, System Actuary, Chief Investment Officer and investment managers.

Chapter 1020, Statutes of 2000 (AB 820—PER&SS), repeals the multiple employer restriction that mandates participants of the CB Benefit Program become members of the DB Program if they have multiple employers.

Chapter 386, Statutes of 1997 (SB 629—Karnett), expands eligibility for disability benefits by eliminating the minimum service credit requirement for members applying for a Disability Allowance or Disability Retirement because they were the victim of an unlawful act of bodily injury while performing their official duties.

## PROGRAM BACKGROUND

### 1. Searching for a member’s highest period of final compensation

A member of the DB Program receives a benefit based, in part, on his or her final compensation. Currently, final compensation is derived from either:

- The member’s highest average annual compensation earnable for any three consecutive years of service, if the member retires with less than 25 years of service credit; or
- The member’s highest average annual compensation earnable for any 12 consecutive months of service, if the member retires with 25 or more years of service credit.

Regardless of which method is used to determine final compensation, current law requires CalSTRS to use the member’s most recent service, unless the member informs CalSTRS of a higher 12-month or 3-year period of compensation earnable. Previously, CalSTRS did not

have the technological ability to automatically search its database to find the member's highest 12-month or 3-year period of compensation earnable. As a service to members, CalSTRS staff manually searches retirement applicants' records to identify their highest periods of compensation earnable. Staff then informs members whose highest periods are not their last years of service so they may instead specify calculations be based on their highest year(s). Removing the language that specifies the last 12-months or 3-years of employment will be used for determining a member's final compensation, unless a different period is specified by the member, will allow CalSTRS to search for the highest period of compensation earnable automatically, reducing the amount of staff time spent processing retirement applications.

*Education Code sections affected by amendment: 22134, 22134.5 and 22135*

**2. Reflecting the current name of the San Francisco Employees' Retirement System**

The name of the public retirement system for employees of the City and County of San Francisco was changed from "San Francisco City and County Employees' Retirement System" to the "San Francisco Employees' Retirement System." This amendment conforms the TRL to this name change.

*Education Code sections affected by amendment: 22115.2, 22703, 22705, 22705.5, 24219, 24701, 24704, 24750 and 24751*

**3. Specifying the positions of Chief Executive Officer, System Actuary, Chief Investment Officer and investment managers do not receive annual merit salary adjustments**

Chapter 856, Statutes of 2003 (SB 269—Soto), allows the Board to set salary levels and performance standards for CalSTRS' top executives and investment managers. Consistent with the authority that the Board determines the compensation levels, this amendment specifies that those positions do not also receive automatic annual Merit Salary Adjustments.

*Education Code section affected by amendment: 22212.5*

**4. Specifying the retired CalSTRS member seat on the Board appointed by the Governor receives a per diem allowance**

The retired CalSTRS member appointed to the Board by the Governor may receive reimbursement for his or her expenses, but does not receive the additional \$100 per day stipend for attendance at Board meetings received by the other Governor's appointees to the Board that represent School Boards or the Public. The governing boards of the '37 Act County Retirement Systems have been authorized to provide a per diem to their retired board members for approximately 40 years and the California Public Employees' Retirement System (CalPERS) Board of Administration has paid a per diem to its retired board member for approximately 30 years. This amendment will provide equal treatment of all the Board members appointed by the Governor, as well as consistency among all members of California's public pension boards.

*Education Code section affected by amendment: 22223*

5. **Conforming the Education Code to the changes made in 2004 legislation affecting the location of the CalSTRS headquarters building**

Chapter 378, Statutes of 2004 (AB 2680—Negrete McLeod), expands the geographic location in which the CalSTRS headquarters building may reside from Sacramento County to Sacramento County and Eastern Yolo County. This amendment makes conforming changes to sections of the TRL that currently reference the CalSTRS headquarters building as being located in Sacramento County.

