

BILL NUMBER: AB 1379 (PER&SS) as amended June 13, 2013

SUMMARY

AB 1379 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.

BOARD POSITION

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

REASON FOR THE BILL

AB 1379 will help ensure continued effective and efficient plan administration for CalSTRS internal and external customers.

SUMMARY OF AMENDMENTS

The June 13, 2013, amendments:

- Clarify that the disability allowance a member was eligible to receive on the effective date of the disability allowance is to be used for the purposes of determining postretirement benefit increases,
- Make a grammatical correction to clarify that the supplemental base allowance, used to calculate supplemental benefits, should not include applicable allowance increases or enhancements,
- Clarify that CalSTRS may designate electronic delivery as the default method of delivery for benefit payment information unless a member makes a different selection,
- Clarify that employers are able to negotiate the contract terms to participate in the 457(b) program offered by CalSTRS, including the length of the contract, without requiring a specified initial contract period,
- Correct the name of the regulatory organization in the sections of law authorizing CalSTRS to operate a 403(b) vendor registry and information bank, and
- Remove additional references to Education Code section 22375.

**PROGRAM BACKGROUND
& ANALYSIS:**

Registered Domestic Partner
Background

Existing law generally allows a member's registered domestic partner to receive the same treatment from CalSTRS as a member's spouse, except as prohibited by federal

law. Therefore, the law also includes specific provisions where registered domestic partners are not treated the same as spouses due to federal restrictions. Education Code section 22007.5 makes several references to provisions in state law that conform to the restrictions of federal law, including one that does not allow a member to designate a registered domestic partner as the option beneficiary for the 75 percent option and the Compound option. However, some of the references in section 22007.5 to these restrictions are cited incorrectly.

Proposed

This measure revises and updates the references to sections of law that conflict with federal law in their treatment of registered domestic partners.

Section affected: 22007.5

"2+2" Retirement Incentive

Background

The "2+2" retirement incentive program, which was operative from January 1, 2004 through December 31, 2004, provided an additional two years of service credit and two additional years of age, for purposes of the age factor used to calculate retirement benefits, to retiring members of the DB Program whose employers elected to participate. The section of law (Education Code Section 22714.5) that authorized this program was repealed on January 1, 2005, and subsequently removed from statute.

Proposed

This measure removes references to Education Code Section 22714.5 from several sections of law because this provision of law no longer exists.

Sections affected: 22134.5, 24203.5, 24203.6, 24209, 24209.3, 24211, 24212, 24213

Final Compensation

Background

Final compensation is generally the highest average annual compensation earnable for any period of three consecutive schools years. However, final compensation may be the highest average annual compensation earnable during any period of 12 consecutive months, if a 2% at 60 member has 25 or more years of service credit or it is part of a written collective bargaining agreement and associated costs are paid to CalSTRS.

Proposed

This measure corrects a reference to the provision of law relating to final compensation for a nonmember spouse.

Section affected: 22135

Retired Member Activities

Background

Postretirement employment restrictions and earnings limits are specified in Education Code sections 24214 and 24214.5. Chapter 135, Statutes of 2012 (AB 178, Gorell),

excluded from these restrictions and limits activities performed by an employee in a limited-term assignment for a third party employer that does not participate in a California public pension system, and the activities performed are not normally performed for an employer, as specified. In addition, a new section of law enacted by Chapter 296, Statutes of 2012 (AB 340, Furutani), defined “retired member activities” and incorporated the third-party exclusion in the definition. However, “limited-term” remains undefined.

Proposed

This measure clarifies the exclusion of third-party employee activities from the definition of “retired member activities” by specifying that assignments must be 24 months or less.

Section affected: 22164.5

System’s Headquarters Office

Background

CalSTRS has the authority to select, purchase, or acquire in the name of the Teachers’ Retirement Plan, an office building in the greater metropolitan Sacramento area, including the City of Sacramento, the County of Sacramento, and the eastern part of Yolo County, for the purposes of establishing a permanent headquarters facility for the system. In 2009, when construction of the current headquarters building was completed, CalSTRS staff moved into the new headquarters. Many sections of law continue to refer to Education Code section 22375 that authorizes the headquarters office, and there is no specifically defined meaning of “system’s headquarters office.”

Proposed

This measure defines the term “system’s headquarters office” to mean the office building established as the permanent headquarters facility for CalSTRS. It also removes various references to Education Code Section 22375.

Sections affected: 22175, 22303, 22662, 22663, 22664, 22801, 22829, 23001, 23104, 23202, 23300, 24005, 24105, 24201.5, 24204, 24208, 24300.2, 24306.5, 24306.7, 24307, 24309, 24311, 24312, 24312.1, 24613, 25011.5, 25018.2

Notification of Postretirement Earnings Limits

Background

Current law allows school districts to offer the CalSTRS Retirement Incentive Program, in which a member can receive two additional years of service credit to encourage retirement. Members lose the ongoing increase in their benefit if they return to work within five years with the school district that granted the incentive credit. Existing law requires employers to advise reemployed retired members of earnings limitations, as well as to report all postretirement earnings. However, existing law does not require employers to inform retired members that postretirement employment would adversely affect their incentive credit if they return to work within five years.

