

**BILL NUMBER: SB 1466 (PE&R) As Amended 6/14/06**

**SUMMARY**

Senate Bill 1466 is the annual California State Teachers' Retirement System (CalSTRS) technical "housekeeping" bill. The bill makes various technical and conforming changes to the Teachers' Retirement Law (TRL) 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.

**PURPOSE OF THE BILL**

SB 1466 is necessary to maintain a well-organized Plan.

**POSITION AND SUPPORTING ARGUMENTS**

Sponsor. This bill will make technical and conforming amendments necessary for continued effective administration of the System.

**ANALYSIS**

Significant changes made by SB 1466:

- Clarify the definition of creditable service under the CB Benefit Program to include trustee service, which is currently service that is eligible for participation;
- Require employers to mail the original election form to CalSTRS' headquarters when an employee elects participation in the CB Benefit Program;
- Codify the new joint and survivor options and annuities available to members and participants beginning January 1, 2007, and amend existing code sections to include references to the new options and annuities;
- Clarify eligibility for a dependent child under Coverage A Disability and Family Allowances and Coverage B Disability Retirement and Survivor Benefit allowances;
- Authorize CalSTRS to provide members and participants with an electronic version of the annual statement of accounts, if the member or participant chooses to receive the statement electronically;
- Codify the requirement that CalSTRS-covered employers encrypt the member and participant data they report to CalSTRS;
- Clarify application of a special definition of full-time used in the benefit calculation for certain part-time and adult education community college employees.

## SUMMARY OF AMENDMENTS

The amendments of June 14, 2006, make the following changes (all sections refer to the Education Code, unless otherwise noted):

- Conform Sections 22007.5, 22105.5, 22655, 22657, 22660, 22664, 23300, 23805, 23855, 24202.5, 24203.6, 24301, 24302, 24402, 25012, 25016, 25021, 26002.5, 26116, 26137, 26807, 26811, 26906, 26910, 27405, 27408, 27410, 27411 to the new joint and survivor options and annuities offered by the Plan;
- Correct references to county retirement systems in Sections 22115.2, 22134 and 22134.5 and provide consistency among these sections related to concurrent membership and retirement;
- Clarify eligibility for a dependent child under Coverage A Disability or Family Allowance in Section 22123 and a dependent child under Coverage B Disability Retirement or Survivor Benefit in Section 22123.5;
- Provide authority in Sections 22309 and 26214 for CalSTRS to provide members and participants with an electronic version of the annual statement of accounts;
- Clarify Section 22703, which establishes the contributions that are made to the DBS Program;
- Conform Sections 22801, 22823 and 22826 to Section 23202 to provide consistent treatment of all service credit purchases;
- Codify a requirement that CalSTRS-covered employers encrypt the member and participant data they report to CalSTRS in Sections 23004 and 26301;
- Provide consistent reference in Section 24201 to the forms provided by the System;
- Conform Sections 24205, 24221, 24300, 24300.6, 24305, 24305.3, 24305.5, 24306, 24307, 24309, 25009, 25011 and 25018 to the new joint and survivor options and annuities offered by the Plan, as well as provide consistent reference to the forms provided by the System;
- Clarify the application of a special definition of “full-time” used for certain part-time and adult education community college employees in Sections 24209, 24209.3 and 24211;
- Provide consistency between Section 24214 and the requirement that employers report post-retirement earnings to CalSTRS, as well as provide consistent reference to post-retirement employment;
- Provide for the new joint and survivor options and annuities offered under the Plan by adding Sections 24300.1, 24300.2, 24312.1, 25011.1, 25011.5, 25018.1, 25018.2, 26807.5, 26807.6, 26906.5 and 26906.6;

