

# CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

## BILL ANALYSIS

---

**Assembly Bill 419**                      **Committee on Public Employees Retirement and Social Security As Amended 6/27/03**

**Position:**                                      **Sponsor**

**Proponents:**                                **CalSTRS (Sponsor); CFT**

**Opponents:**                                 **None known**

### **SUMMARY**

Assembly Bill 419 makes clarifying changes to legislation enacted last year that modified the composition and selection of the Teachers' Retirement Board (Board). Specifically, AB 419 allows active participants in the Cash Balance (CB) Benefit Program to vote in elections for both K-12 active member seats on the Board; specifies that candidates must run for the seat in which they accrued the most service during the prior school year; extends reimbursement provisions to elected Board members; specifies the length of the first terms for the three Board members representing the public; and declares the legislature's intent that member representatives elected to the Board be subject to provisions of the Political Reform Act.

### **HISTORY**

Chapter 1049, Statutes of 2002 (SB 1580—Burton) requires the three members of the Teachers' Retirement Board (Board) who currently are appointed by the Governor to represent active members and participants of the California State Teachers' Retirement System (CalSTRS) to be elected by the membership effective January 1, 2004. It also removes the requirement that the Governor select his or her appointees to specified seats on the Board from a list provided by the Superintendent of Public Instruction and the Board of Governors of California Community Colleges, and instead allows the Governor to choose his or her own appointees, subject to Senate approval. Finally, the insurance and banking official members are replaced with two members of the Board representing the public.

Chapter 923, Statutes of 1998 (SB 1753—Schiff) specifically prohibits any matter involving a transaction between CalSTRS or California Public Employees' Retirement System (CalPERS) and any vendor or contractor from being considered during a closed session without written disclosure of campaign contributions aggregating \$250 or more and any gifts aggregating \$50 that the vendor or contractor has made during the preceding calendar year to any board member or officer or employee of the system. It also amended the Political Reform Act, which regulates the conduct of campaign financing in elective public offices, to include the CalPERS Board of Administration in its definition of elective state office, thereby placing reporting requirements on CalPERS Board members who receive campaign contributions and gifts.

## **RECENT AMENDMENTS**

The June 27 amendments clarify that the staggering of the first terms of the three public representative positions on the Board that are appointed by the Governor, be accomplished by making the terms that begin January 1, 2004, be for two, three and four years, respectively. The amendments also remove language that would have subjected candidates to the campaign finance reporting provisions of the PRA that apply to members elected to the Board of Administration of the California Public Employees' Retirement System (CalPERS), and instead contains intent language that these candidates be subject to additional sections of the PRA.

CalSTRS will work with the FPPC to introduce legislation that makes board candidates subject to the campaign contribution limits, reporting requirements, and conflict of interest provisions of the PRA that most other elected officials must comply with, but, in a manner that improves upon existing provisions that apply to CalPERS, and accounts for the differences between campaigns decided by the public and campaigns decided by members of the state retirement systems.

## **CURRENT PRACTICE**

CalSTRS provides retirement, disability, and survivor benefit programs for approximately 725,000 active and retired teachers and other credentialed employees in California's K-12 public schools and community colleges. The 12-member Teachers' Retirement Board administers the CalSTRS Defined Benefit (DB) Program and the Cash Balance (CB) Benefit Program and oversees the investments of the approximately \$100 billion Teachers' Retirement Fund.

Currently, two members of the Board must be CalSTRS members who are K-12 classroom teachers, and another member must be a retired member of the System. A fourth member must be a school board member or a community college trustee. The Governor appoints all four of these members for four-year terms from a list submitted by the Superintendent of Public Instruction. Another member of the Board must be a community college instructor with expertise in business or economics, and is appointed by the Governor for a four-year term from a list submitted by the Board of Governors for the California Community Colleges. One member of the Board must be an officer of a life insurance company and one member of the Board must be an officer of a bank or savings and loan institution. An eighth member of the Board represents the public. The Governor appoints these members to four-year terms, subject to confirmation by the Senate. The remaining four members, the Director of the Department of Finance, the Superintendent of Public Instruction, the Controller and the Treasurer, are on the Board by virtue of their state office.

Last year, Chapter 1049, Statutes of 2002 (SB 1580—Burton) was enacted to, among other things, require the three members of the Board who currently are appointed by the Governor to represent active members and participants of CalSTRS to be elected by the active members and participants.