Proposed

This measure inserts, into Education Code section 22461, a reference to Education Code section 22714 in order to clarify that employers must notify retirees of the restriction imposed by the terms of the CalSTRS Retirement Incentive Program.

Section affected: 22461

Reporting Unused Sick Leave*Background*

Current law allows a retiring member to receive service credit for unused sick leave certified by the member's last employer or employers. The employer is required to certify the number of unused sick leave days to CalSTRS within 30 days following the effective date of the member's service retirement. However, the provisions of Chapter 703, Statutes of 2011 (SB 349, Negrete McLeod), allowed a member to backdate his or her service retirement benefit effective date to as early as the day following the date the member terminated his or her employment regardless of when the service retirement application is received after the employment termination date. If a member backdated his or her retirement benefit effective date, the employer would be unable to comply with the law in a timely manner.

Proposed

This measure extends the deadline for reporting unused sick leave to accommodate the ability of a member to backdate his or her retirement effective date by allowing an employer to submit the information within 30 days of when the application for retirement is received by CalSTRS.

Sections affected: 22717, 22717.5

Disability Allowance Application*Background*

CalSTRS members are eligible for disability benefits after they are vested and meet other requirements. Current law specifies time periods in which a member can apply for a disability benefit, including the period while the member is employed. A broad interpretation of "employed" could allow an on-call substitute teacher who has a contract with a school district, but who has not worked in over four months, to be considered employed, which would circumvent the requirement to be continuously incapacitated from the last day of actual performance of service.

Proposed

This measure clarifies that in order to qualify for a disability benefit, a member must not only be employed, but also have performed creditable service within four months prior to the date CalSTRS receives his or her disability application. This measure also makes a minor correction so that the term "disability allowance" instead reads "disability retirement allowance," in order to avoid confusion with the use of the term.

Sections affected: 24002, 24102

Service Retirement During Evaluation of Disability Application

Background

A member who is eligible to retire may receive a service retirement benefit if that member is waiting for a disability benefit application to be evaluated. In the event that the member receives approval of his or her disability benefit application, the member becomes a disabled member and is paid a disability benefit in place of a service retirement benefit. Under existing law, different requirements apply to the service retirement benefit effective date depending on whether a service retirement application or an application for service retirement during evaluation of disability is submitted.

Proposed

This measure would align the service retirement during evaluation of a disability application requirements with the requirements for a service retirement benefit effective date if a member's application for disability is denied.

Sections affected: 24201.5, 24204

Service Retirement Benefit Effective Date

Background

CalSTRS members may submit an application for retirement with any effective date, including backdating to as early as January 1, 2012, as long as that date meets specified conditions. Chapter 135, Statutes of 2012 (AB 178, Gorell), added the condition that the effective date can be no earlier than the date on which a member exercises his or her ability to terminate his or her retirement benefit and reinstate to active membership after he or she retires.

Proposed

This measure clarifies that a member cannot have a reinstatement date and a re-retirement date on the same date. The measure also clarifies that the intent of the law is not to allow members to receive multiple benefits for the same time period by virtue of their own membership. Lastly, this measure clarifies that a member must return payments he or she receives, within 45 days, if he or she cancels his or her retirement application.

Section affected: 24204

Reinstatement from Service Retirement

Background

Existing law allows a retired member to reinstate to active membership and re-retire within one year. Such a member is required to keep the same option election and beneficiaries that were in effect during the first retirement and prohibits changes to them for a period of one year after reinstating.

Proposed

This measure eliminates a loophole allowing a member to reinstate for one year, elect, change or cancel an option, and then backdate his or her retirement date. The measure

also clarifies the reinstatement effective date requirements and adds an omitted reference to a related provision of law.

Section affected: 24208

Retirement Following Reinstatement – Eligible Allowance

Background

CalSTRS continually reviews accounts for accuracy and on occasion has to adjust previous benefit amounts when a data or calculation error is found. CalSTRS has a fiduciary responsibility to adjust previous benefit amounts and, consequently, current benefit amounts if a change in a previous benefit impacts a current benefit calculation.

Proposed

This measure clarifies that a member's retirement allowance calculation after he or she has previously reinstated includes the amount that he or she was eligible to receive immediately preceding reinstatement.