- Conform Section 24303 to the new joint and survivor options and annuities offered by the Plan, as well as clarify the effect of reinstatement upon an option selected by a member;
- Conform Section 24306.7 to existing law referencing the CalSTRS headquarters building, as well as provide consistent reference to the forms provided by the System;
- Conform Section 25024, which establishes a DBS termination benefit, to the existing requirement under the DB Program that an employer certify a member has terminated employment before receiving a refund, as well as provide consistent reference to the forms provided by the System;
- Provide participants in the CB Program with the ability to terminate participation and elect Social Security coverage under Section 26400, as well as provide consistent reference to the forms provided by the System;
- Provide a window period in Section 26401 for former CB participants who were previously mandated into the DB Program to re-elect CB coverage, as well as provide consistent reference to the forms provided by the System;
- Conform Section 27004 to the new joint and survivor annuities offered by the Plan, as well as clarify the minimum account balance required to receive a CB benefit as an annuity;
- Conform Government Code Section 22009.1 to references to the SFERS.

## LEGISLATIVE HISTORY

Chapter 351, Statutes of 2005 (AB 224—Negrete McLeod), among other things, corrects references to the SFERS within the TRL.

Chapter 378, Statutes of 2004 (AB 2680—Negrete-McLeod), expands the geographic area in which CalSTRS may locate its headquarters facility.

Chapter 903, Statutes of 2002 (SB 1983—Soto), requires the Teachers' Retirement Board (Board) to evaluate, on or before 7/1/04, the existing joint and survivor options and annuities provided by the Plan, and adopt, by plan amendment, any appropriate changes to the options and annuities based on the needs of members, participants and their beneficiaries; also authorizes a retired member of the DBS Program, in certain circumstances, to name a new annuity beneficiary if the retired member's original beneficiary pre-deceases the member.

Chapter 1020, Statutes of 2000 (AB 820—PER&SS), provides that trustee service performed by an employer who provides the CB Benefit Program is creditable under that program.

Chapter 893, Statutes of 1993 (AB 1796—Napolitano), among other things, recodifies Education Code Section 22724 to Section 22713.

## PROGRAM BACKGROUND

1. Codifying the new joint and survivor options and annuities offered by the Plan, conforming existing code sections to these new options and annuities and providing consistent reference to the forms provided by the System.

Chapter 903, requires the Board to evaluate, on or before July 1, 2004, the existing joint and survivor options and annuities provided by the Plan. In addition, Chapter 903 also requires the Board to adopt, by plan amendment, any appropriate changes to the options and annuities based on the needs of members, participants and their beneficiaries. The plan amendment subsequently adopted by the Board in June 2004 and February 2006 simplifies the existing DB, DBS and CB option and annuity choices by eliminating the less-desirable options, creating new options, modifying existing options to reflect member needs and renaming options in a more logical manner. In addition, the plan amendment establishes a January 1, 2007, effective date for the option changes and a window period for members to change option selections beginning January 1, 2007, and ending June 30, 2007.

This amendment codifies the new joint and survivor options for the DB Program and annuities for the DBS and CB Programs and the window period for changes of existing option selections. These new options and annuities are cost-neutral to CalSTRS and include:

- A member-only benefit (or participant-only benefit under the CB Program) that provides an unmodified allowance to the member/participant and a cash refund to the beneficiary upon the member/participant's death;
- A 100 percent beneficiary option/annuity that provides a modified allowance to the member/participant, with the same amount being paid to the beneficiary upon the member/participant's death;
- A 75 percent beneficiary option/annuity that provides a modified allowance to the member/participant, with 75 percent being paid to the beneficiary upon the member/participant's death;
- A 50 percent beneficiary option/annuity that provides a modified allowance to the member/participant, with 50 percent being paid to the beneficiary upon the member/participant's death;
- A compound option/annuity under the DB and DBS Programs that provides for the designation of one or multiple beneficiaries and a percentage of a modified allowance paid to each beneficiary upon the member's death.

