

# CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

## BILL ANALYSIS

**BILL NUMBER: AB 3094 - PER&SS (As amended 8/11/04)**

### **SUMMARY**

This bill requires benefit payments from specified public retirement systems that are directly deposited by electronic fund transfer (EFT) and from the California Public Employees' Retirement System (CalPERS) that are paid by warrant, to be refunded to the retirement system following the death of a person entitled to the benefits, and requires a financial institution to provide the California State Teachers' Retirement System (CalSTRS), CalPERS, and the 1937 Act Counties Retirement System with specified account information after the death of a customer who received direct deposit transfers from the retirement system.

### **PURPOSE OF THE BILL**

AB 3094 allows specified public retirement systems to obtain from financial institutions the names and addresses of account holders, without requiring legal action, and will therefore enhance the ability to collect overpayments. Additionally, the bill provides greater assurance for retirement systems to retrieve payments released following the death of a benefit recipient and as result, the number of write-offs ascribed to the System's inability to collect overpayments should decrease, and would be reflected as a savings to the Teachers' Retirement Fund.

### **BOARD POSITION**

Co-sponsor. The bill will provide CalSTRS the authority to obtain necessary account information from financial institutions to ensure appropriate payments are released to benefit survivors. This legislation is consistent with CalSTRS' goals to provide more effective and efficient administration of the retirement plan.

### **SUMMARY OF AMENDMENTS**

The August 11, 2004 amendments:

- Add chaptering-out language to Section 7480 of the Government Code as proposed by AB 1776 that does not affect any CalSTRS benefit programs.

### **ANALYSIS**

AB 3094 provides the authority for state and county retirement systems to retrieve benefits paid after the death of a benefit recipient. In the case of an EFT, persons other than the eligible benefit recipient have access to the member's account and are authorized to withdraw funds from the account. The bill requires that funds directly deposited to the account be refunded to the retirement system. If the funds are still in the benefit recipient account, the financial institution would return the funds. If the funds are withdrawn from the account, the recipient of the funds would be required to return the funds to the retirement system. Regardless of the disposition of the funds, the overpayment must be returned to the retirement system by the party or parties in possession of the overpayment.

AB 3094 authorizes state and county retirement systems to obtain necessary information from financial institutions to recover overpayments. Having that authority means CalSTRS would have the

information necessary to authorize payments to proper beneficiaries and provide the information necessary to collect overpayments in a more effective manner.

## **LEGISLATIVE HISTORY**

Chapter 859, Statutes of 2003 (SB 627—PE&R) the CalSTRS annual technical housekeeping bill that among other things, clarifies CalSTRS' ability to collect for an overpayment from the Cash Balance Benefit Program.

Chapter 1083, Statutes of 1993 (AB 798—Sher) (1) prohibits CalSTRS and CalPERS from mailing a copy of benefit payment information to any member who has payment directly deposited if the member requests not to have the information sent; and (2) requires the Systems to inform members of their right not to have the information sent to them.

Chapter 920, Statutes of 1993 (AB 1631—Karnette) among other things, (1) revises the current process of verifying the date of death of a benefit recipient; and (2) specifies the procedures to be taken when a designated beneficiary cannot be located.

Chapter 792, Statutes of 1988 (AB 3172—Elder) requires CalSTRS to send a copy of the benefit payment information to the home address of persons whose payments are transmitted directly to their financial institution for deposit.

## **PROGRAM BACKGROUND**

CalSTRS provides benefits to retired members and to survivors of members who die before or after the member retires. While members and beneficiaries are required to call or write to CalSTRS as soon as possible to report the death of a member, option beneficiary or benefit recipient, most people are not aware of these requirements, and those who are may not be able to comply with these requirements immediately as they attempt to cope with the loss of a loved one. If CalSTRS receives a delayed notification of the death of a benefit recipient, one or more checks may be paid after the date of death. Even in cases where the death is not reported until several months later, CalSTRS is obligated to recover the payments and issue correct payments to any eligible benefit recipient. CalSTRS cannot deduct more than 15 percent of a monthly benefit for an overpayment if the error was due to inaccurate information provided by the recipient of the allowance.

If the payment was sent by electronic fund transfer to the financial institution, a letter is generated requesting the return of funds paid after the date of death. However, the overpayment money is often not returned, and as a result, CalSTRS applies any benefits that are payable, such as accrued allowances or a lump-sum death benefit, to the receivable balance for collection. If the system database has a Social Security number or address of a designated beneficiary, a collection notice is sent. However, if no one on the deceased member's account can be located, the collection is written off by CalSTRS.

## **FISCAL IMPACT**

Benefit Program Cost – For the 2003-2004 year, approximately 34 out of 38 cases that were written off in the system through March 2004 were due to payments issued after the death of a member or beneficiary. Since overpayment recovery efforts would improve, this would potentially result in increased recoveries of \$270,000 annually to the Teachers' Retirement Fund.

Administrative Costs/Savings – Administrative costs would decrease slightly due to the authority to obtain necessary information, and a more timely response from financial institutions. In addition, this

bill will require minor changes to the START database to add the name of financial institutions. The cost of these changes would be offset by the annual savings stated above.

### **LEGAL IMPACT**

AB 3094 will allow specified public retirement systems to obtain from financial institutions the names and addresses of account holders, without requiring legal action, and will therefore enhance the ability to collect overpayments.

### **SUPPORT**

California State Teachers' Retirement System

California Public Employees Retirement System

American Federation State County Municipal Employees

State Association of County Retirement Systems

### **OPPOSITION**

None

### **ARGUMENTS**

Pro: AB 3094 provides a potential recovery savings of \$270,000 by providing the ability to obtain necessary information from financial institutions in order to recover payments.

Con: Provisions create a potential for violation of privacy laws if CalSTRS were made privy to other account information of the deceased benefit recipient.