Sections affected: 24209, 24211

Retirement Following Reinstatement – Final Compensation Calculation

Background

Under current practice, CalSTRS calculates a member's final compensation for service retirement after he or she has returned to work following receipt of a disability allowance by using compensation earnable, projected final compensation, or a combination of the two. The law currently specifies that for calculations where the member returned to active service for less than three years, CalSTRS is to use a combination of the two, not one or the other.

Proposed

This measure clarifies that a member's final compensation is calculated using compensation earnable, projected final compensation, or a combination of both.

Section affected: 24211

Postretirement Compensation Limitation

Background

Retired members are subject to a zero-dollar earnings limit for the first 180 calendar days after their most recent retirement. As adopted by Chapter 296, Statutes of 2012 (AB 340, Furutani), Education Code section 24214.5 inconsistently references this period of time, referring to it as both "180 days" and "six consecutive months."

Proposed

This measure ensures consistent interpretation of the length of the zero-dollar limit period by consistently using "180 calendar days" as the timeframe.

Section affected: 24214.5

Disability Option Revocation or Change

Background

Existing law provides that a member may only revoke or change a disability option election before the disability retirement benefit effective date or within 30 days of the date of mailing of an acknowledgement notice. This is inconsistent with the service retirement option election revocation or change process.

Proposed

This measure ensures a consistent process for revoking or changing an option election by setting a deadline of 30 days after the first disability retirement benefit payment. The measure also clarifies that a member who designates an option beneficiary will do so on a form specified by CalSTRS and submitted on or before the last day of the month of a member's disability retirement.

Sections affected: 24105, 24301

Supplemental Base Allowance for Disability Allowance to Service Retirement

Background

Supplemental benefits provide purchasing power protection when a member's initial allowance no longer keeps pace with inflation. The inflation rate is the change in the California Consumer Price Index from the year the benefit began to the year for which the supplemental benefit is calculated. Under current law, when a member goes from disability allowance to service retirement, the disability allowance effective date is used for purposes of calculating the supplemental benefit. However, existing law is silent on what is used as the initial allowance for purposes of the calculation. In addition, interpretation of current law is unclear as to whether the supplemental base allowance, used to calculate the supplemental benefit, should include applicable allowance increases or enhancements.

Proposed

This measure would clarify that the disability allowance a member was eligible to receive on the effective date of the disability allowance is to be used for the purposes of determining postretirement benefit increases. The measure would also make a grammatical correction to clarify that the supplemental base allowance should not include applicable allowance increases or enhancements.

Sections affected: 24410, 24415

Benefit Payment Information

Background

CalSTRS currently provides electronic copies of a benefit recipient's payment information, which are made available on a secure website. Under existing law, a benefit recipient is mailed a copy of the payment information only when there is a change in the benefit amount due to an annual enhancement or an adjustment to an income tax withholding tax table by the IRS or FTB. Benefit recipients may choose to

receive the payment information by mail for each monthly payment or to not receive a mailed copy at all.

Proposed

This measure would clarify that CalSTRS may designate electronic delivery as the default method of delivery unless the benefit recipient submits a written request, as specified under existing law, to receive a mailed copy of the payment information either monthly or only when there is a change in the benefit amount due to an annual enhancement or an adjustment to income tax withholding tables by the IRS or FTB.

Section affected: 24604

Deferred Compensation Contract Term

Background

CalSTRS currently offers deferred compensation programs authorized under sections 403(b) or 457(b) of the federal Internal Revenue Code, which employers may choose to establish and offer to employees. The Education Code section that authorizes CalSTRS to offer the 457(b) program specifies that the initial period of a contract between CalSTRS and an employer is five years. Employers interpret this to require all new contracts for a 457(b) program with CalSTRS to be for a five-year period.

Proposed

This measure clarifies that employers are able to negotiate the contract terms, including the length of the contract, without requiring a specified initial contract period.

Section affected: 24975

DBS Period Certain Annuity Beneficiaries

Background

Current law allows a member to name a person or entity, such as an estate, trust, corporation or charitable organization, as a designated beneficiary to receive the balance of the member's DBS account upon his or her death. The law is silent regarding the manner in which the beneficiary must receive the balance of the DBS account. The CalSTRS corporate database was programmed to administer the payment of the DBS account balance differently, depending on whether the designated beneficiary is a person or an entity. However, paying different designated beneficiaries differently is not specifically permitted by law.

Proposed

This measure specifies the manner in which a member's beneficiary would receive the balance of a DBS account period certain annuity. The measure also adds omitted references to a related provision of law.

Section affected: 25022

403(b) Vendor Registry*Background*

CalSTRS operates a 403(b) vendor registry and information bank to enable eligible participants to compare vendors' 403(b) products. The provisions of law that authorize CalSTRS to operate the registry reference a regulatory organization that no longer exists because the National Association of Securities Dealers (NASD) merged with the enforcement arm of the New York Stock Exchange to form a successor organization known as the Financial Industry Regulatory Authority (FINRA).

