



California State Teachers'
Retirement System
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January 17, 2017

TO: All County Superintendents of Schools
District Superintendents of Schools
Charter Schools
Community College Districts and
Other Employing Agencies

FROM: Jack Ehnes 
EXECUTIVE OFFICE

SUBJECT: Employer Directive 2017-01
Changes in the Teachers' Retirement Law made by Chapter 218, Statutes of 2016
(Senate Bill 1352)

PURPOSE:

This directive notifies employers of changes to Education Code sections contained in Chapter 218, Statutes of 2016 (Senate Bill 1352), which affect employers and became effective January 1, 2017, except where otherwise indicated.

SCOPE:

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts and any agency that employs persons to perform creditable service under the CalSTRS Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit programs.

DISCUSSION OF CHANGES REQUIRING NEW ACTION:

Below is a summary of changes made by SB 1352 that require employers take new action.

Uniformed Services Employment and Reemployment Rights Act of 1994

Chapter 14.5 of Part 13 and Chapter 16 of Part 14 of Division 1 of the Education Code provide the rights of members of the Defined Benefit Program and participants of the Cash Balance Benefit Program in compliance with the Uniformed Services Employment and Reemployment Rights Act of 1994. SB 1352 makes several conforming changes to these chapters to reflect the requirements of federal law and to specifically include the Defined Benefit Supplement Program.

Action:

- Refer to an upcoming Employer Directive for more information and required action regarding the Uniformed Services Employment and Reemployment Rights Act of 1994.

Retirement System Election

Education Code sections 22508(a) and 22508.5(a) allow a member of the Defined Benefit Program who is employed to perform service that requires membership in a different public retirement system to elect to have that service subject to coverage by the Defined Benefit Program and excluded from coverage by the other public retirement system. The election is irrevocable and must be made on a form prescribed by the system within 60 days from the date of hire. Education Code section 22509 requires an employer to notify an employee of his or her right to elect to have his or her service in the position covered by the Defined Benefit Program within 10 working days of the employee's hire date.

SB 1352 moves the requirement that the election be made on a form prescribed by the system from Education Code sections 22508 and 22508.5 to Education Code section 22509. SB 1352 also amends Education Code section 22509 to add the requirement that if an election is made pursuant to Education Code sections 22508(a) or 22508.5(a), the form must be received by CalSTRS within 30 days after the date of the member's signature.

Action:

- Submit an employee's completed *Retirement System Election* form (ES372) so that CalSTRS receives the form no more than 30 days after the date of the member's signature.

Permissive Election of Defined Benefit Program Membership

Education Code section 22515 allows persons excluded from membership in the Defined Benefit Program pursuant to Education Code sections 22601.5, 22602 and 22604 to permissively elect membership in the Defined Benefit Program. The election is irrevocable and must be made on a form prescribed by the system.

SB 1352 amends this section to clarify the form must be received by CalSTRS within 30 days after the date of the member's signature. Amendments further specify that the individual's membership in the Defined Benefit Program shall become effective as of the first day of the pay period following the election.

Action:

- Submit an employee's completed *Permissive Membership* form (ES350) so that CalSTRS receives the form no more than 30 days after the date of the member's signature.
- Establish the employee's membership date as of the first day of the pay period following the date of the election.

DISCUSSION OF CHANGES REQUIRING NO NEW ACTION OR NO CHANGE IN ACTION:

Below is a summary of changes made by SB 1352 that do not require employers to take any new action or to change any existing action.

Termination of a Cash Balance Annuity

Education Code section 26810 provides for the voluntary termination of a retirement annuity under the Cash Balance Benefit Program when a participant returns to employment subject to coverage by the Cash Balance Benefit Program and wishes to make contributions to the program. In order to voluntarily terminate a retirement annuity, the participant is required to have attained normal retirement age and received the annuity for at least one year.

SB 1352 amends Education Code section 26810 to provide that *any* retired participant who is employed to perform creditable service subject to coverage by the Cash Balance Benefit Program while receiving a retirement annuity can cancel his or her annuity regardless of the participant's age or the length of time the annuity has been paid. The participant's election to cancel the annuity must be made on a form prescribed by the system and signed by the participant no earlier than six months before the effective date of the termination. Termination of the retirement annuity is effective as of the first day of the month designated by the participant.

