

BILL NUMBER: AB 1819 (Ammiano) as amended May 2, 2012

SUMMARY

AB 1819 requires employees of a charter school who perform creditable service to be in CalSTRS, if it does not affect CalSTRS' tax-qualified status.

BOARD POSITION

Neutral, recommend amendments. This bill does not affect CalSTRS current practice. However, amendments are recommended to clearly state the requirement to have all charter school employees performing creditable service covered by CalSTRS.

REASON FOR THE BILL

Current law allows, but does not require, a charter school to choose to make CalSTRS available to its employees.

ANALYSIS:

Existing Law:

Under existing law, a charter school must indicate the manner by which staff members will be covered by CalSTRS, CalPERS or Social Security in their charter. If a charter school chooses to make CalSTRS available, all provisions of the Teachers' Retirement Law apply in the same manner that they do to other California public schools. In those other California public schools, full-time educators performing creditable service automatically become members of the CalSTRS Defined Benefit Program and have irrevocable coverage, unless they have previous service covered by CalPERS and choose to remain covered by CalPERS. If a charter school offers CalSTRS, CalPERS or both, it must inform all applicants of what coverage they would have and that accepting employment in the charter school may exclude them from further coverage in their current retirement system.

This Bill:

AB 1819 requires charter school employees to be covered by CalSTRS and CalPERS, if doing so does not affect the tax-qualified status of the retirement plans. The bill continues to apply all provisions of the Teachers' Retirement Law to charter schools in the same manner that they do to other California public schools. This includes mandatory coverage for those who meet the conditions of membership. Under these provisions, there is no change to the way CalSTRS serves charter schools. Staff interpret and the author intends these provisions to require employees performing creditable service at a charter school to have mandatory coverage under the Defined Benefit Program and optional participation in the Cash Balance Benefit Program, in the same manner as certificated employees of traditional public schools. Amendments are needed to clarify this intent.

In addition, the Internal Revenue Service is exploring proposed regulations to define the term “governmental plan” under Internal Revenue Code section 414(d). Under the IRS proposal as currently drafted, public charter schools in California operated by nonprofit organizations probably would not be considered agencies or instrumentalities of the state or a political subdivision. If the regulations are implemented in their current form, the provisions of current statute and this bill would be inconsistent with the federal regulations and continuation of the state law would jeopardize CalSTRS’ tax-qualified status. The bill protects CalSTRS’ tax-qualified status in the event that the IRS regulations ultimately exclude some charter schools from government plans.

LEGISLATIVE HISTORY

AB 816 (PER&SS Committee, Chapter 1025, Statutes of 2000) clarified the duties of a charter school to inform its employees of all retirement options available and of the consequences of future employment if an employee’s current retirement system is not provided by the charter school. Clarified that a member of CalPERS who works for a charter school may elect to continue coverage in CalPERS if the charter school offers coverage in CalPERS.

SB 1074 (PE&R Committee, Chapter 939, Statutes of 1999) made various technical and conforming changes to the Teachers’ Retirement Law.

SB 1448 (Hart, Chapter 781, Statutes of 1992) authorized the establishment of not more than 100 charter schools in the state. Required these schools to be exempt from laws governing regular school districts except for those that choose to participate in CalSTRS. When a charter school chooses to participate in CalSTRS, required all employees of that charter school who qualify for CalSTRS membership to be covered under CalSTRS. Applied all provisions of the Teachers’ Retirement Law to these participating charter schools as if they were a public school in the school district that granted the charter.

PROGRAM BACKGROUND

There are 989 active charter schools, and 908 of those schools have elected CalSTRS. Of the 908 CalSTRS-covered charter schools, 509 are report units with unique identifiers. These 509 charter schools represented 18,643 CalSTRS members from July 1, 2011, through December 31, 2011. Data from the 399 charter schools without unique identifiers are comingled with non-charter school employees on reporting from the county office of education.

FISCAL IMPACT

Program Cost – Any increases in benefits for additional charter school employees would be offset by increased contributions.

Administrative Costs/Savings – Administrative costs due to an increase in charter school membership would be minor and absorbable.

SUPPORT

California Federation of Teachers (Sponsor)

OPPOSITION

California Charter Schools Association Advocates

ARGUMENTS

Pro: Ensures that all charter school employees performing creditable service are covered by CalSTRS.

Con: Potential federal regulations may be inconsistent with this bill's intent.

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