Beginning January 1, 2004:

- One of the two existing K-12 seats becomes occupied by a K-12 or County Office of Education (COE) employee who is not an administrator. The member would be elected by all K-12 and COE employees who are active members of the DB Program or active participants of the CB Benefit Program.
- One of the two existing K-12 seats becomes occupied by a K-12 or COE employee who is an active member of the DB Program or active participant of the CB Benefit Program, including administrators. The member would be elected by all K-12 and COE employees who are active members of the DB Program. Active participants of the CB Benefit Program, however, would be excluded from voting.
- The community college seat becomes occupied by an instructor and an active member of the DB Program or active participant of the CB Benefit Program elected by all community college employees who are active members of the DB Program or active participants of the CB Benefit Program. This member of the Board need no longer be an instructor with experience in business or economics.
- Special elections will be held to fill vacancies that occur during the term of the elected Board members. If the unexpired term is less than two years, the new member will serve the remainder of that term, plus an additional four years.
- The requirement that one seat on the Board be occupied by an officer of a bank or savings and loan institution and another be occupied by an insurance company official is deleted, and instead requires the Governor to appoint three persons representing the public to four-year terms staggered in an unspecified manner.
- The requirement that the Governor choose certain appointees from lists provided by the Superintendent of Public Instruction and the Board of Governors for the California Community Colleges is deleted, and instead requires all Governor's appointees be subject to confirmation by the Senate.

There is no change made to the four statewide officials who sit on the Board by virtue of their office.

## **DISCUSSION**

Specifically, Assembly Bill 419:

- Corrects the inadvertent exclusion of CB Benefit Program participants from voting in the inclusive K-12 election contest;

- Specifies that CalSTRS members and participants who work in both a K-12 school district and a community college must run for the Board seat in which the member or participant accrued the most service during the prior school year.
- Makes the first terms of the three public representative positions on the Board that begin January 1, 2004, be for two, three and four years, respectively.
- Reimburses CalSTRS employers for the paid leave they must provide to employees serving as elected members of the Board in the same manner as employers of appointed members are reimbursed; and
- Specifies legislative intent that candidates for elected member board seats file campaign statements with the Secretary of State according to campaign reporting, contribution limit and conflict of interest provisions of the PRA adapted for the unique characteristics of elected member seats on state retirement system boards.

For the first time in its 90-year history, CalSTRS will hold an election to select the 3 employee members of the Board. The Board is sponsoring AB 419 to clarify certain ambiguities in the elections process to save money and increase representation and accountability. The legislation also makes technical and conforming changes to the Teachers' Retirement Law to implement the change from appointed to elected members. These changes must take effect as an urgency measure in order to apply to the election CalSTRS will conduct this fall.

**Voting Eligibility.** Current law, as it applies to the upcoming election, specifies that one of the elected K-12 seats be occupied by a K-12 or COE employee who is an active member of the DB Program or active participant of the CB Benefit Program and who is not an administrator, and the other be occupied by any K-12 or COE employee who is an active member or participant, including administrators. However, the first seat would be elected by all active K-12 and COE employees who are active members and participants, and the second would be elected by only K-12 and COE who are active members of the DB Program. Excluding CB Benefit Program participants from the second election was an inadvertent drafting error in Chapter 1049.

Because Chapter 1049 specifies different voting populations for the two K-12 seats, CalSTRS must distribute separate ballots to the approximately 1,500 active participants of the CB Benefit Program that are not eligible to vote in the election for the K-12 seat that a member of the DB Program or participant of the CB Benefit Program may hold. Printing and handling costs for both elections will be increased unless the inadvertent drafting error in Chapter 1049 is corrected to make the eligible voting population the same for each election contest.

**Multiple employers.** Chapter 1049 established seats for members and participants who are employed by a K-12 district or a county office of education, which are separate from the seat reserved for community college instructors. Many CalSTRS members and participants, however, work both for K-12 districts and community college districts, working, for example, for a K-12 district during the day and teaching a community college course at night.

This bill would base eligibility to serve in a particular seat on the position for which the member or participant accrued the most service during the prior year. The Board believes restricting a potential candidate employed by a K-12 district and a community college district to either of the K-12 seats or the community college seat, but not both, ensures that all members and participants have equal access to the ballot. It also ensures an active member or participant elected to the Board represents the active members and participants with which he or she is most familiar.

