

BILL NUMBER: AB 757 (PER&SS) As Amended 6/18/07

SUMMARY

Assembly Bill 757 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 757 is necessary to maintain a well-organized Plan.

POSITION AND SUPPORTING ARGUMENTS

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

ANALYSIS

Specifically, the changes made by AB 757 (all sections refer to the Education Code):

1. Add reference to "pre-kindergarten" within the classes of employees employed by a school employer, among the group of active members who are eligible to run as candidates for membership on the Teachers' Retirement Board and among the programs that may employ teacher interns as instructional aids.
2. Codify the Board's existing authority to request member information to verify earnings, employment and medical status for the purposes of determining and paying benefits.
3. Clarify CalSTRS' existing authority to release member or participant medical records, which are kept in relation to a disability claim, directly to a physician or psychologist, rather than release the medical records directly the member or participant, in certain circumstances.
4. Clarify that employment under the reduced workload program must begin at the beginning of the school year, thereby clearly stating the program requires fulfilling the obligation of an entire school year.
5. Clarify the period of time that applies to the existing restriction that a member, who takes an early retirement incentive, is prohibited from receiving unemployment insurance payments.
6. Clarify that up to 24 consecutive months of a partial workload may be purchased as maternity/paternity leave as long as the employer approved the partial workload as this type of leave.
7. Clarify references to "Option 3," a joint and survivor option that became unavailable to members for new election as of January 1, 2007.

8. Expand the amount of time a member, who has a medically certifiable mental impairment, has to submit an application for service retirement.
9. Add service credit granted for unused education leave within the types of service credit excluded from the service retirement benefit calculation, which was originally left out due to an oversight.
10. Provide consistency among option election requirements that a retired member, who elects a new spouse or new domestic partner as option beneficiary, provide a copy of their marriage certificate or declaration of domestic partnership.
11. Codify CalSTRS' administrative process of allowing members with a pre-retirement option election to change option elections within the six-month waiting period before the option takes effect.
12. Clarify that an ad hoc benefit increase is a percentage of the total benefit amount.
13. Provide consistency among provisions authorizing the Board to recover a benefit overpayment by including the Cash Balance (CB) Benefit Program.
14. Establish the operating account in the Deferred Compensation Fund that is necessary to manage the new CalSTRS 403(b) compliance and administrative services and clarify references to the Teachers' Retirement Development Fund.
15. Clarify that a retired DB member may not use the lump-sum distribution of the DBS retirement benefit to complete payment of a service credit purchase or a redeposit of service credit.
16. Correct a typographical error.

SUMMARY OF AMENDMENTS

The amendments of May 24 and June 18 make the following changes:

- Include reference to "pre-kindergarten;"
- Codify the Board's existing authority to request member information;
- Provide consistency among sections of the law and clarify provisions of confidential member data;
- Clarify provisions of the reduced workload program;
- Clarify restrictions under an early retirement incentive;
- Increase ease of administration with regards to members submitting applications for retirement;
- Make the option election provisions consistent;
- Include reference to a member's ability to change a pre-retirement option election;
- Delete a provision in the introduced version of the bill to avoid making unnecessary amendments to established law;
- Provide consistency among sections related to benefit overpayments;
- Make code sections relative to the CalSTRS third-party administrator program consistent.

LEGISLATIVE HISTORY

Chapter 780, Statutes of 2006 (AB 2462—Mullin), establishes the CalSTRS 403(b) administrative and compliance program for school employers who wish to contract with CalSTRS for those services.

Chapter 655, Statutes of 2006 (SB 1466—PE&R), among other things, codifies the new joint and survivor options that took effect as of January 1, 2007; also clarifies terms of the reduced workload program.

Chapter 1027, Statutes of 2000 (AB 429—Correa), authorizes ad hoc benefit increases for all benefits in effect as of January 1, 2000.

Chapter 1367, Statutes of 1974 (AB 3339—Brown), establishes the reduced workload program.

Chapter 680, Statutes of 1982 (SB 307—Dills), establishes the early retirement incentive program and the restriction from receiving unemployment insurance payments after retiring with the incentive.

Chapter 416, Statutes of 1975 (AB 152—Knox), establishes the right of a member to cancel an option election.

PROGRAM BACKGROUND

1. Include reference to “pre-kindergarten” among other certificated employment classifications.

References to certificated employment made throughout the TRL are inconsistent. Some references are to grades kindergarten through twelve, while others include “prekindergarten.” According to public school employers, the same standards for creditable service in a kindergarten classroom are applied to creditable service in a pre-kindergarten classroom. Therefore, it is necessary to include pre-kindergarten:

- a. Within the classes of employees employed by a school employer;
- b. As active members who are eligible to run as candidates for membership on the Teachers’ Retirement Board; and
- c. Among those programs eligible to employ teacher interns as instructional aids.