In addition, these amendments provide conforming changes to various code sections that reference the options and annuities offered by the Plan. There are no benefit costs associated with these amendments that are the result of the plan amendment adopted by the Board because Chapter 903 requires any changes to the options and annuities to be made in a manner that is cost-neutral to the Teachers' Retirement Fund (Fund). A member, participant or beneficiary that makes a change to his or her existing option or annuity will experience an actuarial modification to ensure no additional liability is incurred by the Fund. In addition, the costs to modify the CalSTRS corporate database, update publications, communicate the option/annuity changes to members, participants and beneficiaries and train CalSTRS staff were covered by funds requested in the 2005-2006 CalSTRS budget. Finally, the changes do not result in new authority for CalSTRS or new rights or obligations for members, participants or beneficiaries.

In addition, some of these code sections make reference to written applications, notices or certifications submitted by members, participants or employers when making elections, requests or providing notice to CalSTRS. CalSTRS provides a specific form in each of these situations. Therefore, this amendment also clarifies that the written application, notice or certification must be on a form provided by CalSTRS that is properly completed by the member, participant or employer.

*Education Code sections affected by amendment: 22007.5, 22105.5, 22655, 22657, 22660, 22664, 23300, 23805, 23855, 24202.5, 24203.6, 24205, 24221, 24300, 24300.1, 24300.2, 24300.6, 24301, 24302, 24305, 24305.3, 24305.5, 24306, 24307, 24309, 24312.1, 24402, 25009, 25011, 25011.1, 25011.5, 25012, 25016, 25018, 25018.1, 25018.2, 25021, 26002.5, 26116, 26137, 26807, 26807.5, 26807.6, 26811, 26906, 26906.5, 26906.6, 26910, 27405, 27408, 27410 and 27411*

2. Correcting references to county retirement systems and providing consistency among references to concurrent membership and retirement.

When county retirement systems were included as systems under which a CalSTRS member may retire concurrently, corresponding reference was inadvertently left out of the definitions of final compensation. This amendment corrects that error by adding reference to county retirement systems for the purposes of concurrent membership and retirement.

*Education Code sections affected by amendment: 22115.2, 22134 and 22134.5*

3. Clarifying eligibility for dependent children under Coverage A Disability or Family Allowance and Coverage B Disability Retirement or Survivor Benefit.

Under Coverage A, a dependent child may receive a Disability or Family Allowance until the age of 22. Similarly, a dependent child under Coverage B may receive a Disability Retirement or Survivor Benefit until the age of 21. However, current law is unclear exactly when eligibility ceases. This amendment clarifies that a dependent child is no longer eligible as of the day the child turns 22 under Coverage A, and 21 under Coverage B.

*Education Code sections affected by amendment: 22123 and 22123.5*

4. Providing the ability for CalSTRS to issue electronic annual statements of account.

CalSTRS is required to provide a statement of account annually to each active and inactive member of the DB Program and each participant of the CB Benefit Program. These account statements are mailed to the address that CalSTRS has on file for the member or participant. However, mailing these statements is costly and thousands of statements are returned as undeliverable each year. In addition, many members and participants prefer to receive information electronically, through the secure network of the MyCalSTRS.com Web site. Distributing annual statements of account electronically would not only save money, but also meet the needs of CalSTRS' members and participants. Statements would only be distributed electronically if the member or participant elected to receive the information in this format;

those who do not wish to receive their statements electronically would continue to receive them via U.S. Mail. This amendment provides the authority for CalSTRS to distribute annual statements electronically.

*Education Code sections affected by amendment: 22309 and 26214*

5. Conforming the Education Code to the existing law referencing the location of the CalSTRS headquarters building.

Chapter 378, Statutes of 2004 (AB 2680—Negrete McLeod), expanded the geographic location in which the CalSTRS headquarters building may reside from Sacramento County to Sacramento County and Eastern Yolo County. This amendment makes a conforming change to a section of the TRL that continues to reference the CalSTRS headquarters building as being located in Sacramento County.

*Education Code section affected by amendment: 22664*

6. Clarifying the nature of the contributions made to the DBS Program.

Under the DBS Program, both member and employer contributions for service in excess of one year are deposited into the member's DBS account. However, the current language in the TRL providing for DBS contributions is unclear. This amendment clarifies the source of the contributions made to the DBS Program.

