
BILL NUMBER: AB 3076 (Mullin) - As Amended 6/1/04

SUMMARY:

AB 3076 changes the criteria used to determine when membership in the Defined Benefit (DB) Program becomes mandatory for community college employees by tying it to the employee's basis of employment, instead of the amount of service performed during one single pay period.

PURPOSE OF THE BILL:

- Streamline employer reporting;
- Ease employer compliance;
- Conform the membership guidelines for the DB Program to the participation guidelines of the Cash Balance (CB) Benefit Program
- Reduce incidences of employees being placed in the DB Program inadvertently.

BOARD POSITION:

Sponsor. This bill is consistent with the goals of the Teachers' Retirement Board to simplify the design of the State Teachers' Retirement Plan (Plan).

SUMMARY OF AMENDMENTS:

The amendments of June 1, 2004 make conforming changes to the Education Code sections governing the CB Benefit Program.

ANALYSIS:

AB 3076 bases membership in the DB Program for Community College employees on:

- Creditable service performed for 60 percent or more of the time an employer requires for a full-time position; and
- The basis of employment for the school year, as defined by the employer.

Community college employers currently monitor part-time employee workload very carefully to administer other provisions of the Education Code that affect eligibility for tenure and benefits. AB 2232 would incorporate the same thresholds applicable to these other provisions with the requirement for DB Program membership. The employer will become responsible for determining their employees' membership eligibility on their basis of employment. When an employee accepts a position or comes under a contract to work 60% or more of a full-time load, the employer will report the service performed under the new time base to CalSTRS and the employee will be subject to DB Program membership.

LEGISLATIVE HISTORY:

AB 1586 (PER&SS) permits the recalculation of benefits paid to part-time adult education and community college employees who were members of the DB Program prior to July 1, 1996, to correct inadvertent reductions in benefits paid as a result of legislation enacted in 1995 and 1998, which modified the minimum standard for full-time employment for part-time adult education and community college employees.

Chapter 678, Statutes of 1998 (AB 1166—House) establishes a minimum standard of 175 days, or 1,050 hours, for full-time service for community college counselors and librarians; modifies the minimum standard service for adult education programs, and part-time and adult education community college instructors.

Chapter 390, Statutes of 1995 (AB 1122—Cannella) establishes appropriate minimum standards for full-time service for all classifications of employees in K-12 and community colleges for the purpose of crediting service under the System.

Chapter 603, Statutes of 1994 (AB 2554—Solis) requires employers to provide notification to employees of their right to elect membership in the DB Program and applies an employer penalty for non-compliance.

Chapter 507, Statutes of 1994 (AB 2647—Aguiar) allows part-time and substitute teachers employed in an adult education program to elect membership in the DB Program.

PROGRAM BACKGROUND:

Membership in the DB Program becomes mandatory for part-time instructors in K-12 districts, adult education programs, county offices of education and community colleges when service exceeds a certain threshold. This threshold depends upon:

- The category of the employer (i.e. K-12, county office of education, adult education or community college); and
- If the employer makes the CB Benefit Program available.

When employed in a community college or adult education program that offers the CB Benefit Program, the threshold is 50 percent of the full-time equivalent (FTE) for the position; when employed in a community college or adult education program that does not offer the CB Benefit Program, the threshold is 60 hours or more in a pay period, if hired on an hourly basis; or 10 days or more in a pay period, if hired on a daily basis. However, all certificated employees of California public schools and county offices of education may elect membership in the DB Program at any time during their employment and may not terminate membership in the program once established as members.

Because of the complex membership criteria, some community college employers find it difficult to monitor employee workload on a pay-period basis. Community college employers already have to closely monitor their part-time employees' basis of employment over the school year to administer other provisions of the Education Code that affect eligibility for tenure benefits. This bill would incorporate the same thresholds applicable to these other provision to the requirement to become a DB Program member. In addition, part-time employees find themselves enrolled in the DB Program inadvertently due to employer reporting errors and can not opt-out of the program once established as members. There are also many instances when the workload of a

part-time instructor might temporarily exceed the mandatory membership thresholds, although his or her basis of employment, as defined by the district, remains that of a temporary part-time employee. Working in excess of these thresholds, even during one pay period, automatically enrolls the instructor in the DB Program, despite the fact that he or she would prefer to remain in an alternative retirement program or Social Security and that his or her on-going employment would not otherwise require DB Program membership. As a result, the current statutory provisions for mandatory membership in the DB Program create problems for part-time community college employees for the following reasons:

- The provisions apply more relevantly to instructors employed by K-12 districts than to those employed by community colleges;
- Statutory standards differ for instructors employed by employers who offer the CB Benefit Program and those employed by employers who do not offer the program;
- Employees often do not know whether their workload will subject them to mandatory membership because the amount of time worked may vary from pay period to pay period throughout the school year;
- Mandatory membership can negatively affect an individual's financial security in retirement if membership in the DB Program makes the individual subject to the Social Security offset provisions;
- An employee enrolled in the DB Program because of the current payroll-based membership criteria has his or her retirement contributions increased for the life of his or her teaching career due to the higher level of contributions required by the program.

FISCAL IMPACT:

Benefit Program:

Costs – The total estimated loss of revenue to the DB Program as of January 1, 2005, is \$26 million over a 30-year period. To finance this benefit, an additional contribution of .0062% of the current statewide teacher payroll is needed for each of the next 30 years, starting in fiscal year 2005-06; this is equal to a contribution of \$1.5 million for fiscal year 2005-06.

The total estimated loss in contributions to the Supplemental Benefit Maintenance Account (SBMA) would be \$121 million as of January 1, 2005. The SBMA provides purchasing power benefits as long as there is sufficient funding; therefore, the loss in contributions to the SBMA reduces the number of years that the account would be available to provide these supplemental, purchasing power benefits.

Savings – The reduction in General Fund (GF) contributions to the DB Program over the same 30-year period is \$14 million. This is due to the reduction in DB Program payroll upon which the GF contribution is based. The first reduction, starting in fiscal year 2005-06, would be approximately \$625,000.

The reduction in GF contributions to the SBMA is \$19 million over the next 30 years. The first reduction, starting in fiscal year 2005-06, would be about \$825,000.

Administrative Costs – The total one-time cost to modify the System's database is estimated to be \$18,200.

ECONOMIC IMPACT:

AB 3076 will have a positive economic impact on California's community college districts. Many community college part-time instructors will not become members of the DB Program and will instead remain in alternative retirement programs with lower employer contribution levels than the DB Program, resulting in a cost savings for California community colleges. Based on the 8.25% employer contribution level of the DB Program, employers could save:

- 4.25% of employee payroll (equal to a savings of up to \$1.3 million per year), if they offer the CB Benefit Program;
- Between 0.75% and 8.25% of employee payroll, if they offer an alternative retirement plan other than the CB Benefit Program;
- 2.05% of employee payroll, if they offer Social Security.

While AB 3076 will result in loss of contributions to the SBMA, which provides purchasing power benefits to retired members of the DB Program whose benefits have fallen below 80% purchasing power, these purchasing power payments are vested to the extent that funds are available to pay this benefit.

SUPPORT/OPPOSITION

Support: California Federation of Teachers; Faculty Association of California Community Colleges

Opposition: None known.