

BILL NUMBER: AB 2260 (Assembly PER&SS) as amended June 21, 2010

SUMMARY

AB 2260 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 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 2260 will help ensure continued effective and efficient plan administration for all of CalSTRS internal and external customers.

BOARD POSITION

Sponsor. This bill will make technical and conforming amendments necessary for continued effective administration of the System.

SUMMARY OF AMENDMENTS

The amendments of June 9, 2010 made clarifying and conforming changes relating to overpayment of benefits to comply with federal law. The amendment of June 21, 2010 removes changes to provisions affecting invalidating pay warrants upon a member's death.

LEGISLATIVE HISTORY

Chapter 301, Statutes of 2009 (AB 1584—Hernandez) made numerous changes aimed at increasing disclosure and accountability of investment placement agents, board members, and others associated with public pension funds in California.

Chapter 306, Statutes of 2009 (AB 506—Furutani) prohibited, as of July 1, 2010, CalSTRS members who retire below age 60 from working in any CalSTRS-related service for the first six months after they retire. Extended the sunset date of the existing CalSTRS post-retirement earnings limit exemptions from June 30, 2010 to June 30, 2012, and expanded eligibility, where applicable, by one year to CalSTRS members who retired on or before January 1, 2009.

Chapter 494, Statutes of 2008 (AB 2390—Karnette) extends the sunset date on the post-retirement earnings limit until June 30, 2010, extends certain exemptions to members who retired for service on or before January 1, 2007, and permits members retired between 6/1/07 and 12/31/07 to purchase foreign service credit.

Chapter 6, 3rd Extraordinary Session of 2008 (AB X3 8—Budget Committee) specified the 2008-09 General Fund transfer to the Supplemental Benefit Maintenance Account be made on November 1, 2008, instead of July 1, 2008.

Chapter 751, Statutes of 2008 (AB 1389—Budget) made statutory changes in order to enact the 2008 Budget Act. Revised the payments and calculations used by CalSTRS for the Supplemental Benefits Maintenance Account (SBMA). The revisions included increasing the purchasing power benefit from 80 percent to 85 percent, but giving the Teachers' Retirement Board (Board) authority to adjust that target between 80 percent and 85 percent and reducing General Fund payments into the SBMA by specified amounts for 2008-09 and future years.

Chapter 513, Statutes of 2007 (AB 1432—Soto) allows members of CalSTRS DB Program to purchase service credit for service performed while an employee of a foreign public school, as specified, and allowed beneficiaries of CalSTRS's members other than spouses to roll over a benefit distribution.

Chapter 912, Statutes of 2004 (AB 2244—PER&SS) made a variety of technical and conforming changes to the Teachers' Retirement Law to facilitate efficient administration of the System. Added to the definition of "nonmember spouse" a member's registered domestic partner or former registered domestic partner.

Chapter 856, Statutes of 2003 (SB 269—Soto) allowed the Board and CalPERS to set salary levels and performance standards for the positions of Chief Executive Officer, System Actuary, Chief Investment Officer and investment managers. Restricted individuals employed in these positions for less than five years from being paid to influence the actions of the retirement system, or decisions of its governing board for two years following the end of their employment with the retirement system.

Chapter 74, Statutes of 2000 (AB 1509—Machado) created the DBS Program.

Chapter 115, Statutes of 1989 (SB 1407—C. Green et al.) established the SBMA and its funding mechanism of an annual transfer of a set percent of statewide teacher payroll.

PROGRAM BACKGROUND

Overpaid Benefits

CalSTRS retired members sometimes receive benefit payments above the amount that the member should actually be receiving. This situation may occur because of late or erroneous information provided by the employer or the member or because of system error.

Disability Benefits

A member of the DB Program may receive disability benefits once he or she is vested and meets the eligibility requirements. An impairment qualifies as a disability when it is permanent or lasts at least 12 months from its onset and prevents a member from performing his or her usual job or comparable duties. The onset date cannot be earlier than the day following the last day of service. If a disability reoccurs within six months of returning to work, the onset date is considered to be the original onset date and an allowance is paid as of the first of the month when the disability reoccurs or the last day of service, whichever is later.

