

**BILL NUMBER: AB 644 (PE&R) as introduced February 15, 2019**

**SUMMARY**

AB 644 makes various technical, conforming or minor 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.

**BOARD POSITION**

**Sponsor.** This bill will make various technical, conforming or minor amendments necessary for continued effective administration of the California State Teachers' Retirement System.

**REASON FOR THE BILL**

AB 644 will help ensure continued effective and efficient plan administration for CalSTRS internal and external customers.

**PROGRAM BACKGROUND & ANALYSIS:**

Applicability of Assessments to Disability Retirement

*Background*

Upon becoming eligible to retire, active members can choose a preretirement election of an option to provide their beneficiaries a lifetime benefit in the event of their death. A member's subsequent service retirement allowance is reduced in order to provide the benefit over the lifetimes of the member and any beneficiaries.

If a member becomes disabled before retirement and is eligible to receive a disability retirement benefit, all preretirement elections of options are voided. At that time, the member may elect another option, which would result in a greater reduction determined based on the actuarial value of the disability benefit.

Members may change or cancel a preretirement election of an option at any time prior to retirement, at which time the member's future allowance will be reduced by an amount determined by the board to be the actuarial equivalent of the additional coverage the member received prior to a change or cancellation—this is also known as an assessment.

Currently, the law does not specify the type of retirement allowance this assessment applies to. However, because CalSTRS voids all preretirement options upon disability retirement, including those that had previously been changed or canceled, the assessment is only charged upon service retirement.

*Proposed*

This measure clarifies that an assessment for a previously canceled or changed preretirement option election will only be applied when a member retires for service.

*Section affected: 24309*

### Removal of Obsolete Sections

#### *Background*

In 1974, the Total Equivalent Compensation (TEC) Act established additional benefits for state employees under CalPERS. CalSTRS members who were state employees at the time were excluded from these benefits. In order to take advantage of the additional TEC benefits, provisions in the Teachers' Retirement Law allowed affected members to make an election to transfer membership from CalSTRS to CalPERS prior to July 1, 1976. Those provisions are now obsolete.

#### *Proposed*

This measure removes the outdated sections in order to organize and shorten the Teacher's Retirement Law for ease of reading and faster access to relevant statutes.

*Sections affected: 22510, 22511, 22512, 22513 and 22514*

### Designation of Other Beneficiaries Clarification

#### *Background*

Included in the list of beneficiaries that may be designated to receive death benefits is the term "eleemosynary." This term is an adjective describing a charitable entity, as in a reference to a foundation or endowment. Examples include universities, hospitals and religious organizations. Through a drafting error in previous legislation, the statute incorrectly uses the term as a noun.

#### *Proposed*

This measure clarifies the meaning and application of the term "eleemosynary" by replacing it with the term "charitable organization."

*Section affected: 23301*

### Employer Certification for Refund Applications

#### *Background*

When employment by a CalSTRS-covered employer is terminated, a member or participant is able to apply for a refund of their contributions and interest under the DB Program or a termination benefit under the DBS and CB Benefit programs. The employer must certify that the employment was terminated unless the termination occurred 12 months or more prior to the date the member signed the application. This ensures there is no in-service distribution of retirement funds. The employer certification requirements may cause unnecessary rejections after 12 months has passed without payroll reporting if the member signature date is within those 12 months.

#### *Proposed*

This measure amends the employer certification requirement from the 12-month period prior to the member's signature date to the 12-month period prior to the application receipt date to avoid unnecessary rejections.

*Sections affected: 23102, 25024, 27201 and 27202*

### Remuneration in Addition to Salary and Compensation Earnable Cleanup

#### *Background*

Education Code section 22119.2 defines “creditable compensation” for 2% at 60 members, those not subject to the Public Employees’ Pension Reform Act of 2013 (PEPRA), as “remuneration that is paid in cash by an employer to all persons in the same class of employees for performing creditable service for that position.” Creditable compensation includes both “salary or wages” and “remuneration that is paid in addition to salary or wages.” Remuneration in addition to salary is required to be “paid to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed.” Education Code section 22119.3 defines “creditable compensation” for 2% at 62 members, those subject to PEPRA, as “remuneration that is paid each pay period in which creditable service is performed for that position,” but no distinction is made between “salary” and “remuneration in addition to salary” for these members.