Education Code sections affected by amendment: 22138.5, 22200 and 44830.3

2. Codify the Board’s existing authority to request member information.

Members applying for or receiving a disability allowance or disability retirement are asked to provide documentation to verify their earnings, employment and medical status. The Board has the authority to perform actions, as necessary, to administer the State Teachers’ Retirement Plan. In addition, members sign a statement authorizing CalSTRS to request member information when members apply for a disability benefit. However, the type of information that may be requested by the Board is not codified and members sometimes challenge CalSTRS, especially when jointly filed income tax records are requested. The amendments to Sections 22207 and 22450 specifically outline the types of information that

may be requested by the Board and codifies the Board's authority to request this information to eliminate any ambiguity.

Education Code sections affected by amendment: 22207 and 22450

3. Provide consistency among sections of the law and clarify provisions of confidential member data.

CalSTRS maintains confidential member, participant and beneficiary information for purposes of determining and paying benefits. CalSTRS has authority to restrict members, participants or beneficiaries from accessing the medical records kept in relation to a disability claim if their access to those records would be personally detrimental. However, this authority is found in the California Civil Code and internal CalSTRS policy guidelines. Therefore, this amendment codifies CalSTRS' existing authority within the provisions of the TRL to provide clarity and consistency.

Education Code section affected by amendment: 22306

4. Clarify provisions of the reduced workload program.

CalSTRS offers a reduced workload program, which allows an employer to enter into an employment contract with a member for employment on a less-than-full-time basis, yet provides the member with full-time service credit. This reduced workload program is administered on a school-year basis and requires employment for a full school year. Chapter 351, Statutes of 2005, clarified the requirement that the employee perform service for a full school year. However, additional clarification is necessary. This amendment further clarifies that employment must start at the beginning of the school year, thereby clearly stating the requirement of the program is fulfillment of an entire school year.

Education Code section affected by amendment: 22713

5. Clarify restrictions under an early retirement incentive.

CalSTRS provides an early retirement incentive program that employers may offer to employees. The governing board of a school district must take formal action to provide the early retirement incentive. If an employee (a CalSTRS member) takes an early retirement incentive, granted by the school district's governing board, the retired employee is prohibited from taking employment with that employer at any time during the five years following retirement. Likewise, the retired member is prohibited from receiving unemployment insurance payments because of his or her employment with the employer that granted the retirement incentive. This amendment clarifies the retired member cannot receive unemployment benefits from the employer that provided the retirement incentive at any time within the year following the date on which the governing board took action to provide the retirement incentive.

Education Code section affected by amendment: 22714

6. Clarifying maternity/paternity permissive service credit.

Current law is unclear whether a partial workload is considered an employer-approved maternity/paternity leave. Federal law allows a partial workload to be purchased as maternity leave under permissive service credit guidelines. Therefore, this amendment clarifies that a partial workload may be purchased as maternity/paternity leave permissive service credit as long as the employer approved the partial workload as this type of leave. In addition, the amount of service credit from maternity/paternity leave that may be purchased is also unclear. This amendment also clarifies the amount of service credit that may be purchased from maternity/paternity leave may not exceed 24 months.

Education Code section affected by amendment: 22803

7. Clarify reference to “Option 3.”

Reference is made under the Family Allowance and the Survivor Benefit Spousal Allowance to “Option 3,” a joint and survivor option that became unavailable to members for new election as of January 1, 2007. This amendment clarifies reference to Option 3, as that section read on December 31, 2006, to avoid potential member and staff confusion and eliminate the interpretation that CalSTRS is providing a benefit that is no longer available.

Education Code sections affected by amendment: 23805 and 23855

8. Increase ease of administration with regards to members submitting applications for retirement

Currently, if a member requests a service retirement effective date on the first day of the month, the member has until the last day of that month to submit the application to CalSTRS. However, in the case where the member has a mental impairment, CalSTRS has historically allowed the member more leeway in submitting the service retirement application. (Evidence of a mental impairment is certified by a CalSTRS disability analyst.) Under this amendment, a member with a mental impairment may request a service retirement effective date of, for example, July 1, but will have an unlimited amount of time until to submit the application, as long as the mental impairment has been continuous from the time of the retirement effective date. The amendment to Section 24204 will, in part, allow a member with a mental impairment more time to submit his or her service retirement application, while preserving their requested retirement date.

In addition, a member, who wishes to make a change to or cancel an application for service retirement after he or she submits it, must request that change or cancellation on or before the last day of the month in which the retirement becomes effective. This amendment allows a member to change or cancel the service retirement up to the last day of the month in which the benefit takes effect, regardless of when the member actually submits the retirement application.

