

**BILL NUMBER: SB 1165 (Pan) amended June 6, 2018**

**SUMMARY**

SB 1165 makes various technical, conforming or minor changes to the Teachers' Retirement Law to facilitate efficient administration of the State Teachers' Retirement Plan (Plan), which includes the Defined Benefit (DB) Program, the Defined Benefit Supplement (DBS) Program and the Cash Balance (CB) Benefit Program.

**BOARD POSITION**

**Sponsor.** This bill will make various technical, conforming or minor amendments necessary for continued effective administration of the California State Teachers' Retirement System.

**REASON FOR THE BILL**

SB 1165 will help ensure continued effective and efficient plan administration for CalSTRS internal and external customers.

**SUMMARY OF AMENDMENTS**

The June 6, 2018, amendments:

- Remove sections related to DB Program mandated membership and CB Benefit Program participation.
- Remove the retroactive effective date from the membership election cleanup sections.
- Clarify that member elections must be submitted on a properly executed form prescribed by the system and update the language to require the "employee's signature" because the person may not be a member.
- Allow a retired member who cancels his or her option due to a divorce, and elects the Member-Only benefit, to subsequently elect an option for a new spouse or registered domestic partner if he or she later remarries or registers in a domestic partnership.
- Allow a member receiving a DBS annuity under a disability allowance to continue that annuity if he or she retires for service the day after the disability allowance is terminated.
- Correct drafting errors and update statutory references.

**PROGRAM BACKGROUND & ANALYSIS:**

School Year Definition

*Background*

The definition of "school year" includes two separate depictions of a year, either the "fiscal year" or the "academic year." The fiscal year is generally accepted as the 12-month time period starting July 1 of one calendar year and ending on June 30 of the following calendar year. In contrast, the "academic year" is generally accepted as a timeframe set by the employer that falls within any 12 month period beginning the first day and ending the last day that creditable service is required to be performed by a

member employed on a full-time basis. Chapter 218, Statutes of 2016 (SB 1352–PE&R), introduced the definition of “school term,” which effectively replaces the need to define “academic year” in the law; however, the Teachers’ Retirement Law continues to have a dual, and potentially confusing, definition of “school year.”

*Proposed*

This measure creates a clear and uniform definition of the term “school year” as the fiscal year and also makes conforming changes to replace “school year” with “school term” where appropriate.

*Sections affected: 22106.5, 22112.6, 22138.5, 22138.6, 22169, 22717, 25926, 26107 and 26127*

Final Compensation for Concurrent Retirement

*Background*

Concurrent membership is membership in CalSTRS and other specified public retirement systems, including CalPERS. When a CalSTRS member has concurrent membership, he or she may qualify for certain benefits like retiring with less than five years of CalSTRS service credit. Concurrent retirement also allows CalSTRS to use salaries from another retirement system when determining eligible members’ final compensation, provided that the service under the other system was not performed concurrently with CalSTRS service. Current law is unclear as to whether this concurrent retirement provision allows CalSTRS to use higher salaries from another retirement system for certain months for which CalSTRS compensation would otherwise be used, such as July or August for a member whose employer reported creditable compensation for September as the first pay period of the school term.

*Proposed*

This measure clarifies that CalSTRS determines final compensation using CalSTRS compensation earnable for months that are not part of the school term for all members, even those who retire concurrently from another qualified public retirement system. This clarification treats all members consistently regardless of whether they are paid over 10 months or 12 months.

*Sections affected: 22134 and 22134.5*

Eligibility for a Retirement System Election

*Background*

CalSTRS members who are subsequently employed by the same or a different employer to perform service that requires membership in a different retirement system, such as CalPERS, can elect to continue CalSTRS coverage. Current law is unclear as to whether the decision to continue as a CalSTRS member applies to all employment with the employer for which the initial election is made. In addition, the law gives CalPERS members who subsequently become employed in a position that requires membership in the DB Program the ability to elect to continue CalSTRS coverage pursuant to the Government Code.

*Proposed*

This measure clarifies that CalSTRS members must elect to have their service in each position subject to CalSTRS coverage and excluded from coverage by another public retirement system when changing positions. It also replaces language explaining details of the election process for CalPERS members with a reference to the relevant Government Code section.

*Section affected: 22508*

### Membership Election Cleanup

#### *Background*

CalSTRS allows persons who would otherwise be covered under a different public retirement system (retirement system election), as well as persons performing creditable service who do not meet mandatory membership requirements (permissive membership election), to elect to be covered by the DB Program. Chapter 218, Statutes of 2016 (SB 1352–PE&R), stipulated that election forms must be received by CalSTRS within 30 days of a membership election being made. It also required that if an employee permissively elects DB Program membership, the membership is effective as of the first day of the pay period following the pay period in which the election was made. Since the enactment of SB 1352, employers have indicated that the 30-day requirement is impractical because the forms must be reviewed and signed by several parties before submission. Employers have also indicated that establishing membership on the first day of the following pay period forces coverage by Social Security or an ARP for a short period of time before DB Program membership can be established.

#### *Proposed*

This measure extends the submission deadline for retirement system election and permissive membership election forms from 30 days to 60 calendar days after the employee's signature date and allows an employer to establish membership for a new member who makes a permissive election as early as the first day of the pay period of the employee's signature date.

*Sections affected: 22509 and 22515*

### Survivor Benefits Waiver Cleanup

#### *Background*

In the event of a death of a CalSTRS member, his or her beneficiaries may be entitled benefits, including a lump-sum payment of the members' contributions and interest. Beneficiaries occasionally refuse survivor benefits for various reasons. Since CalSTRS has no legal authority to force a beneficiary to accept payment, CalSTRS has allowed beneficiaries to waive their rights to benefits in the past. In these situations, the benefits are paid to the next eligible beneficiary or the estate. Chapter 298, Statutes of 2017 (AB 1325–PER&SS), explicitly allowed beneficiaries to waive their rights to benefits in several sections of the Teachers' Retirement Law; however, Education Code sections 23802 and 23852, providing for the lump-sum payment of the members' contributions and interest, were inadvertently missed.