The manner in which CalSTRS credits service and includes remuneration in addition to salary in the compensation earnable for a school year is not specified in the Teachers’ Retirement Law. Recognizing that “remuneration in addition to salary,” according to Title 5, California Code of Regulations, section 27401, “is not associated with the performance of additional service,” CalSTRS excludes this type of compensation when determining service credit. However, Education Code section 22701, which provides that service shall be credited based on the ratio of earnings to earnable, does not specifically exclude remuneration in addition to salary from those earnings.

Because service credit is determined without including remuneration in addition to salary, CalSTRS similarly excludes remuneration in addition to salary when dividing earnings by service credit to determine compensation earnable as specified in Education Code section 22115. Instead, CalSTRS determines the average full-time equivalent for all time-based salary earnings and adds any non-time-based earnings (remuneration in addition to salary) to the result.

Although not explicitly provided for by law, CalSTRS current practice is consistent with the basic principal that remuneration in addition to salary is not paid for performing additional service. Including these earnings when determining service credit would result in service credit that would exceed the time base for the work actually performed. Similarly, it would inappropriately inflate the compensation earnable if these amounts were annualized—which would be the result of including remuneration in addition to salary prior to dividing the total amount by service credit. CalSTRS current practice is also consistent with other public retirement systems, including CalPERS, which defines compensation earnable as the sum of the full-time pay rate and additional “special compensation.”

Lastly, the definition of “compensation earnable” contains multiple meanings and fundamental concepts that are sometimes confused when the term is used in different ways, whether by employers when reporting compensation or by CalSTRS when calculating benefits.

#### *Proposed*

This measure defines a new term, “annualized pay rate,” as the salary or wages a person could earn during a school term for service performed in an assignment on a full-time basis in order to separate it from the definition of “compensation earnable.” It clarifies that only salary and wages are used to determine service credit and that compensation earnable as used to determine final compensation for DB benefits means the weighted average of the pay rates for a school year plus

remuneration in addition to salary. In addition, the measure clarifies that creditable compensation is either salary or remuneration in addition to salary. It moves the comparison calculation for certain part-time community college faculty out of the definition of “compensation earnable” to its own section of the Education Code. It also updates references.

*Sections affected: 22104.8, 22115, 22119.2, 22119.3, 22121, 22138.5, 22701, 22708, 22710, 24203.8, 24209, 24209.3 and 24211*

## LEGISLATIVE HISTORY

AB 4083 (Bannai, Chapter 1153, Statutes of 1974) added the language “trust eleemosynary or parochial institution or public entity” to the list of beneficiaries that may be designated to receive death benefits. Required employers to certify that employment has been terminated for all refund requests submitted by members for DB contributions.

AB 152 (Knox, Chapter 416, Statutes of 1975) allowed members to designate a different beneficiary in a preretirement option election prior to the effective date of their retirement and prescribed the related reduction in allowance.

AB 1105 (Deddeh, Chapter 954, Statutes of 1975) allowed for CalSTRS members who are state civil service employees on January 1, 1976, to elect prior to July 1, 1976, to discontinue CalSTRS membership and transfer to CalPERS.

AB 2011 (Craven, Chapter 806, Statutes of 1975) allowed a CalSTRS member to designate a trust as a beneficiary.

AB 3326 (Thomas, Chapter 697, Statutes of 1976) added language to the postretirement compensation limitations stating “the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.”

SB 1058 (Speraw, Chapter 124, Statutes of 1981) redefined “beneficiary” to mean the person or entity who is designated to receive death benefits and transferred the list of entities that may be beneficiaries to the Beneficiary Designation chapter of the Teachers’ Retirement Law.

SB 1885 (C. Green, Chapter 1166, Statutes of 1992) established the new survivor benefits and disability retirement program.

AB 816 (PER&SS, Chapter 1025, Statutes of 2000) added an exception to the employment termination certification for a DB refund request if employment was terminated 12 months or more prior to the date the member signed the refund application.

SB 1466 (PE&R, Chapter 655, Statutes of 2006) added an exception to the employment termination certification for a DBS termination benefit request if employment was terminated 12 months or more prior to the date the member signed the termination benefit application.

AB 1381 (PER&SS, Chapter 559, Statutes of 2013) added the definition of “creditable compensation” for members subject to PEPRA.

SB 1220 (Torres, Chapter 755, Statutes of 2014) added an exception to the employment termination certification for a CB termination benefit request if employment was terminated 12 months or more prior to the date the participant signed the termination benefit application.

**FISCAL IMPACT**

Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

**SUPPORT**

CalSTRS (Sponsor)

**OPPOSITION**

None known.

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