Conflict of Interest

In 2009, AB 1584 (Chapter 301, Statutes of 2009) expanded post-employment restrictions for specified CalSTRS employees or Board members and requires additional disclosures of placement agent fees and activities to prevent "pay-for-play" activities with public pension investments and increases transparency and accountability.

Receipt of Documents

SB 1466 (Chapter 655, Statutes of 2006) allowed the Board, to designate, by resolution, one or more of the contracted field counseling offices as an official recipient of member benefit applications and other documents from members, spouses and beneficiaries. That measure allowed the date the document is received by the designated counseling office to be considered the official receipt date. In September of 2007, the Board authorized five counseling offices to officially begin receiving CalSTRS forms and documents. In November of 2008, the Board approved the addition of 14 offices, for a total of 19 counseling offices officially designated to receive CalSTRS forms and documents. In June of 2009, the Board adopted a resolution to authorize the remaining counseling offices as official recipients of CalSTRS forms and documents.

Teachers' Retirement Program Development Fund

AB 2462 (Chapter 780, Statutes of 2006) established the continuously appropriated Teachers' Retirement Program Development Fund (TRPDF) within the State Treasury to pay any costs related to the development of programs authorized by statute that enhance the financial security of members or beneficiaries of CalSTRS. The first such program was establishing a contract-based program to provide school employers with compliance services under regulations established by the IRS for 403(b) plans. The programs created through the TRPDF are ultimately transferred to, and administered by, funds or accounts that are outside of the TRPDF.

CalSTRS Headquarters Building

Current law provides that the CalSTRS headquarters constitutes an investment in the retirement fund and that it be carried on the books as such in accordance with generally accepted accounting practices (GAAP). However, an external auditor advised CalSTRS that GAAP require that assets used in CalSTRS operations, such as the new headquarters building, be reported as capital assets.

Reduced Workload Program

Employers may offer a reduced workload program (RWP) under which a member works part-time but receives DB Program credit as though the member was working full-time. Under this program, the member and employer make contributions based on creditable compensation the member would have received were the member working full-time.

FMLA Service Credit

CalSTRS members may purchase up to four months of service credit for time spent on an employer approved leave under the Federal Family and Medical Leave Act (FMLA). However, under the provisions of the FMLA and Government Code Section 12945.2, employees are allowed a total of 12 workweeks of family and medical leave during any 12-month period.

DBS Sunset

All CalSTRS members of the DB Program who make contributions to CalSTRS on creditable compensation earned between January 1, 2001 and December 31, 2010, have an account under the DBS Program to which a portion of 8 percent employee contributions is allocated. Two percent of members' creditable compensation is allocated to the DBS Program. But the two percent allocation to the DBS Program will end on December 31, 2010 and after that date the full 8 percent of creditable compensation will be allocated to the DB Program.

Transfers to the Teachers' Retirement Fund

Current law requires a quarterly transfer of funds from the General Fund to the Teachers' Retirement Fund equal to a percentage of the total creditable compensation reported by CalSTRS for the prior fiscal year. ABX8 5 (Chapter 1, Statutes of 2010) specified dates for some but not all the quarterly transfers from the General Fund to the Teachers' Retirement Fund.

Death Benefits

The DB Program provides benefits to beneficiaries when a member dies, either before or after retirement. Those benefits are based on several factors that include the options chosen by a member and the type of coverage he or she was under. CalSTRS pays the benefit after receiving proof of death of the member.

Post-Retirement Earnings Limit

Generally, a retired member who returns to work in creditable service may only earn up to an annually set dollar limit. If the member earns above that limit, his or her benefit payments for that year are reduced on a dollar-for-dollar basis by the amount the member exceeds the limit.

There are several exemptions to the post-retirement earnings limit. Any member who has a 12-month break in all creditable compensation is exempt from the limit. Additionally, there are several specific exemptions to address specific needs within the California public education system.