Education Code section affected by amendment: 24204

9. Conform the calculation of a service retirement benefit after terminating a disability benefit.

Service credit from unused sick and education leave, and permissive and out-of-state service credit purchased by the member are not included in the calculation of a member's service retirement allowance after converting from disability. However, Section 24213 does not exclude the service received from unused education leave, due to an oversight. Therefore, this amendment includes reference to service credit for unused sick leave among the other types of service credit that are excluded from the benefit calculation.

Education Code section affected by amendment: 24213

10. Provide consistency among option election provisions

A retired DB member may change an existing option election or elect a new option in specific circumstances:

1. When the retired member, who does not have an option election and does not have a spouse or registered domestic partner, gets married or enters into a registered domestic partnership and elects the new spouse or partner as option beneficiary; and
2. When the retired member, whose option beneficiary is not their spouse or registered domestic partner, designates the spouse or partner as option beneficiary.

The retired member is required to provide a copy of his or her marriage certificate or declaration of domestic partnership when submitting the application to change option beneficiaries under the second scenario. This amendment applies that requirement to the first scenario for consistency.

Education Code section affected by amendment: 24300.6

11. Include reference to a member's ability to change a pre-retirement option election.

A member with a pre-retirement option election is allowed to cancel the option election. However, there is no provision for changing an option election, even though the process for changing an option election is similar to canceling the option and making a new election. As such, CalSTRS currently allows members to change option elections. This amendment codifies CalSTRS practice in law.

Education Code section affected by amendment: 24309

12. Clarify application of ad hoc benefit increases.

Chapter 1027, Statutes of 2000, provides ad hoc increases to benefits in effect on January 1, 2001. These ad hoc increases are a percentage of the total benefit amount, not a flat dollar amount. As such, if the member's benefit amount increases or decreases after the effective date of the benefit, the ad hoc benefit increase should adjust proportionately. Therefore, this amendment is necessary to clarify application of these ad hoc increases.

Education Code section affected by amendment: 24410.7

13. Provide consistency among sections related to benefit overpayments.

The Board has authority to collect an overpayment of benefits from any subsequent benefits paid under the DB, DBS or CB programs. DB and DBS benefit overpayments are recovered at a rate of either 5 or 15 percent from any subsequent benefits paid. CalSTRS does not have a recovery rate set in policy or in law for benefits paid under the CB program. While there have been very few cases in which an overpayment was made under the CB Program, each case is taken on an individual basis. However, the number of benefit overpayments is expected to increase as more participants of the CB Program become eligible to elect an annuity. Therefore, this amendment adds a reference to the CB Program to provide consistency between the two related code sections and codify a recovery rate for the collection of benefit overpayments.

Education Code section affected by amendment: 24617

14. Provide consistency among code sections relative to the CalSTRS third-party administrator program by amending, as amended by the introduced version of this bill.

The introduced version of AB 757 amended Section 24976 to establish the account in the Deferred Compensation Fund that is necessary to manage the new CalSTRS compliance and administrative services. However, those amendments mistakenly left-out reference to the actual compliance and administrative services program. Therefore, this amendment includes reference to the code section that authorizes the compliance and administrative services offered by CalSTRS.

Education Code section affected by amendment: 24976

15. Establish the CalSTRS 403(b) compliance and administrative services operating account.

Chapter 780, Statutes of 2006, authorizes CalSTRS to provide compliance and administrative services for employer-sponsored 403(b) plans to employers who contract with CalSTRS for these services. This amendment creates the account in the Deferred Compensation Fund that is necessary to manage the new CalSTRS compliance and administrative services.

Education Code section affected by amendment: 24976

16. Conforms the authorized uses of the DBS lump-sum retirement benefit to the authorized uses of the Partial Lump Sum benefit.

Members are required to complete a purchase or redeposit of service credit prior to retirement because this additional service credit enhances the member's retirement benefit. Therefore, members are prohibited from using funds received through the payment of a lump-sum retirement benefit to complete their payment for such purchases. Current law prohibits the use of the Partial Lump Sum retirement benefit for these purposes. This amendment provides consistency among the restrictions on the use of lump-sum benefit distributions by clarifying that the DBS distribution may also not be used to complete a service credit purchase or redeposit.

Education Code section affected by amendment: 25009

17. Corrects a typographical error.

A typographical error was made during the drafting of Chapter 780, Statutes of 2006. This amendment corrects that error.

Education Code section affected by amendment: 44041

FISCAL IMPACT

Benefit Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

SUPPORT

CalSTRS

OPPOSITION

None