

BILL NUMBER: AB 1325 (PER&SS) as amended August 30, 2017

SUMMARY

AB 1325 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 1325 will help ensure continued effective and efficient plan administration for CalSTRS internal and external customers.

SUMMARY OF AMENDMENTS

The August 30, 2017, amendments:

- Correct a reference in the Reduced Workload Program section to "school term" instead of "school year."
- Make conforming changes to align with previous amendments that deleted language limiting the positions in which a member may perform creditable service under the Reduced Workload Program.
- Reinsert provisions related to subrogation that were previously in the bill.

PROGRAM BACKGROUND & ANALYSIS:

Midcareer Information Program and Notice of Testing Requirements

Background

Education Code section 22303.5, added to the Teachers' Retirement Law in 1994, mandated the creation of a midcareer information program for the benefit of CalSTRS members. The law was most recently amended in 2001 to also require CalSTRS to include information on basic skills testing requirements in member publications. In the intervening years, the following two provisions of the section have become outdated:

- Fee for participation in midcareer information program:
Current statute allows CalSTRS to assess a participation fee for member workshops for purposes of covering expenses related to the program. However, CalSTRS approach toward member education programs has evolved considerably over the past 20 years. Educational materials and workshops are budgeted generally from the Teachers' Retirement Fund for the benefit of members, and therefore, the provision has become unnecessary.
- Notice pertaining to testing requirements:

Current statute requires CalSTRS to publish information related to certification requirements following absences from the classroom of 39 months or more. This requirement was originally intended to provide an additional avenue to inform members of the consequences of extended absences. However, Chapter 191, Statutes of 2007 (SB 112–Scott), repealed the 39-month requirement under paragraph (1) of subdivision (c) of Education Code section 44830 and instead exempted teachers returning to service from the basic skills requirement if they previously passed the California Basic Educational Skills Test (CBEST) or achieved a passing score on other acceptable tests specified in the bill. As a result, the requirement is obsolete.

Proposed

This measure removes the outdated CBEST notification requirements, deletes the obsolete fee assessment provisions and makes additional clarifying changes regarding CalSTRS' midcareer information program.

Section affected: 22303.5

Authority to Share Information for Validation Purposes

Background

Education Code section 22306 provides that information filed with CalSTRS by members, participants and beneficiaries is confidential and may only be shared in specific instances. External audits in 2013 and 2015 suggested CalSTRS implement stronger information validation and verification measures, including using services to verify birthdates, deaths and addresses provided via approved vendors such as PBI Research Services, Melissa Global Intelligence and LexisNexis, among others. While current law provides limited ability to share information with other individuals for purposes of locating persons to whom a benefit may be payable, these limits may be interpreted to exclude approved third party data validation services, thus preventing the implementation of audit recommendations and hindering automation of data validation and verification measures in CalSTRS new pension administration system. By utilizing such services, CalSTRS can mitigate risks associated with invalid data. These risks could include payments to incorrect addresses as well as overpaid benefits resulting from invalid birthdates used to determine the age factor for benefit calculations, among others.

Proposed

This measure provides CalSTRS limited authority to include other entities in various data validation and verification measures. This change will enable CalSTRS to more effectively comply with state and federal laws requiring pension systems to accurately identify and locate members and beneficiaries by partnering with certified information providers that validate such information. In addition, this change will allow CalSTRS to significantly reduce risks as automated data validation and verification measures are implemented in the new pension administration system.

Sections affected: 22306 and 26215

Period Certain Annuities

Background

The Teachers' Retirement Law is missing information that is necessary to effectively administer members' and participants' elections of period certain annuities under the DBS and CB Benefit programs. Period certain annuities provide a benefit for a specified amount of time from three to 10 years. Two issues have been identified with provisions related to period certain annuities:

- Unlike joint and survivor annuities, which provide benefits that are ongoing except as limited by the lifetimes of the member or participant and the designated beneficiaries, members and participants may also designate an organization, trust or other entity as the beneficiary of a period certain annuity because the period certain annuity is set to end on a specific date, and the length of the annuity does not rely on the life expectancy of the member or participant and beneficiaries. In addition, a member or participant can change his or her designated beneficiary at any time after the period certain annuity commences. As a result, the language referring to the life expectancy of the beneficiary in current statute for purposes of complying with Internal Revenue Code (IRC) section 401(a)(9), which limits the deferral of taxable distributions, is unnecessary and confusing.
- The implicit restrictions placed on the election of a beneficiary (person, organization, trust or other entity) for period certain annuities and procedures concerning payment to the beneficiaries of those annuities are unnecessarily inconsistent between the similarly designed DBS and CB Benefit programs, which increases administrative complexity.

Proposed

This measure creates consistency between the period certain annuity age and entity restrictions under the DBS Program and the CB Benefit Program. It deletes references to beneficiaries for purposes of applying the federal age restrictions and instead refers to the life expectancy tables promulgated pursuant to IRC section 401(a)(9).

Sections affected: 22660, 25011, 25011.1, 25018, 25018.1, 25022.5, 26807, 26807.5, 26906, 26906.5 and 27007.

Reduced Workload Program

Background

The Reduced Workload Program was established by Chapter 1367, Statutes of 1974 (AB 3339–Brown), to permit educators who are eligible to retire the ability to work part time and, in exchange for remitting contributions as if they remained working full time, receive the benefits they would have received if they were working full time. The Reduced Workload Program provides a vehicle for career educators to transition into retirement, also giving employers the ability to retain historical knowledge by allowing seasoned employees time to transfer their knowledge to other employees.