*Education Code sections affected by amendment: 22662, 22663, 23001, 23104, 23202, 23300, 24005, 24105, 24306.5, 24306.7, 24307, 24311, 24312, 24613 and 27100*

6. **Clarifying participation in the Reduced Workload Program**

The RWP has been administered and designed in the CalSTRS corporate database to require a full school year of contribution reporting for crediting one year of service credit. When an RWP participant retires mid-year, his or her service is backed-out to the beginning of the year when the RWP contract with their employer was signed and the member receives credit for only the part-time service earned. The employer, who paid additional contributions beyond the part-time service actually performed, receives a partial refund. This amendment clarifies that a member participating in the RWP who retires or otherwise terminates employment before the end of the school year has violated the terms of the program. Providing further clarification helps CalSTRS and district staff explain the rights and responsibilities assigned to members who wish to participate in the RWP, and avoid administrative appeals by members who claim they were not fully informed of the terms of their agreements.

*Education Code section affected by amendment: 22713*

7. **Clarifying permissive service credit purchases**

CalSTRS permits members to purchase certain types of service credit associated with service performed in various positions not covered by the System, such as county child care centers. This amendment specifies the service that may be purchased must have been from leave approved by a California employer and cannot be covered by another public retirement system.

*Education Code section affected by amendment: 22803*

8. **Standardizing the terminology used when referencing the accumulated retirement contributions returned to a member in the DB Program to maintain consistency between state and federal law**

Federal Internal Revenue Code (IRC) provisions restrict in-service distributions of benefits from tax-qualified public pension systems. CalSTRS maintains compliance with these IRC provisions by requiring members terminate employment prior to being eligible for a refund of their accumulated employee contributions, plus interest under the DB Program. This

provision clarifies that this return of accumulated contributions, plus interest does not constitute a benefit payment.

*Education Code section affected by amendment: 23202*

**9. Clarifying and codifying the process of applying for a Disability Allowance or Disability Retirement under the “unlawful act” provision**

CalSTRS provides a Disability Allowance and Disability Retirement to DB Program members who have between one and five years of service credit, in the event the member suffers “bodily harm” as the result of an unlawful act of violence in the workplace. These amendments change definitions from “bodily harm” to “bodily injury” to provide consistency with Education Code Section 7008, which specifies continuation of health benefits when a violent act is perpetrated upon a school employee. This change allows CalSTRS to properly identify disability applications in which members claim a mental disability, not a physical disability, resulting from an unlawful act of violence in the workplace.

The application for a Disability Allowance and a Disability Retirement requests, but does not require, evidence to support the claim of an unlawful act resulting in an injury. This amendment codifies the existing administrative process that relies on members to provide substantiating documentation, which will reduce the amount of staff time spend processing disability cases in which members claim to be victims of unlawful acts.

*Education Code Sections affected by amendments: 24001 and 24101*

**10. Providing a process for members to cancel an application to terminate a service retirement allowance**

Current law allows members to rescind various actions within the same month as the effective date of the action, such as rescinding an application for service retirement. This amendment provides a method by which members may cancel an application to terminate a service retirement allowance that is consistent with current practices.

*Education Code section affected by amendment: 24208*

**11. Clarifying that the period of 12 consecutive months, which a member must wait after retiring to return to work to qualify for an exemption to the post-retirement earnings limit, begins from the date of the member’s most recent retirement**

Current law does not specify the beginning date of the 12 consecutive months during which a member may not perform creditable service for the purposes of becoming eligible for an exemption to the post-retirement earnings limit when a retired member reinstates to active membership and subsequently retires. However, CalSTRS administers the post-retirement earnings limit based on the policy that the 12-month period begins on the date of the member’s most recent retirement. Members have sought appeals to the earning limitation based on an interpretation that the 12 months may begin on the date of a previous retirement. This amendment clarifies that the 12-month period begins on the date of the most recent retirement to codify administrative policy and applies to the version of Education Code Section 24214, which sunsets on December 31, 2007.

