

**BILL NUMBER: Senate Bill (Senate PE&R Committee) as amended June 4, 2009**

**SUMMARY**

SB 634 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 634 will help ensure continued effective and efficient plan administration for all of CalSTRS internal and external customers.

**BOARD POSITION**

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

**SUMMARY OF AMENDMENTS**

The amendments of June 4, 2009, add additional, non-substantive amendments to the TRL, relating to the CalPERS/CalSTRS election option, the ability to receive a retirement benefit while a disability application is being evaluated and references related to the reduced workload program.

**LEGISLATIVE HISTORY**

SB 1376 –Wiggins, (Vetoed, 2008) made various technical and conforming changes to the Teachers' Retirement Law. These changes related to the Reduced Workload Program, state contributions to CalSTRS, member survivor benefits, service retirement pending disability, post-retirement earnings limit exemptions and the Defined Benefit Supplement Program.

Chapter 6, 3<sup>rd</sup> Extraordinary Session of 2008 (AB X3 8—Budget Committee) specified the 2008-09 Supplemental Benefit Maintenance Account General Fund transfer be made on November 1, 2008, instead of July 1, 2008.

Chapter 332, Statutes of 2007 (AB 1316—Bass) permitted members who are eligible to retire but applying for disability to receive a service retirement benefit while awaiting determination of their disability application.

Chapter 1021, Statutes of 2000 (AB 2700—Lempert) made all creditable service compensation payable to CalSTRS, with compensation for service in excess of 1.000 years of service per school year payable to the DBS Program. The measure also specified that only creditable compensation for which member contributions are contributed to the DB Program shall be used in calculating the state's contributions to the SBMA and the DB Program.

Chapter 74, Statutes of 2000 (AB 1509—Machado) created the Defined Benefit Supplement (DBS) Program.

Chapter 1166, Statutes of 1992 (SB 1885—C. Green) established the survivor benefits and disability programs for members known as “Coverage B,” which brought CalSTRS into compliance with the federal Older Workers Benefit Protection Act.

Chapter 115, Statutes of 1989 (SB 1407—C. Green et al.) established the SBMA and its funding mechanism of an annual transfer of a set percent of statewide teacher payroll.

## **PROGRAM BACKGROUND**

### Compensation Earnable

Compensation earnable is defined as creditable compensation for creditable service performed on a full-time basis. In general, for members employed by a community college, the current minimum standard for “full time” is 1,050 hours. However, for members employed by a community college prior to July 1, 1996, if the community college acts to reduce the minimum standard for full time, full time is defined using the definition that applied on June 30, 1996.

### CalPERS/CalSTRS Election

A CalPERS member may elect coverage in CalPERS or CalSTRS, if the member performs service subject to coverage by CalSTRS’ Defined Benefit Program. However, this option is available only if the service he or she performs requires membership in CalSTRS.

### Permissive Elections

Substitute teachers and part-time employees otherwise exclude from membership are allowed to elect membership in the Defined Benefit Program, while employed to perform service subject to coverage under that program. Prior to 2003, this election was irrevocable.

### Refund of Accumulated Retirement Contributions

A nonmember spouse has the right to a refund of the accumulated retirement contributions in his or her separate account. Nonmember spouses may also choose to rollover the accumulated retirement contributions to a qualified plan under Section 402 of the Internal Revenue Code of 1986.

### Reduced Workload Program

Employers may offer a reduced workload program under which a member works part-time but receives DB Program credit as though the member was working full-time. Under this program, the member and employer make contributions based on creditable compensation the member would have received were the member working full-time.

### Permissive and Additional Service Credit

A member may purchase service credit in addition to what he or she has earned. Existing law allows a member to purchase additional service credit for prior service performed under specified conditions, such as when a member purchases service credit for service performed while teaching in another state.

### Redeposit of Contributions

A member may request a refund of his or her accumulated retirement contributions after

terminating his or her employment covered by the Defined Benefit Program. A person who once again becomes a member of the Defined Benefit Program, or a nonmember spouse who withdrew contributions and decides to redeposit, may redeposit all or a portion of the contributions. The member is required to pay interest from the date of the refund to the date the contributions are redeposited.

#### Coverage B Active Member Survivor Benefits

CalSTRS provides survivor benefits to the beneficiaries of members who die before retiring under Coverage B if the member joined CalSTRS after October 15, 1992 or elected Coverage during the subsequent election period. Under Coverage B, an active member's surviving spouse or children may qualify to receive a monthly benefit in addition to the one-time death benefit.

#### Disability Benefit

A member may apply for a disability benefit when he or she is vested and meets eligibility requirements, and has a physical or mental impairment that prevents the member from performing his or her usual job or comparable duties. The impairment must be expected to last at least 12 continuous months.

#### Service Retirement Benefits Pending an Evaluation of Disability

A member may receive a Service Retirement benefit if that member is eligible to retire, while waiting for a disability benefit application to be evaluated. In the event that the member receives approval of his or her disability benefit application, the member becomes a disabled member and is paid a disability benefit in place of a service retirement benefit.