Chapter 306, Statutes of 2009, effective July 1, 2010, prohibits retirees under age 60 from working in any CalSTRS-related service for the first six calendar months after they retire. After this break-in-service, they would be able to return to work under the existing earnings limit.

Preretirement Election of an Option

A member may elect one of several options for an actuarially modified retirement allowance payable through the life of the member and the member's option beneficiary or beneficiaries. A member may change or cancel a preretirement election of an option by submitting a form to CalSTRS. The form must be received by CalSTRS within 30 days of the date of the member's signature.

Refund of Accumulated Retirement Contributions

A nonmember spouse has the right to a refund of the accumulated retirement contributions in his or her separate account. Nonmember spouses may also choose to rollover the accumulated retirement contributions to a qualified plan under Section 402 of the Internal Revenue Code of 1986. The Federal Pension Protection Act of 2006 did not authorize a nonspouse to rollover a distribution of a segregated account; registered domestic partners are "nonspouses" under Federal law. Therefore, current law provides broader benefits to registered domestic partners than is authorized by Federal law.

ANALYSIS:

Overpaid Benefits

This bill would bring the Education Code into compliance with federal law that requires members to be paid a "definitely determinable" benefit. Overpaid benefits are outside of that

“definitely determinable” benefit and, therefore, must be collected from the member to the extent possible. In order to make the system whole, what is not collected from the member would be collected from the employer when the overpayment was made due to employer error.

Sections affected: 22119.2, 23008, 24616, 24616.5, 26302, 27303 and 27303.5

Disability Benefits

The various sections of the Education Code that relate to disability benefits do not use terms consistently, which can cause some confusion related to the meaning of the terms. In addition, some sections do not specifically state that members should apply for disability benefits on a form provided by CalSTRS. This measure clarifies the terms used in these sections and specifically states that a members need to apply for disability benefits on a form provided by CalSTRS. This measure also clarifies how CalSTRS establishes the date of the start of a disability or the reoccurrence of a disability.

Sections affected: 22126, 24002, 24005, 24018, 24102, 24105 and 24119

Conflict of Interest

The position titles used in Chapter 301, Statutes of 2009 are not titles used by CalSTRS for its executive-level positions. This measure corrects the references that Chapter 301 made to several of CalSTRS’ executive-level positions that are restricted from performing post-employment activities by removing the position title that does not apply to CalSTRS and adding titles that are applicable.

Section affected: 22212.5.

Receipt of Documents

This bill would expand the existing process that allows members, spouses and beneficiaries to submit CalSTRS forms and documents at all contracted counseling offices throughout the state by allowing benefits counselors to be designated as official recipients, in addition to the counseling offices. This would allow a member, spouse or beneficiary to submit CalSTRS forms and documents to a benefits counselor even when a counseling session takes place at a location other than a counseling office.

Section affected: 22303.

Teachers’ Retirement Program Development Fund

Existing law allows the Board to authorize the transfer and disbursement of funds to the TRPDF, but other resources of the program being initiated through the TRPDF may be administered in other funds. In order to facilitate efficient administration of these new programs, AB 2260 allows the Board to direct the Controller to transfer the resources in the TRPDF to the fund, so all program expenditures are paid from a single fund.

Section affected: 22307.6.

CalSTRS Headquarters Building

An external auditor advised CalSTRS that GAAP require that assets used in CalSTRS operations, such as the new headquarters building, be reported as capital assets, instead of as an investment. The Board adopted a resolution in June of 2009 to reclassify the headquarters building as a capital asset and remove it from the investment portfolio. This measure resolves the inconsistencies between the Education Code and GAAP requirements for recording the headquarters as a capital asset.

Section affected: 22380.

Reduced Workload Program

The IRS requires that participating employees in RWP must not opt out of the “pick-up”, or to receive the contributed amount directly instead of having them paid by the employing unit to the plan. The ability to change employer pick-ups is a feature of 401(k) defined contribution plans and is not allowed by law in a 401(a) defined benefit plan, such as the DB Program. This measure strengthens the provisions of RWP to ensure continued compliance with federal laws and further maintain CalSTRS’ status as a tax-qualified public pension system.