*Education Code section affected by amendment: 22703*

7. Providing consistent treatment of all service credit purchases.

Current law allows a person who takes a refund of their DB contributions and interest to redeposit those funds and receive service credit if the person again becomes a member of the DB Program at a later date. If the member who is redepositing contributions and interest becomes more than 120 days delinquent in making a scheduled payment, the member may either receive service credit based on the amount of contributions that have been redeposited, or receive a full refund. The ability to receive service credit does not currently exist with regard to purchases of nonqualified, out-of-state and permissive service credit. This amendment would allow a member who is purchasing nonqualified, out-of-state or permissive service credit but has not met the payment schedule to receive service credit for the portion that has been purchased, in addition to the refund option, thereby providing consistent treatment of all service credit purchases.

*Education Code sections affected by amendment: 22801, 22823 and 22826*

8. Requiring CalSTRS-covered employers to encrypt the member and participant data they report to CalSTRS.

CalSTRS' employers currently submit monthly reports that include personal information for each member and participant. These reports are submitted by either U.S. Mail or courier on

floppy disks, compact disks or cartridge tapes. CalSTRS has previously encouraged employers to utilize the tools and software provided on the CalSTRS.com Web site, which enable employers to encrypt this data and submit it to CalSTRS through a secure network; there is no cost to the employer to obtain these tools and software. Due to the increased potential for personal identity thefts and the state requirement to disclose a breach of security that results in personal information being acquired by an unauthorized person, it is prudent to require employers to encrypt the personal member and participant information they report to CalSTRS. This amendment requires employers to utilize the encrypting format provided by CalSTRS when submitting monthly reports.

*Education Code sections affected by amendment: 23004 and 26301*

9. Providing consistent reference to the forms provided by the System that members must complete when applying for retirement.

A member of the DB Program must submit a written application for service retirement. CalSTRS provides an application that the member must complete and submit; however, existing law does not specify it must be in a particular written format. This amendment clarifies that the written application must be on a form provided by CalSTRS that is properly completed by the member.

*Education Code section affected by amendment: 24201*

10. Clarifying application of the pre-July 1, 1996, definition of “full-time.”

Chapter 442, Statutes of 2004 (AB 1586—PER&SS), requires CalSTRS recalculate the final compensation of certain part-time and adult education community college employees who were employed by a community college district both prior to and after July 1, 1996, and subsequently retired. The benefit recalculation uses a definition of “full time” that existed in law prior to July 1, 1996. The intent behind AB 1586 was to correct an inequity in the benefits paid to these part-time and adult education community college employees that resulted from the change in the definition of “full time” that occurred on July 1, 1996. That bill was intended to apply towards the employee’s initial retirement, not a subsequent retirement after a reinstatement to service. This amendment clarifies that the pre-July 1, 1996, definition of “full time” applies only to the member’s first retirement after July 1, 1996.

*Education Code sections affected by amendment: 24209, 24209.3 and 24211*

11. Providing consistency among post-retirement employment provisions.

Current law establishes a limit on the amount of money a retired member of the DB Program may earn when performing service creditable to the Plan and receiving a DB service retirement benefit. Current law establishes this limit on earnings paid for all creditable service performed for a school district, county office of education or community college district, including service performed as an employee of a third party or an independent contractor within the California public school system. However, references to employment as a third party or as an independent contractor in the TRL are not consistent. This amendment adds an additional reference to these

types of employment for purposes of applying the post-retirement earnings limit. In addition, current law requires employers to report the earnings of all employees who are retired DB members. However, reference to this requirement is not included in TRL restrictions on post-retirement employment and earnings. This amendment adds a reference to the employer reporting requirement for the purposes of post-retirement employment.

*Education Code section affected by amendment: 24214*

12. Clarifying the effect of reinstatement on an option election, as well as conforming to the new joint and survivor options and annuities offered by the Plan.