Proposed

This measure corrects the name of the regulatory organization to the Financial Industry Regulatory Authority.

Sections affected: 25101, 25103, 25106

Medicare Premium Payment Program*Background*

The Medicare Premium Payment Program (MPPP) was established to provide retired members the benefit of CalSTRS paying their Medicare Part A premium if they meet certain eligibility requirements. One of those requirements is the member must retire by a date specified by the Teachers' Retirement Board (board). The board currently set that date to June 30, 2012. Unless the board extends the MPPP sunset date, members who reinstate and subsequently retire after June 30, 2012, are ineligible for the MPPP.

Proposed

This measure clarifies that CalSTRS will use the most recent retirement date if it uses a retirement date to determine eligibility for the MPPP.

Section affected: 25940

CB Disability Annuity*Background*

Existing law requires the termination of a disability annuity if a participant who is receiving a disability annuity under the CB Benefit Program returns to work prior to age 60 to perform creditable service subject to coverage by the CB Benefit Program or the DB Program. Current law does not address any consequences for a participant over the age of 60 receiving a disability annuity who returns to work.

Proposed

This measure ensures equal treatment for CB Benefit Program participants receiving a disability annuity who return to work, regardless of age.

Section affected: 26911

LEGISLATIVE HISTORY

AB 340 (Furutani, Chapter 296, Statutes of 2012) made various changes to the CalSTRS benefit structure that affect those who are first hired on or after January 1,

2013 (CalSTRS 2% at 62 members), including reducing the age factor, increasing minimum and normal retirement age, eliminating the career factor, requiring final compensation be calculated based on the highest average annual salary rate over three consecutive school years, reducing the limit on compensation that counts toward retirement benefits, limiting the type of compensation that counts toward retirement benefits, eliminating the Replacement Benefits Program, and requiring the contribution rate to equal 50 percent of the normal, ongoing cost of benefits. Also made other changes that apply to all CalSTRS members (CalSTRS 2% at 60 and CalSTRS 2% at 62 members), including prohibiting the purchase of nonqualified service, requiring that a conviction for a work-related felony result in the forfeiture of benefits, expanding the separation from service requirement or zero-dollar limit to all members who retire on or after January 1, 2013, adding a narrow exemption to the separation from service requirement, extending the narrow exemption to the annual postretirement earnings limit to June 30, 2014, and prohibiting retroactive benefit enhancements.

AB 178 (Gorell, Chapter 135, Statutes of 2012) changed the postretirement earnings limit to one-half of the median final compensation of all recently retired members. Excluded specified third-party employees from the postretirement employment limitations. Extended a very narrow exemption. Allowed service retired members who reinstate on or after July 17, 2012, to re-retire within a year of reinstating and required those members to keep the same option and beneficiaries, or Member-Only Benefit, that were in effect before reinstatement for one year after reinstatement.

AB 506 (Furutani, Chapter 306, Statutes of 2009) conformed to federal law, which prohibits pension plans from distributing benefits before either the normal retirement age or a separation from service. Required retired members who are under the normal retirement age of 60 to have their retirement benefit reduced by the amount earned in CalSTRS-covered employment for the first six calendar months following their retirement effective date or until their 60th birthday, whichever is sooner. Required this deduction to begin July 1, 2010, regardless of retirement effective date.

AB 1316 (Bass, Chapter 332, Statutes of 2007) permitted a DB member to apply for and receive a service retirement pending a determination of his or her application for disability, subject to requirements and restrictions.

AB 1207 (Corbett, Chapter 313, Statutes of 2003) reopened and made permanent an existing retirement incentive program that provides an additional two years of service credit to members of the DB Program employed by participating school districts able to demonstrate cost savings. It also established the "2+2" retirement incentive program through 2004 that allowed school districts to add two years of service credit and two years of age to the age factor calculation in determining a member's retirement allowance.

AB 1102 (Knox, Chapter 1006, Statutes of 1998) extended eligibility to receive credit at retirement for unused sick leave to members of DB Program who became members on and after July 1, 1980, and who retire on or after January 1, 1998; and eliminated the restriction that prohibited a CalSTRS member who reinstated from service retirement from receiving credit at a subsequent retirement for unused sick leave accrued after termination of the original retirement.

AB 2765 (PER&SS, Chapter 965, Statutes of 1998) made various technical and conforming changes to the law, including extending the sunset date to January 1, 2005, for electing Medicare coverage.

AB 3221 (Gallegos, Chapter 383, Statutes of 1996) among other things, added provisions requiring employers to inform employees within 10 working days from the date of hire of their right to make an election. Once received and accepted by the retirement system, the election becomes effective as of the first day of employment in the position that qualified the member to make an election.

FISCAL IMPACT

Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

SUPPORT/OPPOSITION

Support: CalSTRS (Sponsor)

Opposition: None known.

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