*Education Code section affected by amendment: 24214*

**12. Conforming existing law describing the amount of service an employee in a part-time position is required to perform in a school year to the changes made by Chapter 474, Statutes of 2004**

Chapter 474, Statutes of 2004 (AB 3076—Mullin) changed the terminology used when describing the amount of service an employee in a part-time position is required to perform in a school year from “full-time equivalent for the position” to the description “full-time position” which is more meaningful to employers. This provision conforms other provisions of the TRL to this change.

*Education Code section affected by amendment: 24216*

**13. Clarifying the preretirement option election form must include the signature of the member’s spouse and the date of such signature must be within 30 days of the member’s signature on the same form**

Current law does not specify what constitutes a “properly executed form” for the purposes of electing a pre-retirement annuity option. However, other provisions of the TRL specify that a properly executed form includes the signature of the member’s spouse. Existing law also specifies the pre-retirement election form must be received by the System within 30 days of the date the member signed it; however, it does not specify a similar time period for the spousal signature to be submitted. This amendment clarifies that the form on which the member elects a pre-retirement option must include the signature of the member’s spouse and such signature must be dated within 30 days of the member’s signature.

*Education Code section affected by amendment: 24307*

**14. Changing the reporting date for the Board to supply the Governor and Legislature with the annual Purchasing Power Report on DB Program benefits, to reflect the current timeframe in which the Board is able to review and adopt the report**

CalSTRS staff prepares an annual report on the purchasing power of DB Program benefits soon after the Department of Labor issues its annual report on the cost of living. Because of recent budget cuts and workload issues, the Department of Labor is not able to release the information earlier than March of each year. Staff provides the purchasing power report to the Board at the first meeting scheduled after the Department of Labor releases its data; however, the Board’s adoption of the report does not occur early enough in the year to meet the statutory deadline for submittal to the Legislature and Governor by April 1<sup>st</sup>. This amendment changes the deadline by which the Board must submit the report from April 1<sup>st</sup> to June 1<sup>st</sup> to more closely reflect these constraints and ensure the deadline is met each year.

*Education Code section affected by amendment: 24400*

**15. Allowing employees forced from the CB Benefit Program due to the “multiple employer restriction” to re-elect participation**

Prior to 2001, Education Code Section 26401.5 required all employers for which an employee was performing creditable service to offer the CB Benefit Program, in order for the employee to be eligible to participate in the Program. If a participant of the CB Benefit Program obtained additional employment with another employer who did not offer the CB Benefit Program, he or she was involuntarily mandated into the DB Program for all of his or her creditable employment. In addition, the law previously prohibited a DB Program member from subsequently electing participation in the CB Benefit Program for employment that was otherwise eligible to be covered under the CB Program. These restrictions, known as the “multiple employer restriction,” were repealed in 2001. At that time, there were 23 employers who offered the CB Benefit Program and almost 12,000 CB participants. Unfortunately, individuals who elected the CB Benefit Program but were excluded from participation under the multiple employer restriction were not allowed to re-elect to participate in the CB Benefit Program after the restriction was repealed. This amendment will provide the authority for members to re-elect participation in the CB Benefit Program, thereby increasing members’ opportunities to tailor retirement arrangements to their individual circumstances.

**16. Correcting an erroneous reference to a Government Code Section**

Education Code Section 45134 specifies, among other things, that post-retirement classified service is credited to CalPERS. However, the Government Code referenced in this section of the Education Code relates to the Department of Finance and does not apply to the System or its membership. This amendment corrects the inadvertent code citation by referencing the proper Government Code Section.

*Education Code affected by amendment: 45134*

**FISCAL IMPACT**

Benefit Program Cost – None.

Administrative Costs/Savings – The cost of paying the per diem allowance to the retired Board member and making the required changes to the System’s publications, database and manual process is expected to be minor and absorbable.

**SUPPORT**

CalSTRS

**OPPOSITION**

None