Unused Sick Leave - Calculating Base Days for State Employees

Education Code section 22717 allows CalSTRS to convert unused sick leave days to service credit upon a member's retirement. The amount of service credited is calculated by dividing the number of unused sick leave days by the number of days of service the employer requires the member's class of employees to perform in a school year during the member's final year of creditable service, but no less than 175 days.

SB 1352 amends Education Code section 22717 to clarify the crediting of service credit for unused sick leave at retirement for members who are last employed by the state in a position in which there are no contracted base service days. Amendments instruct CalSTRS to credit these members 0.004 years of service credit for each unused sick leave day certified by the employer.

Definition of "School Term"

SB 1352 adds section 22168.5 to the Education Code to define "school term" throughout Part 13 of Division 1 of the Education Code. Pursuant to Education Code section 22168.5, "school term" means a minimum period of 35 weeks beginning the first day and ending the last day creditable service is required to be performed by a member employed on a full-time basis, excluding any period that has been excluded pursuant to a publicly available written contractual agreement. The school term is the same for a member who is not employed on a full-time basis who is performing the same duties as a member employed on a full-time basis.

Periods of Service for the Purposes of Calculating Final Compensation

Education Code section 22109.5 defines "break in service" for the purposes of calculating final compensation. SB 1352 repeals this section and clarifies the meaning of break in service in

Education Code sections 22134 and 22134.5, the definitions of three-year and one-year final compensation, respectively. The changes clarify amendments made by Chapter 755, Statutes of 2014 (SB 1220), and provide that the following are considered periods of service for the purposes of determining final compensation:

- The full pay period if the member earns creditable compensation within that pay period but not beyond the benefit effective date unless the member earns creditable compensation during the last pay period of the school term.
- The months of the school year before the start of the school term if the member earns creditable compensation during the first pay period of the school term.
- The months of the school year after the end of the school term if the member earns creditable compensation during the last pay period of the school term.
- A period that is excluded from the school term if a member earns creditable compensation during the pay periods immediately preceding and immediately following the excluded period.

Final Compensation – Benefits without Service Credit

Education Code sections 22134 and 22134.5 allow the Teachers' Retirement Board to specify a different final compensation calculation with respect to disability allowances, disability retirement allowances, family allowances and children's portions of survivor benefits. These sections also provide that with respect to these calculations, compensation earnable for periods of part-time service shall be adjusted by the ratio the part-time service bears to full-time service, effectively reducing the compensation earnable from the amount that could have been earned had the member been employed full time to the amount of compensation that was actually earned.

SB 1352 amends these sections to provide that final compensation for any benefit that does not include service credit, including certain disability allowances, disability retirement allowances, certain family allowances and children's portions of survivor benefits, shall always be determined using the creditable compensation that has been earned in the Defined Benefit Program. As a result, the basis of employment of the service (whether part time or full time) will have no effect on the final compensation.

Final Compensation – Reduction in School Funds

If a member's salary is reduced due to a reduction in school funds, Education Code section 22136 allows CalSTRS to exclude the months in which the salary reduction occurred from the 36 consecutive months used to calculate the member's final compensation.

SB 1352 repeals Education Code section 22136 and moves this provision to the definition of "final compensation" in Education Code section 22134.

Crediting of Contributions – Defined Benefit Supplement Program

Education Code section 22905 provides for the crediting of contributions to the Defined Benefit Supplement Program. This section specifies that contributions are credited to the Defined Benefit Supplement account based on when contributions are received by the system.

SB 1352 amends Education Code section 22905 to provide that member and employer contributions credited to a member's Defined Benefit Supplement account, except contributions for service in excess of one year, shall be credited based on the earliest day the contributions were due to CalSTRS. Contributions for service in excess of one year shall be credited to the member's Defined Benefit Supplement account as of July 1st immediately following the period in which the compensation was earned. This change is effective July 1, 2018.

Crediting of Contributions – Cash Balance Benefit Program

Education Code section 26603 provides for the crediting of contributions to the Cash Balance Benefit Program. This section specifies that contributions are credited to employer and employee accounts upon receipt of the contributions by the system.

SB 1352 amends Education Code section 26603 to provide that contributions shall be credited to employer and employee accounts based on when the contributions were due to CalSTRS. This change is effective July 1, 2018.

ADDITIONAL ACTION

If you have any questions regarding this Employer Directive, please contact your CalSTRS Member Account Services employer representative.

This Employer Directive does not take precedence over the law.