#### *Proposed*

This measure explicitly allows beneficiaries to waive the lump-sum payment of a deceased member's contributions and interest and specifies requirements for a benefit waiver form and the release of system liability upon receipt of the executed waiver.

*Sections affected: 23802 and 23852*

### Disability Application Requirements

#### *Background*

Education Code sections 24001 and 24101 pertain to the eligibility requirements a member must meet to apply for a CalSTRS disability benefit. The organization of these sections, however, has contributed to confusion as to whether a written application is required in all circumstances.

#### *Proposed*

This measure specifies that a member must submit a complete disability application to CalSTRS to be eligible to apply for a disability benefit under all circumstances.

*Sections affected: 24001 and 24101*

### Termination of a Disability Allowance

#### *Background*

A CalSTRS disability allowance terminates on the date the member attains normal retirement age as defined by Education Code section 22148. However, if the member has a qualified dependent child, the disability allowance is allowed to continue until the date the final dependent child becomes ineligible in accordance with Education Code section 22123. The phrasing of Education Code section 24213 has caused member confusion because it does not distinguish that a member must actually have an eligible dependent child in order to extend the disability allowance beyond normal retirement age. Once a disability allowance terminates, the member may retire for service.

#### *Proposed*

This measure clarifies that a disability allowance terminates on the date the member reaches normal retirement age or, if the member has an eligible dependent child, on the date the member's last dependent child becomes ineligible, whichever is later.

*Section affected: 24213*

### Postretirement Option Change to New Spouse Following Divorce

#### *Background*

A retired member who divorces and cancels a former spouse's option benefit may not later elect a new spouse or registered domestic partner as an option beneficiary. Instead, a member is required to make a decision regarding an option beneficiary at the point that CalSTRS is notified about the cancellation of a former spouse's option benefit. The member may elect to receive a Member-Only benefit or another individual as an option beneficiary. In practice, if allowed by the divorce decree, a member may also keep a former spouse as the option beneficiary until the member remarries.

#### *Proposed*

This measure allows a retired member who cancels his or her option due to divorce,

and elects the Member-Only benefit, to subsequently elect an option for a new spouse or registered domestic partner if he or she later remarries or registers in a domestic partnership. The election is effective six months after the election is received by the board.

*Section affected: 24322*

### Continuation of Disability Allowance DBS Election into Service Retirement

#### *Background*

There is a finite population of CalSTRS members who are eligible for a disability allowance under Coverage A. Other CalSTRS members are eligible for a disability retirement under Coverage B. There are just under 40,000 members in active status who are under age 60 and may potentially qualify for a disability allowance. There are currently 703 members receiving a disability allowance. Of those, 142 have a DBS account and chose to receive an annuity.

A member receiving a disability allowance who has a DBS account may elect an annuity for a specified number of years or over his or her lifetime. The disability allowance is terminated when the member either reaches normal retirement age or, if they have an eligible dependent, once that child becomes ineligible. Upon termination of the disability allowance, the member's DBS annuity is also terminated. The DBS annuity is then recalculated when the member later retires for service. The exception to this is when the member goes from a disability allowance to a service retirement without interruption. In these cases, members who chose a DBS annuity are allowed to continue that annuity into their service retirement. Members are not required to immediately apply for a service retirement upon termination of their disability allowance but often do.

#### *Proposed*

This measure clarifies that a member who converts from a disability allowance to a service retirement without interruption will continue his or her DBS annuity.

*Sections affected: 25012 and 25019*

### Statutory Reference Updates

#### *Background*

Education Code sections 24300 and 24300.1 originally included provisions about the options a member has when his or her beneficiary predeceases him or her. A cleanup effort in 2014 moved these provisions into Education Code section 24323. However, some code sections pertaining to changing DBS annuities after retirement were not updated to reference the new section. In addition, some statutory references to other circumstances when option beneficiaries can be changed in retirement had not been included in Education Code section 25015.

#### *Proposed*

This measure updates the references in several provisions regarding DBS annuities.

*Sections affected: 25011, 25011.1, 25015, 25018 and 25018.1*

## **LEGISLATIVE HISTORY**

SB 1063 (Garcia, Chapter 430, Statutes of 1979) added parameters around the use of compensation earned under a concurrent retirement system. Specifically, CalSTRS is directed to only take into consideration the concurrent retirement system compensation if service under the other system was not performed concurrently with CalSTRS service.

AB 4129 (Machado, Chapter 560, Statutes of 1990) added the definition of “school year” to the Teachers’ Retirement Law.

AB 1796 (Napolitano, Chapter 893, Statutes of 1993) recodified the postretirement options in the Teacher’s Retirement Law into a more organized and simplified format.

AB 1509 (Machado, Chapter 74, Statutes of 2000) established the Defined Benefit Supplement Program and specified its relationship with the Defined Benefit Program.

SB 1352 (PER&R, Chapter 218, Statutes of 2016) specified that permissive election forms must be received by CalSTRS within 30 days of the member’s signature date and that the election takes effect the first day of the following pay period. Added language to allow beneficiaries to waive the CalSTRS benefits for which they are entitled. Defined “school term” to mean academic year.

## **FISCAL IMPACT**

Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

## **SUPPORT**

CalSTRS (Sponsor)

## **OPPOSITION**

None known.

## **LEGISLATIVE STAFF CONTACT**

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