

BILL NUMBER: AB 2663 (PER&SS) as introduced February 29, 2012

SUMMARY

AB 2663 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, conforming, and compliance amendments necessary for continued effective administration of the California State Teachers' Retirement System.

REASON FOR THE BILL

AB 2663 will help ensure continued effective and efficient plan administration and compliance with federal law and make conforming changes to reconcile differences between the DB and CB programs.

**PROGRAM BACKGROUND
& ANALYSIS:**

Survivor Benefit Allowance
Background

CalSTRS provides a monthly benefit to survivors of an active member, or of a member receiving a Coverage A disability benefit, who dies before retiring. Under Coverage A, for members who joined CalSTRS on or before October 15, 1992, disability benefits are paid as long as the member remains disabled or until he or she reaches age 60. While under Coverage B, for members who joined CalSTRS after October 15, 1992, disability benefits are paid for as long as a member remains disabled, without respect to age, or until he or she returns to full-time employment.

Proposed

This measure removes a reference to the qualifying condition of a member under Coverage B whose death occurs within four months after termination of a disability allowance benefit. This qualifying condition could not occur under Coverage B.

Section affected: 23854

Workers' Compensation Reductions

Background

Current law provides that disability retirement benefits be reduced by workers' compensation benefits. Under existing law, the amount of that reduction is determined by the amount of benefits for temporary or permanent disability or vocational rehabilitation. In cases where a member is receiving a combination of these benefit payments, CalSTRS would only be able to reduce the disability benefit by an amount equal to one of these benefits, allowing a member to receive payments from both CalSTRS and workers' compensation for the same impairment.

Proposed

This measure allows for a combination of reductions by the amount of workers' compensation benefits for permanent disability, temporary disability, and vocational rehabilitation. This would conform Coverage B to the existing provisions of Coverage A.

Section affected: 24109

Disability Benefit Annuity

Background

Existing law allows a member to elect to receive a disability benefit as an annuity from his or her Defined Benefit Supplement account under Education Code section 25018.1. Section 25018 incorrectly references a subdivision in section 25018.1 due to an oversight when section 25018.1 was amended to change the subdivision lettering.

Proposed

This measure corrects section 25018 so that the correct subdivision in section 25018.1 is referenced.

Section affected: 25018

Benefit Payment Information

Background

Chapter 90, Statutes of 2009 (AB 232 – Hill), allowed CalSTRS to mail a copy of the benefit payment information when benefit payments are made by electronic funds transfer, only when there is a change in the net amount paid or the recipient requests to receive a copy. Under the provisions of that law, CalSTRS must mail the payment information when there is an adjustment to the allowance, even to those members who have requested that the information never be mailed. Therefore, CalSTRS could potentially mail more payment information documents to members who, prior to the implementation of AB 232, indicated they did not want to receive it.

Proposed

This measure allows CalSTRS to only send payment information 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, unless a person does not want to receive that payment information at all.

Section affected: 24604

Notification of Post-Retirement Earnings Limits

Background

Existing law requires employers to advise reemployed retired members of earnings limitations as well as to report all post-retirement earnings. Current law, among other provisions: (1) restricts post-retirement employment for retirees who are under normal retirement age of 60 for the first six months after their benefit effective date and (2) imposes an earnings limitation on members receiving a disability retirement. However, the law that requires employers to advise retired members of earnings limitations does not contain specific references to these two limitations.

Proposed

This measure inserts, into section 22461, a reference to sections 24114 and 24214.5 in order to clarify that employers must notify retirees of the earnings limitations imposed by those sections.

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. However, the law specifies that only the unused sick leave from the member's last employer may be accepted. If a member works for more than one employer during his or her last day of paid employment, CalSTRS will only accept the unused sick leave certified by the employer for which the member worked last. The member is unable to receive credit for all hours of unused sick leave that he or she has earned with other employers.

Proposed

This measure would allow a retiring member to receive service credit for unused sick leave from more than one employer, if the member performs service for those employers in his or her last year.

Section affected: 22717, 22718

Limitations on Post-Retirement Compensation

Background

Federal law prohibits pension plans from distributing benefits before either normal retirement age or a separation from service. To comply with federal law, state law requires retired members under the age of 60 to be subject to a Zero Dollar Limit (ZDL) for the first six months after retirement or until age 60, whichever occurs sooner. CalSTRS reduces a member's retirement benefit by the amount earned for performing CalSTRS-covered employment during this ZDL period.

In addition, retired members are subject to a fiscal year limitation on earnings from public school employment in California (Annual Earnings Limit). The benefit of a retired member is reduced by the amount of any earnings that exceed the limitation, up to a member's annual benefit amount. The earnings limitation is currently \$31,020.

The Annual Earnings Limit and the ZDL currently act independently. When a retired member exceeds the ZDL, CalSTRS collects the amount exceeded from the member's benefit. If the retired member were to continue working, the member could also exceed the Annual Earnings Limit. Under current law, earnings subject to the ZDL are also subject to the Annual Earnings Limit, and CalSTRS collects for both, with each collection being up to the annual allowance payable. This could result in more than the annual allowance payable for the one fiscal year in which the excess compensation was earned being collected.

Proposed

This measure:

- Clarifies that the maximum amount that can be collected for earnings in excess of the Annual Earnings Limit is the remaining annual allowance payable for the fiscal year after any reductions due to a violation of the ZDL in the same year,
- Changes the maximum benefit reduction when a member exceeds the ZDL to the amount of the allowance payable during the first six calendar months after a member retired for service, if the member is below normal retirement age at the time the compensation is earned,
- Clarifies that employment under the Cash Balance Benefit Program is subject to the earnings limits,
- Clarifies that a Cash Balance Benefit Program annuity for a retired participant below age 60 may be reduced by up to the amount of the annuity payable during the first 180 calendar days after a participant retired.