#### Post-Retirement Earnings Limit Exemptions

Generally, a retired member who returns to work in creditable service may only earn up to an annually set dollar limit. If the member earns above that limit, his or her benefit payments for that year are reduced on a dollar-for-dollar basis by the amount the member exceeds the limit.

Over the years, however, the Legislature has created specific exemptions to this rule to permit employers to hire retired members to meet specific educational needs. If a retired member returns to work under one of these occupation-specific exemptions, the member and employer must provide documentation to CalSTRS in order to avoid the member's benefit payment being reduced when his or her reported earnings go above the earnings limit.

#### Disability Retirement Election of Options

A member receiving disability retirement may elect to receive an actuarially modified disability allowance. Existing law states that the option may not be revoked or changed after the later of the effective date of the disability retirement allowance or 30 days after the mailing of the acknowledgment notice.

#### Preretirement Election of an Option

A member may elect one of several options for an actuarially modified retirement allowance payable through the life of the member and the member's option beneficiary or beneficiaries. A member may change or cancel a preretirement election of an option by submitting a form to CalSTRS. The form must be received by CalSTRS within 30 days of the date of the member's signature.

Defined Benefit Supplement Program

Under the DBS Program, CalSTRS automatically establishes an account for each DB Program member who performs creditable service and makes contributions to CalSTRS on creditable compensation earned for that service. Currently, one quarter of each member's contribution to CalSTRS (i.e. two percent of the member's CalSTRS-covered salary) is allocated to a DBS Program account established for that member. Additionally, employer and employee contributions for any service performed in excess of 1.000 years in a given school year (for example, if the member teaches an extra class or leads an extracurricular activity) are credited to the member's DBS account.

The DBS Program has a guaranteed interest rate, which is determined annually by the Teachers' Retirement Board. In addition, the Board may grant an additional earnings credit every year to DBS participants and an additional annuity credit to retired members receiving a DBS annuity. Since the start of the DBS Program, the Board has awarded an additional earnings credit and an additional annuity credit twice. Members are required to receive their DBS benefit when they begin to receive the DB benefit.

**ANALYSIS:**Compensation Earnable

Employers sometimes make retroactive changes to base hours and apply these changes to individual employees rather than the entire class of employees. This causes problems for CalSTRS to correctly compute the correct benefit for part-time community college instructors employed prior to July 1, 1996. This measure clarifies that changes to base hours apply to the entire class of employees of community colleges.

*Section affected: 22115.*

CalPERS/CalSTRS Election

Education Code Section 22508 refers to Government Code Section 20309 to describe the circumstances under which an eligible CalPERS member can elect CalSTRS coverage. This measure clarifies that a member of CalPERS who is subsequently employed to perform creditable service "requiring," instead of being "subject to," coverage of the Defined Benefit program may elect to remain under CalPERS coverage.

*Section affected: 22508.*

Permissive Elections

Education Code Section 22515 was modified by Chapter 375, Statutes of 2002 (AB 2982) to remove the language stating that the election of membership by substitute teachers and part-time employees in the Defined Benefit Program was irrevocable. Prior to that modification, the election was irrevocable and conformed to all other Defined Benefit elections. This measure clarifies that this election is irrevocable and remains in effect until the member terminates employment.

*Section affected: 22515.*

### Refund of Accumulated Retirement Contributions

The Federal Pension Protection Act of 2006 (PPA) authorizes nonspouse rollovers when the nonspouse is a beneficiary who is owed a distribution because of the member's or participant's death. Under Chapter 513, Statutes of 2007 (AB 1432-Soto), which conformed the TRL to the PPA, registered domestic partners were authorized to rollover the balance of their segregated accounts. However, under federal law, registered domestic partners are "nonspouses" and the PPA did not authorize a nonspouse to rollover a distribution of a segregated account. This measure replaces the language that was removed by Chapter 513, Statutes of 2007, so that registered domestic partners are again prohibited from rolling over the balance of their segregated accounts to bring CalSTRS back into compliance with federal law.

*Section affected: 22661.*

### Reduced Workload Program

One of the restrictions of the reduced workload program is the requirement that a member be employed to perform creditable service for at least 10 years full-time, and that at least 5 of those years immediately precede the reduction in workload. It has been brought to CalSTRS' attention that this requirement is not clear when parsed grammatically. This measure corrects this grammatical error to clarify the requirement, and adds a reference to other code sections that also include reduced workload provisions.

*Section affected: 22713.*

### Permissive and Additional Service Credit

When CalSTRS receives a request to purchase additional service credit, CalSTRS follows several processing procedures to determine that eligibility requirements have been met by the member making the request and that the costs of purchase are accurate. Various sections of the Education Code are used as the primary tools to make this determination. However, some of the current terminology and language are vague, open to interpretation, or obsolete. This measure makes corrections to clarify the terminology and language for the purchase of additional service credit.