Current law allows a retired member of the DB Program to terminate his or her service retirement and reinstate to active service. If such a member has previously elected a joint or survivor option, the option is not cancelled upon reinstatement. However, a new effective date is applied to the option. This amendment clarifies that the effective date of the option changes upon reinstatement to active service. In addition, because this code section refers to the joint and survivor options offered by the Plan, it is also necessary to make conforming changes that include reference to the new options that will be available as of January 1, 2007.

*Education Code section affected by amendment: 24303*

13. Conforming to existing law referencing the CalSTRS headquarters building, as well as providing consistent reference to the forms provided by the System.

Chapter 378, Statutes of 2004 (AB 2680—Negrete McLeod), expanded the geographic location in which the CalSTRS headquarters building may reside from Sacramento County to Sacramento County and Eastern Yolo County. This amendment makes a conforming change to a section of the TRL that continues to reference the CalSTRS headquarters building as being located in Sacramento County. In addition, this code section refers to a beneficiary election made by a member. CalSTRS provides a form for the member to complete and submit when making the beneficiary election. Therefore, this amendment also clarifies that the election must be on a form provided by the System that is properly completed by the member.

*Education Code section affected by amendment: 24306.7*

14. Providing consistency among references to the San Francisco Employees' Retirement System.

Chapter 351, Statutes of 2005 (AB 224—Negrete McLeod), corrected references within the TRL that used the former name of the SFERS. This amendment makes conforming changes to additional sections of the TRL that were not corrected by Chapter 351.

*Education Code sections affected by amendment: 24703, 24704 and 24705*

*Government Code section affected by amendment: 22009.1*

15. Conforming provisions of the DBS Program related to the member's ability to elect a new annuity beneficiary, as well as conforming to the new annuities offered by the Plan.

Previously, the TRL prohibited a retired member from changing his/her annuity beneficiary, except in cases of divorce. Chapter 903, Statutes of 2002 (SB 1983—Soto), added an additional exception to this rule for cases when an annuity beneficiary predeceases the retired member. However, that measure did not include the exception for a predeceased beneficiary in Section 25015, which provides for election of an annuity beneficiary, due to an oversight. This amendment conforms Section 25015 to the exception established by Chapter 903. In addition, this amendment provides conforming changes to the new annuities offered by the Plan

*Education Code section affected by amendment: 25015*

16. Conforming provisions of the DBS Program related to termination benefits, as well as providing consistent reference to the forms provided by the System.

A member of the DB Program who stops performing creditable service may elect to discontinue membership in the DB Program and receive a refund of their employee contributions and interest upon certification by their employer that the member has terminated employment. The member also receives a DBS termination benefit, which is a lump-sum payment of the balance of their DBS Program account at that time. While the employer is required to certify that the member has terminated employment before CalSTRS pays the DBS termination benefit, that requirement is not referenced consistently in current law. This amendment clarifies that the employer must certify the member has terminated employment before CalSTRS will pay a DBS termination benefit or begin processing a DB refund to provide consistency between these two provisions. In addition, the amendments clarify that the employer certification must be completed on a form that CalSTRS provides to provide consistent reference to the treatment of forms provided by the System.

*Education Code section affected by amendment: 25024*

17. Correcting an out-of-date reference to the CB Benefit Program.

Chapter 1048, Statutes of 1998 (SB 2085—Burton), merged the DB Program and CB Benefit Program under the Teachers' Retirement Plan and renamed the "Cash Balance Benefit Plan" as the "Cash Balance Benefit Program." This amendment corrects a reference to the CB Benefit "Plan" that was not corrected by SB 2085.

*Education Code section affected by amendment: 26000.5*

18. Conforming existing statute to include trustee service as creditable service under the CB Benefit Program.

Chapter 1020, Statutes of 2000 (AB 820—PER&SS), added Section 26403, which allows school board trustees whose districts provide the CB Benefit Program to earn retirement benefits under the program for that service. However, Chapter 1020 did not define creditable service to include trustee service. This amendment includes trustee service in the definition of creditable service to provide consistency with Section 26403.