Sections affected: 24214, 24214.5, 26812

Employer Reference Standardization

Background

Under existing law, CalSTRS can hold county superintendents responsible for failure to make assessed penalty payments. However, existing law does not authorize CalSTRS to hold school districts, community colleges and any other employing agencies that report directly to CalSTRS accountable for failing to make assessment payments to CalSTRS.

Proposed

This measure specifies additional types of employers who would be held responsible for failure to make assessed penalty payments. These include: "district superintendent, chancellor of a community college district, or other employing agency that reports directly to the system."

Section affected: 23007

Requests for Documents

Background

Existing law gives CalSTRS the authority to request back-up documentation from employers, to research the validity of compensation information in order to ensure that a member's increased compensation is justified as well as to properly determine benefit calculations. If the employer does not supply the requested documents, CalSTRS cannot fully research nor make a decision regarding the compensation of the member. Delays in receiving the requested information can lead to incorrect benefit calculations and could potentially impede efforts to identify and prevent spiking.

Proposed

This measure clarifies that existing authority to subpoena witnesses to compel attendance at a board hearing is in addition to authority granted to a state agency under the Government Code to issue a subpoena to compel the production of documents relating to an investigation under the jurisdiction of the agency.

Sections affected: 22220

Creditable Compensation Definition

Background

For retirement purposes, the law distinguishes between compensation that is creditable and compensation that is non-creditable. Compensation must first be determined to be creditable before the contributions and service credit associated with it can be assigned to either the DB or DBS program. Under existing law, any salary or remuneration determined to have been paid for the principal purpose of enhancing a member's benefit would be credited to the DBS Program, rather than the DB Program. Any salary or other remuneration that is determined to be non-creditable cannot be assigned to either program.

Proposed

This measure amends subsection (b) of section 22119.2 to include the term "creditable compensation" to clarify the interpretation of the section and align with the rest of the section.

Sections affected: 22119.2

403bCompare Website Date Clarification

Background

The 403bCompare.com website was established by CalSTRS in response to Chapter 1095, Statutes of 2002 (AB 2506—Steinberg), that required the board to establish a vendor registration process through which information about tax-deferred retirement investment products falling under Section 403(b) of the Internal Revenue Code would be made available to eligible public employees. Current law requires prospective vendors of 403(b) products to register those products on the 403bCompare.com website and prohibits employees from participating in unregistered products, unless employees purchased or entered into products "prior to the date of implementation of the 403bCompare.com website." The lack of an actual date for implementation within

the law is causes confusion for stakeholders regarding participation in products not registered on the site.

Proposed

This measure specifies November 30, 2004, as the implementation date of the 403bCompare.com website.

Section affected: 25114

School Lands Crediting Teachers' Retirement Fund

Background

Revenue generated from the use of State School Lands (land granted to California by the federal government to support schools) and Lieu Lands (properties purchased with the proceeds from the sale of school lands) during the prior year is transferred to CalSTRS each year for the purpose of providing annual supplemental payments in quarterly installments.

Proposed

This measure fixes an incorrect reference to the Teachers' Retirement Law in the Public Resources Code.

Sections affected: Public Resources Code Section 6217.5

LEGISLATIVE HISTORY

AB 506 (Furutani, Chapter 306, Statutes of 2009) conformed state law 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. Extended the sunset dates for the post-retirement earnings limit exemptions to June 30, 2012, and expanded eligibility, where applicable, to members who retired on or before January 1, 2009. Stated that the vacant administrative position emergency exemption shall not apply to a retiree whose termination is the basis for the vacant administrator position.

AB 2390 (Karnette, Chapter 494, Statutes of 2008) extended the sunset date on the post-retirement earnings limit exemptions until June 30, 2010, extended certain exemptions to members who retired for service on or before January 1, 2007, and allowed members retired between June 1, 2007, and December 31, 2007, to purchase foreign service credit.

AB 1733 (Wildman, Chapter 896, Statutes of 2000) temporarily eliminated the earnings limit exemption for members who return to work more than one year after retirement and increased the limitation for other retired members.

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 1.000 years of service per school year to the DBS Program.

AB 1102 (Knox, Chapter 1006, Statutes of 1998) extended eligibility to receive credit at retirement for unused sick leave to members of CalSTRS DB Plan who became members on or after January 1, 1980, and who retired on or after January 1, 1998. Eliminated the restriction that prohibited a CalSTRS member who reinstates 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 Teachers' Retirement Law. Extended the sunset date on the earnings limit exemption for retirees teaching in class size reduction.

SB 2041 (Hughes, Chapter 634, Statutes of 1996) made technical and conforming changes made necessary by enactment of the CB Benefit Program and the new definition of member.

FISCAL IMPACT

Program Cost – None.

Administrative Costs/Savings – Administrative costs are estimated at approximately \$85,000. However, the savings produced from provisions of this measure would offset those costs.

SUPPORT/OPPOSITION

Support: CalSTRS (Sponsor)

Opposition: None known.

LEGISLATIVE STAFF CONTACT

Sal Sanchez
Legislative Analyst,
CalSTRS Legislative Affairs,
(916) 414-1984
ssanchez@calstrs.com

Mary Anne Ashley
Acting Director,
Governmental Affairs and Program Analysis,
(916) 414-1981
mashley@calstrs.com

Richard Woonacott
Deputy Secretary, Legislation
State & Consumer Services Agency
(916) 468-8478
richard.woonacott@scsa.ca.gov