BILL NUMBER: AB 53 (Portantino) as amended April 14, 2009

SUMMARY

AB 53 freezes any state employee's salary whose base salary is $150,000 or higher until January 1, 2012 and would prohibit those employees from receiving payment for overtime work. This bill exempts a person whose compensation is governed by an operative memorandum of understanding and a person who is exempted by executive order of the Governor or a person whose salary is set pursuant to the California Constitution. In addition, the Legislature urges the Regents of the University of California and the Board of Directors of the Hastings College of the Law to adopt the policy for individuals employed by those entities.

PURPOSE OF THE BILL

To limit the compensation paid to higher-paid state employees, to help mitigate California's current budget shortfall which has grown significantly since this measure was introduced and is now estimated to be $41.6 billion by the end of the next fiscal year.

BOARD POSITION

Watch. This bill does not significantly or adversely impact the benefits or services provided through the funds administered by CalSTRS or the administration of the retirement plans.

SUMMARY OF AMENDMENTS

On April 14, 2009, the measure was amended to clarify that the bill's provisions apply to anyone moving into a position making $150,000 after the effective date of the bill or anyone whose salary increases after the effective date of the bill to more than $150,000.

On March 25, 2009, the bill was amended to remove the provision which prohibited an employee whose base salary is $150,000 or higher from receiving a bonus or other compensation in excess of the person's base salary.

LEGISLATIVE HISTORY

ABX2 1 (Portantino) is identical to the introduced version of AB 53.

Chapter 333, Statutes of 2007 (AB 1317—Mullin) expanded the CalSTRS Board's current authority, which was established by Chapter 856, Statutes of 2003 (SB 269—Soto), to set salary level and performance standards to include General Counsel.

Chapter 856, Statutes of 2003 (SB 269—Soto) allowed the Boards of CalSTRS and CalPERS to set salary levels and performance standards for the positions of Chief Executive Officer, System Actuary, Chief Investment Officer and investment managers, consistent with the authority established in Proposition 162. SB 269 also restricts for two years after leaving CalSTRS employment those individuals who were employed for less than five years in these positions from being paid to influence the actions of the CalSTRS or decisions of the Board.

The California Pension Protection Act of 1992 – Proposition 162 of 1992 granted public retirement system boards plenary authority over investment decisions and the administration of each retirement system in a manner to assure prompt delivery of benefits and related services to members and their beneficiaries.

PROGRAM BACKGROUND

Currently, the Teacher's Retirement Board (Board) has a Compensation Committee comprised of members of the Board to design a set of compensation principles to support CalSTRS' long term human resource and investment objectives. These compensation principles are based upon the philosophy that:

- To achieve its business and investment objectives, CalSTRS must be able to hire, motivate, and retain high-quality executive management and investment staff. A reasonable and competitive pay program is critical to accomplishing these objectives.

- While CalSTRS is a public organization, private sector firms are a key labor market for CalSTRS' executive management and investment professionals.

- For executive management and investment professionals, private sector pay levels are generally higher than public sector pay levels, with much of the difference attributable to relatively higher private sector cash incentives.

Recognizing this philosophy, the CalSTRS Compensation Program:

- Is structured to provide pay opportunities consistent with a peer group weighted 67 percent to other leading public funds and 33% to a broad range of private sector firms.

- Reinforces performance-based incentive pay. In particular, under CalSTRS' incentive plan:

    - Investment-related incentives are only earned when investment performance is above defined benchmarks (i.e., when value is created for members, beneficiaries and taxpayers).

    - Maximum incentive payouts are calibrated to represent a very small portion of the above-benchmark value that staff could create. That is, at maximum payout levels, staff incentives equal about $32 per $10,000 of above-benchmark performance.

In keeping with best practices and in order to satisfy our long-term objectives, the Board assesses relevant competitive market compensation survey data at least every two years. Such data is secured from reputable, third-party sources.

ANALYSIS:

Existing Law:

The Department of Personnel Administration generally establishes and adjusts salary ranges for each classification in the state civil service, based on specified merit limits. The salary range is set based on the theory that like salaries shall be paid for comparable duties and responsibilities. In addition, the state is able to enter into a memorandum of understanding relating employer-employee relations with employee organizations representing certain state employees.

Current law authorizes the Board to fix compensation for the chief executive officer, system actuary, chief counsel, chief investment officer and the other investment officers and portfolio manager positions at a competitive level commensurate with the knowledge and experience that their work demands, which provides CalSTRS with a larger candidate pool and has enabled them to retain well-qualified staff in these positions.

This Bill:

AB 53 freezes any state employee's salary whose base salary is $150,000 or higher until January 1, 2012 and would prohibit those employees from receiving payment for overtime work. This bill exempts a person whose compensation is governed by an operative memorandum of understanding and a person who is exempted by executive order of the Governor or a person whose salary is set pursuant to the California Constitution. These exemptions do not apply to CalSTRS. This bill would affect the compensation paid to 31 CalSTRS positions in which salaries are covered under Education Code Section 22212.5 and Government Code 20098.

The compensation paid by CalSTRS is comparable to that paid by other public retirement systems. For example, some of the larger California county retirement systems, such as Los Angeles and San Francisco, which have less than 5 percent of the asset size as CalSTRS, pay salaries and incentives above $150,000.

While this version of the bill has less of an impact to CalSTRS, it may still impact CalSTRS ability to recruit and retain high quality investment staff. If CalSTRS were to lose one of their most senior Executives or Investment Directors due to a departure, CalSTRS would need the ability to recruit a critical position. Without the ability to negotiate or offer a salary appropriate to the level of responsibilities, CalSTRS recruitment efforts would be significantly hampered and could have significant negative impacts to the organization as a whole in terms of leadership and return on investment.

FISCAL IMPACT

Benefit Program Cost – Savings is estimated to be $50,000 over the two year period; however, costs could exceed $500,000 related to recruitment and retention costs of key investment staff.

Administrative Costs/Savings – The administrative cost is minimal.

SUPPORT

Assembly Member Portantino

OPPOSITION

California State University
University of California

ARGUMENTS

Pro:

- Minor savings over the two year period related to employee's base salaries being frozen at $150,000.

Con:

- Difficulty recruiting and retaining experienced and highly qualified staff which could result in investment staff vacancies and increased recruitment costs.

LEGISLATIVE STAFF CONTACT

Melissa Tanner
Legislative Advocate,
CalSTRS Legislative Affairs,
229-0654
mtanner@calstrs.com

Jennifer Baker
Director,
CalSTRS Governmental Affairs and Program Analysis,
229-3866
jbaker@calstrs.com

Greg Hurner
Deputy Secretary, Legislation,
State and Consumer Services Agency,
Office: (916) 653-3111
Mobile: (916) 201-5962
greg.hurner@scsa.ca.gov