**Bill Number: AB 873 (Furutani) as introduced February 17, 2011**

## SUMMARY

SB 873 prohibits an individual who was a member of the CalSTRS or CalPERS retirement board or an administrator, executive officer, investment officer, or general counsel of the system, from accepting employment, within 2 years after separation from the system, with any employer with which the individual participated any time in the previous 5 years while the individual was employed by, or served on the board of, the system. It exempts from that prohibition a former employee of CalSTRS or CalPERS working for any entity whose principal market is unrelated to the individual's prior service; and prohibits an individual from, for 2 years after separation from the system, accepting employment with any placement agent who has successfully placed an investment with either CalSTRS or CalPERS during the prior 10 years.

## BOARD POSITION

**SUPPORT, IF AMENDED** to expand the bill to apply to all state and local public pension and retirement systems, to apply the provisions of the bill only to board members or employees whose compensation is set by the board, and avoid unintended consequences of harming recruitment efforts by restricting future employment in one's industry.

## PURPOSE OF THE BILL

This bill intends to increase transparency and to protect CalSTRS and CalPERS' investments and restore the public's confidence in them.

## ANALYSIS

This bill restricts the employment opportunities of former board members, executive officers, general counsel, and employees who participated personally or substantially with contracts or investments valued greater than $10 million within two years after separation from the system. The bill also prohibits such persons from accepting employment with any placement agent within two years after separation, if the placement agent successfully placed an investment with either CalSTRS or CalPERS during the prior ten years. However, the bill does not require any action to be taken by the employee, employer or CalSTRS to ensure that all parties involved are complying with the measure and it also does not state what the penalty would be if an individual were to violate the outlined provisions.

According to one executive search firm who reviewed the bill for CalSTRS, the prohibition may affect the retention of current employees. It may also adversely affect CalSTRS' ability to recruit highly qualified and experienced individuals as specified in the bill, especially investment staff. For example, if future employment opportunities are significantly restricted at the outset, as they could be by this measure, potential employees may be deterred due to a lack of mobility and be less likely to choose CalSTRS as an employer of choice.

Similarly, in an era in which pension fund critics have suggested that governing boards should have more financial professionals on it, the proposed restriction could make it more difficult to find public members willing to serve on the board.

Recognizing the trade off between conflict-free interactions with contractors and the impact that these restrictions could have on recruitment and retention, the proposed limitation would be better focused on those who have the most influence on the types of transactions in question, board members and senior investment staff.

**LEGISLATIVE HISTORY**

SB 1746 (Polanco, Chapter 289, Statutes of 2002) stated legislative intent regarding the appointment of local elected officials to the State Teachers' Retirement Board. Specifically, the bill states: 1) all qualified Californians are eligible to participate as a board member of a pension board; 2) each nominee for a member of a pension board shall be evaluated on the basis of their individual qualifications; 3) pension funds should routinely monitor issues where questions of incompatibility may be present; and 4) pension funds should seek appropriate legal counsel on matters of incompatibility.

The California Pension Protection Act of 1992 – Proposition 162 of 1992 granted public retirement system boards plenary authority over investment decisions and the administration of each retirement system in a manner to assure prompt delivery of benefits and related services to members and their beneficiaries.

**PROGRAM BACKGROUND**

Current law places certain employment restrictions on former board members and employees of public retirement systems, including CalSTRS. For example, an administrator, executive officer, investment officer, general counsel, and board members of public pension funds may not perform certain acts for compensation which may influence specified administrative or legislative actions for a period of two years after leaving his or her position in the pension fund. CalSTRS currently complies with all laws governing employment restrictions on former CalSTRS board members, executive officers, investment officers and employees.

Board policy prohibits insider trading, and to a lesser extent, the board’s statement of ethical conduct touch on conduct discussed in the bill. For example, the prohibition on insider trading continues to apply after an individual’s resignation from the board or termination of employment with CalSTRS. Further, the policy prohibiting insider trading is incorporated by reference into the Statement of Ethical Conduct.

## FISCAL IMPACT

Program Cost – Unknown.

Administrative Costs/Savings – Minor and absorbable costs related to monitoring and reporting financial contracts in excess of $10,000 and preparing and disseminating information to staff.
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## SUPPORT/OPPOSITION

Support:

Office of the State Controller (Sponsor)
California State Employees Retirement System (if amended)

Opposition:

## ARGUMENTS

Pro:

Restore public confidence in pension plans and investment practices.

Con:

Increased difficulty recruiting and retaining experienced and highly qualified staff which could result in higher investment staff vacancy rates and higher recruitment costs.

Potential long-term impact on investment returns.

## LEGISLATIVE STAFF CONTACT

Melissa M. Tanner
Legislative Advocate,
CalSTRS Legislative Affairs,
(916) 414-1982
mtanner@calstrs.com

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

Berman Obaldia
Director,
CalSTRS Governmental Affairs and Program Analysis,
(916) 414-1977
bobaldia@calstrs.com