*Education Code section affected by amendment: 26113*

19. Allowing a participant in the CB Benefit Program to terminate participation and elect Social Security coverage; requiring employers to mail the original CB Benefit Program election form to CalSTRS' headquarters; providing consistent reference to the forms provided by the System.

Current law prohibits a participant in the CB Program from terminating participation unless the employee becomes a member of the DB Program. However, many CB participants, especially part-time community college instructors, who make up a majority of CB participants, perform service outside the public school system and in doing so, contribute to Social Security. Many of these employees would prefer to continue contributing to Social Security through their part-time employment with the community college but many community college districts do not offer Social Security coverage at the time the employee is hired, but may at a later date. If the governing board of the community college district takes action to provide Social Security coverage after the employee has elected CB participation, the employee is unable to elect Social Security due to his or her CB participation. This may restrict some community college employees from selecting the best available option. This amendment allows a CB participant to terminate CB participation for the purpose of contributing to Social Security if their employer begins offering Social Security coverage to part-time employees.

In addition, when an employee elects participation in the CB Benefit Program, the employer maintains the original election form in its records. CalSTRS is not aware of the employee's election until it receives information regarding the employee's pay and service through the employer's regular reporting. Likewise, if the participant terminates participation to elect Social Security coverage, CalSTRS must be made aware of this action. Therefore, this amendment also requires employers to maintain a copy of the CB election form and the CB termination form and mail the original forms to CalSTRS.

*Education Code section affected by amendment: 26400*

20. Providing a window period for former CB participants who were previously mandated into the DB Program to re-elect CB coverage, as well as to provide consistent reference to the forms, which participants and employers must complete when electing the CB Program.

Previously, certain participants in the CB Program were mandated into the DB Program due to the former "multiple employer restriction" that was repealed by Chapter 1020, Statutes of 2000 (AB 820—PER&SS). Chapter 351, Statutes of 2005 (AB 224—Negrete McLeod), allowed this population of former CB participants to re-elect participation in the CB Program. However, Chapter 351 did not provide the necessary window period for employees to re-elect CB participation. This amendment provides a 60-day window period during which employees may re-elect CB participation. In addition, this amendment provides consistent reference to the forms provided by the System that the employee must complete when electing (or re-electing) CB participation.

*Education Code section affected by amendment: 26401*

21. Clarifying the minimum account balance required to receive a CB benefit as an annuity, as well as conforming to the new joint and survivor annuities offered by the Plan.

The CB Benefit Program provides a death benefit to the participant's beneficiary. This benefit may be either a lump-sum payment of the balance of the deceased participant's employee and employer account or an annuity, if the account balance is at least \$3,500. Current law does not clearly state that the amount to be paid to each beneficiary must equal or exceed \$3,500 in order for each beneficiary to receive an annuity. This amendment clarifies the account balance that is necessary for each beneficiary to receive an annuity. In addition, because this section refers to the period certain annuity that will no longer be available after January 1, 2007, and the new joint and survivor annuities that will be offered pursuant to Chapter 903, Statutes of 2002 (SB 1983—Soto), this amendment makes a conforming change to eliminate a reference to the period certain annuity.

*Education Code section affected by amendment: 27004*

22. Correcting a reference to a code section that was previously recodified.

Chapter 893, Statutes of 1993 (AB 1796—Napolitano), recodified former Section 22724 to Section 22713. However, it did not amend Section 44922, which continues to reference Section 22724. This amendment corrects the outdated code reference contained in Section 44922.

*Education Code section affected by amendment: 44922*

## **FISCAL IMPACT**

Benefit Program Cost – None.

Administrative Costs/Savings – The cost of making the required changes to the System's publications, database and manual process is minor and absorbable.

## **SUPPORT**

CalSTRS

## **OPPOSITION**

None