Section affected: 22713.

FMLA Service Credit

The FMLA and the Government Code already limit an employee’s ability to take a total of 12 workweeks of family and medical leave. This measure conforms the Education Code to provisions of the FMLA and the Government Code relating to the ability of CalSTRS members to buy service credit for family and medical leave for a maximum of 12 workweeks.

Section affected: 22803.

DBS Sunset

CalSTRS employers report information about the compensation paid to members at the end of each pay period, but some employers’ pay periods do not end on the last day of the month. For employers reporting creditable compensation for pay periods ending on or after January 1, 2011, CalSTRS will be required to allocate the entire 8 percent contributions to the DB Program, even if some of the compensation was earned prior to January 1, 2011. Unless employers report compensation separately, CalSTRS does not have a way to determine whether the compensation was earned before January 1, 2011. This measure authorizes CalSTRS to credit all of the member’s contributions that are reported by the employer at the end of 2010 to the DB Program, if the employer report does not separate pre- and post-December 31, 2010, earnings.

Section affected: 22901.

Transfers to the Teachers’ Retirement Fund

This measure makes the specific dates for the quarterly transfers from the General Fund to the Teachers’ Retirement Fund consistent within the appropriate section of the Education Code.

Section affected: 22955.

Death Benefits

Existing law governing death benefits do not use consistent terms when they refer to creditable compensation. This measure clarifies and conforms the language that applies to death benefit payments and makes the language consistent across those different code sections.

Sections affected: 23801 and 23851.

Post-Retirement Earnings Limit

Chapter 306, Statutes of 2009 did not include the phrase “within the California public school system” when it added section 24214.5. Therefore, it may be unclear that only public school employment is affected by the six-month, zero dollar earnings limit for retirees under the normal retirement age of 60. This measure clarifies that the post-retirement earnings limit for retirees under the normal retirement age, applies to employment specific to the public school system.

One of the earnings exemptions is for a retired member who is appointed as a trustee under the Immediate Intervention/Underperforming Schools Program or the High Priority Schools Grant Program. However, these two programs are no longer funded programs and have been replaced by the Local Educational Agency Intervention program. This measure removes references to the two state academic intervention programs that are no longer funded and adds a reference to the existing program.

Sections affected: 24214.5 and 24216.

Preretirement Election of an Option

The provisions for CalSTRS option elections contain some inconsistencies among them regarding applying for these options on a form provided by CalSTRS. In addition, these provisions allow members to change or cancel their pre-retirement option election on the same day the member’s retirement benefit takes effect. This measure provides consistency among all other option election provisions so that all option elections are made on a form prescribed by CalSTRS and clarifies that a member has the ability to change or cancel an option election prior to the effective date of his or her retirement.

Sections affected: 24300.1 and 24309

Refund of Accumulated Retirement Contributions

The Federal Pension Protection Act of 2006 (PPA) authorizes nonspouse rollovers when the nonspouse is a beneficiary who is owed a distribution because of the member’s or participant’s death. Under Chapter 513, Statutes of 2007, which conformed the Education code to the PPA, registered domestic partners were authorized to rollover the balance of their segregated accounts. However, under federal law, registered domestic partners are “nonspouses” and the PPA did not authorize a nonspouse to rollover a distribution of a segregated account. This measure conforms the language, so that registered domestic partners are prohibited from rolling over the balance of

their segregated accounts to bring CalSTRS back into compliance with federal law.

Section affected: 27406

FISCAL IMPACT

Benefit Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

SUPPORT

CalSTRS (Sponsor).

OPPOSITION

None known.

LEGISLATIVE STAFF CONTACT

Sal Sanchez
Legislative Analyst,
CalSTRS Legislative Affairs,
414-1984
ssanchez@calstrs.com

Mary Anne Ashley
Assistant Director,
Governmental Affairs and Program Analysis,
414-1981
mashely@calstrs.ca.gov

Berman Obaldia
Director,
Governmental Affairs and Program Analysis,
414-1977
bobaldia@calstrs.com