Proposed

This measure clarifies and reorganizes the requirements of the Reduced Workload Program in order to better align the Teachers' Retirement Law with the intent of the program.

Sections affected: 22713, 44922 and 87483

Disability and Survivor Benefits Benefit Waiver

Background

In the event of a death or the disability retirement of a member, his or her beneficiaries may be entitled to benefits from the system. The Teachers' Retirement Law provides that a designated beneficiary may waive a right to a benefit that results upon the death of an active member or disability retirement of a member. However, the same ability to waive a right to a benefit is not afforded to a beneficiary upon the death of a retired member. Historically, beneficiaries for both types of death benefits have refused payment, and because it is not possible to force them to accept a payment, the system has generally allowed beneficiaries to waive rights to benefits that result from the death of a retired member. In most cases when this occurs, the benefits are paid to another beneficiary or, upon last resort, to the member's estate.

Proposed

This measure explicitly allows beneficiaries to waive their rights to benefits initiated upon the death of a retired member. It also specifies the system's requirements for a benefit waiver form and the release of system liability upon receipt of the executed waiver form to protect the system from liability and mitigate any potential legal issues.

Sections affected: 23801, 23804, 23851, 23854, 23880, 23881 and 24106

Service Retirement Reinstatement Change Request

Background

In order to return to work, a member retired for service may terminate his or her retirement allowance and reinstate in accordance with Education Code section 24208. Additionally, a member may cancel that reinstatement request as long as the cancellation request is received by CalSTRS no later than the last day of the month for which the reinstatement date was requested. However, there is no provision in the law allowing a member to change the requested date of his or her reinstatement. In order to effectuate such a request under current law, a member must cancel his or her reinstatement request and submit a new reinstatement request, which may conflict with the member's plans for returning to work.

Proposed

This measure allows members to request a change to their reinstatement as long as the request is received by the last day of the month of the reinstatement indicated on the original form.

Section affected: 24208

Subrogation

Background

Current law provides CalSTRS the right to subrogation against a third person or entity when the injury or death of a member, resulting in the member or member's beneficiary receiving a disability retirement allowance, disability allowance, family allowance or survivor benefit allowance, is the proximate consequence of the act of the third person or entity, other than the member's employer. However, in specifying the amounts that shall be recovered via subrogation, the statute is not entirely clear that the actuarial equivalent of the benefits in question include the full value of benefits paid and obligated

to be paid in the future. In these cases, the board may act on its own or contract with the State Compensation Insurance Fund or Attorney General for recovery on behalf of the plan.

Proposed

This measure clarifies that CalSTRS' right of recovery against a third person or entity extends to the actuarial equivalent of all amounts that CalSTRS becomes obligated to pay as a result of the acts of the third person or entity, including those amounts that have not already been paid. It also clarifies that the board is the entity that has the authority to compromise claims.

Sections affected: 24500 and 24503

Plan Compliance with IRC 401(a)(9)

Background

Under U.S. Treasury regulations, in order to satisfy requirements intended to limit the deferral of taxable distributions pursuant to IRC section 401(a)(9), a plan is required to "generally set forth the statutory rules of section 401(a)(9)." While the Teachers' Retirement Law provides these rules for when a member reaches the age required for a minimum distribution, currently 70½ years old, in Education Code section 24600 for the DB Program and Education Code sections 26004 and 27001 for the CB Benefit Program, the IRC section 401(a)(9)(B) requirements related to distributions following a member's death are either missing or incomplete.

Proposed

This measure clarifies the Teachers' Retirement Law regarding the IRC sections pertaining to the requirements for distributions after death and makes nonsubstantive changes to the required minimum distribution age provisions.

Sections affected: 24600, 26004 and 27001

LEGISLATIVE HISTORY

AB 1509 (Machado, Chapter 74, Statutes of 2000) established the DBS Program and required that 25 percent of member contributions to the DB Program be credited to the DBS Program for 10 years.

AB 2700 (Lempert, Chapter 1021, Statutes of 2000) made all compensation for creditable service creditable to CalSTRS and credited member and employer contributions for service in excess of one year in a school year to the DBS Program.

AB 3407 (PER&SS, Chapter 656, Statutes of 1994) required the board to offer a midcareer retirement information program for the benefit of all members of the system and to assist them in understanding various aspects of personal and financial planning and benefits offered by the system.

SB 112 (Scott, Chapter 191, Statutes of 2007) deleted the requirement that certificated employees must pass the CBEST if they have been away from the classroom for 39 months or more as long as they have passed it at least once in the past.

AB 3171 (Napolitano, Chapter 933, Statutes of 1994) added language regarding divulging information as necessary to locate a person to whom a benefit or refund may be payable.

AB 3339 (Brown, Chapter 1367, Statutes of 1974) permitted members who are part-time employees to have retirement benefits based on full-time employment if the employee and the employer both elect to make contributions required for full-time employment.

FISCAL IMPACT

Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

SUPPORT

CalSTRS (Sponsor)

OPPOSITION

None known.

LEGISLATIVE STAFF CONTACT

John Maradik-Symkowitz
Manager,
CalSTRS Governmental Relations,
(916) 414-1977
jmaradik-symkowitz@calstrs.com

Joycelyn Martinez-Wade
Director,
CalSTRS Governmental Relations,
(916) 414-1980
jmwade@calstrs.com