Bill Number: AB 873 (Furutani) as amended June 20, 2011

SUMMARY

Prohibits specified CalSTRS employees from engaging in certain employment activities after leaving service with CalSTRS for a period of four years, which includes a limitation on aiding, advising, consulting with or assisting a business entity for compensation, for a period of two years, in obtaining the award of, or in negotiating, a contract or contract amendment with CalSTRS. Prohibits specified CalSTRS employees from accepting compensation for providing services as a placement agent, for a period of 10 years after leaving service with CalSTRS, in connection with CalSTRS investments or other business.

BOARD POSITION

SUPPORT, IF AMENDED to apply the provisions of the bill only to board members or employees whose compensation is set by the board by deleting the application of the bill's restrictions to information technology managers with a career executive assignment.

SUMMARY OF AMENDMENTS

June 20, 2011 amendments:

- Prohibit CalSTRS board members, senior executives and investment officers, general counsels and information technology managers with a career executive assignment from aiding, advising, consulting with or assisting a business entity for compensation, for a period of two years after leaving their position or CalSTRS, in obtaining the award of, or in negotiating, a contract or contract amendment with CalSTRS.

- Removes the definitions related to the administration of a contract.

April 14, 2011 amendments:

- Impose a four year ban on lobbying CalSTRS by board members, senior executives and investment officers, general counsels and other senior staff of CalSTRS responsible for large contracts and placed these provisions into the Political Reform Act where violations would be subject to Fair Political Practices Commission enforcement.

- Prohibit CalSTRS board members, senior executives and investment officers, general counsels and other senior staff who manage contracts valued greater than $10 million from assisting a new employer on any contracts with CalSTRS if they had substantial contract dealings with their new employer in the two years prior to their separation. This prohibition would last for two years.

- Prohibit former CalSTRS board members, senior executives and investment officers and general counsels from accepting compensation as a placement agent for providing services in connection with CalSTRS, as specified, for 10 years after their separation.

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 CalSTRS employees whose compensation is set by the board or an executive level information technology manager by placing a ban on lobbying a former state employer for four years. It prohibits those employees from aiding, advising, consulting with or assisting a business entity for compensation, for a period of two years, in obtaining the award of, or in negotiating, a contract or contract amendment with CalSTRS. In addition it prohibits such persons from accepting employment with any placement agent within 10 years after separation. Lastly, this bill places these provisions into the Political Reform Act where violations would be subject to Fair Political Practices Commission enforcement.

According to an executive search firm who reviewed the bill for CalSTRS, the bill may affect the retention of current employees and adversely affect CalSTRS' ability to recruit highly qualified and experienced individuals as specified in the bill, especially investment staff; although restrictions on employment are less severe and would not present as great a problem as the original version of the bill. For example, the amended legislation does not prohibit employment, but prohibits the covered employee from advising or working on a contract with the new employer with CalSTRS during the specified time. Presumably, the employer would have clients other than CalSTRS with whom the covered employee could work without violating the amended prohibition.

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 is more 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)
AARP of California
American Federation of State, County and Municipal Employees
AFL-CIO
California Common Cause
California Faculty Association
California Professional Firefighters

Opposition:

None Known.

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.

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