**Staggered public member terms.** Chapter 1049 provides for three public members appointed by the Governor. Although that bill requires the terms of the public members to be staggered by varying their first terms, it provided no guidance on how their first terms would vary. After discussions with representatives from the Governor's Office, CalSTRS has reached an agreement on a continuity plan that allows, starting January 1, 2004, for the first seat to begin with a two-year term; the next seat to begin with a three-year term; and the last seat to begin with a full four-year term. The terms of these appointed public members would thereafter run for four years.

This is the common method of staggering terms when multiple seats are added to a board or commission. For example, when control of CalSTRS changed in 1963 from a board consisting primarily of members of the Board of Education to a combination of ex-officio members and appointed public, financial industry and teacher representatives, legislation specified the first terms of the three new teacher representatives to last two, three and four years, respectively.

**Time Off and Reimbursements.** Existing law requires school districts and community college districts to grant paid leave to their employees for the time they spend serving as appointed member of the Teachers' Retirement Board. Existing law also requires the Board reimburse the districts for the costs associated with granting this paid leave. AB 419 changes existing law to add elected employee members of the Board to these time off and reimbursement provisions to reflect the new composition of the Board.

**Campaign regulation.** Candidates for the elected Board seats will be incurring costs to campaign for these offices. Chapter 923, Statutes of 1998 (SB 1753—Schiff) specifically prohibits any matter involving a transaction between CalSTRS or CalPERS and any vendor or contractor from being considered during a closed session without written disclosure of campaign contributions aggregating \$250 or more and any gifts aggregating \$50 that the vendor or contractor has made during the preceding calendar year to any board member or officer or employee of the system.

In addition, Chapter 923 amended the Political Reform Act, which regulates the conduct of campaign financing in elective public offices, to include the CalPERS Board of Administration in its definition of elective state office, thereby placing reporting requirements on CalPERS Board members who receive campaign contributions and gifts. That bill also specified that the campaign statements be filed with the Secretary of State and that a violation of the bill's provisions would subject an individual to civil or administrative action by the Fair Political Practices Commission (FPPC).

Because no members of the Teachers' Retirement Board were specifically elected to the Board at that time, Chapter 923 did not include membership on the Teachers' Retirement Board within the definition of an elective state office, and therefore subject to the campaign contribution reporting provisions of the PRA. As a result, the provisions of the Act will not apply to the conduct of the upcoming Board elections. Since Board members already report the gifts they receive to the FPPC and candidates for the elected seats will be incurring campaign costs, the Board believes it appropriate that candidates file signed and verified semiannual campaign statements with the Secretary of State.

According to the FPPC, the manner in which Chapter 923 requires candidates for the CalPERS Board of Administration to report campaign contributions, along with various other provisions, creates significant conflicts with the existing provisions of the PRA that apply to candidates and office holders elected by the public at large. It is their desire to create a new chapter in the PRA that applies specifically to candidates for the Teachers' Retirement Board and the CalPERS BOA that avoids these conflicts and furthers the intent of the Act.

CalSTRS and FPPC staff have agreed to work together to introduce legislation in the second year of the legislative session to make elected employee members of the Board subject to the campaign contribution limits, reporting requirements, and conflict of interest provisions of the PRA that most other elected officials must comply with, but, in a manner that accounts for the differences between campaigns decided by the public and campaigns decided by members of the state retirement systems.

## **FISCAL IMPACT**

Benefit Program Costs – None

Administrative Costs – Any additional administrative costs or workload resulting from the requirements of the bill will be absorbed within existing resources appropriated from the Teachers' Retirement Fund by Chapter 1049 for the costs of conducting the upcoming elections.

Nominal savings are associated with printing and mailing a single, standard ballot to all active members and participants eligible to vote in the two K-12 election contests, instead of printing and mailing 1,500 separate ballots to participants of the CB Benefit Program employed by K-12 districts. In addition, employers of the three active employee members elected to the Board will be allowed to receive approximately \$25,000 per year for the time these employees are away from the classroom on CalSTRS business, however, this is not considered an additional cost to CalSTRS, as the System currently reimburses the employers of the appointed employee members of the Board.

**BOARD POSITION**

Sponsor. These changes are necessary to clarify and implement recently enacted legislation that provides for the election of members to the Teachers' Retirement Board. They will allow CalSTRS to efficiently and equitably administer the election and other changes to the composition of the Board.