*Sections affected: 22801, 22802, 22803, 22805, 22820, 22821, 22822, 22823, 22826.*

### Redeposit of Contributions

Some of the language relating to the redeposit of contributions is vague. This measure makes corrections to the terminology to reduce this vagueness with language that is clear.

*Section affected: 23200, 23201.*

### Coverage B: Active Member Survivor Benefits

Part 13, Chapter 23 of the Education Code (Sections 23850 – 23859) addresses death benefits and survivor benefits paid upon the death of active members with Coverage B. Section 23856 allows CalSTRS to pay a survivor benefit allowance to a surviving spouse or to eligible dependent children of a deceased member if there is no surviving spouse. Section 23859 further requires that upon termination of a survivor benefit pursuant (for example, death of the surviving spouse), if the total allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of death, the remaining balance shall be paid to the estate of the spouse. Section 23859 does not, however, specify what is to happen to the

remaining balance when the eligible dependent children described above are no longer eligible for the child's allowance.

This measure clarifies that the balance of a deceased member's account may be paid to the member's designated beneficiary upon termination of all children's allowances. This action parallels the action taken under Coverage A (which provides that upon termination of family allowance prior to the payment of allowances equal to the member's accumulated contributions, the balance shall be paid to the member's beneficiary).

*Section affected: 23859.*

#### Disability Benefit

There is currently no statutory requirement that specifies that a member applying for a disability benefit must submit a disability application in order for CalSTRS to determine whether the member meets all eligibility requirements for the benefit. This measure clarifies that a member applying for disability must submit a written application on a form provided by CalSTRS.

*Sections affected: 24001, 24101*

Retirement Benefits Pending an Evaluation of Disability . SB 634 clarifies that:

- 1) If the member does receive a Service Retirement benefit payment, the effective date of that benefit is the same as the effective date of the disability benefit.
- 2) A member who dies while awaiting a disability determination who has also applied for service retirement will be considered retired for service at the time of death if the member dies prior to the determination of the disability application.
- 3) A member who dies after the Board has determined the member is disabled will be considered disabled at the time of death, even if the member dies prior to receiving notification from CalSTRS of this determination.

*Section affected: 24201.5.*

#### Post-Retirement Earnings Limit Exemptions

There is currently no statutory requirement for the timeframe in which an employer must provide documentation that a retired member is working under an exemption to the post-retirement earnings limit. As a result, employers may not provide this documentation until significantly after the end of the applicable school year, delaying the determination as to whether portions of member's benefits should be paid or withheld. To simplify administration of these exemptions, this measure requires the employer to provide CalSTRS with appropriate documentation by the end of the school year for which it applies.

*Sections affected: 24216, 24216.5, and 24216.6.*

#### Disability Retirement Election of Options

Although existing law states that the option elected by a member receiving disability retirement may not be revoked or changed after the later of the effective date of the disability retirement allowance or 30 days after the mailing of the acknowledgment notice, there are certain exceptions. This measure clarifies these exceptions by referring to specific sections of the Education Code.

*Section affected: 24301.*

#### Preretirement Election of an Option

Under some circumstances a spouse's signature may be required to change or cancel a preretirement option. However, Section 24309 of the Education Code only specifies that a change or cancellation must be received by CalSTRS 30 days after the member's signature. This measure specifies that the change or cancellation must be received by CalSTRS 30 days after the member's signature, or spouse's, signature, if applicable.

*Section affected: 24309.*

#### Defined Benefit Supplement Program (DBS)

The DBS Program was designed to mirror the Cash Balance Benefit Program and to distribute contributions made by each member back to that member. Due to oversight, however, the current method for distributing an additional annuity credit does not meet either of these criteria. At present, the Education Code requires that the additional annuity credit a member receives be based on the initial value of the member's annuity, rather than the current value of the member's annuity. As a result, the longer a member has been receiving annuity payments, the higher proportion of that annuity's current value the member receives when the Board declares an additional annuity credit, effectively redistributing some of the newer annuitants' accounts' earnings to older annuitants. This measure changes the DBS additional annuity credit to mirror the Cash Balance Benefit Program and to provide that the additional annuity credit paid to a member is based on the current value of the member's annuity, not the initial value of the member's annuity.

*Section affected: 25007.*

The DBS Program is designed such that a member who retires from the DB Program must also retire from the DBS program. However, when the DBS Program was first created, these two retirement application forms were separate documents. As a result, some members have retired under the DB Program but not yet received DBS funds. To remedy this situation, this bill clarifies the requirement that a member must submit a completed benefit application—which currently includes DBS program forms—in order to receive a retirement or disability benefit. Additionally, to address the outstanding accounts of those members and beneficiaries receiving benefits as of January 1, 2010, who have not submitted a DBS Program form, this measure requires CalSTRS to distribute the balance of those DBS accounts to each applicable member or beneficiary in a lump-sum by March 31, 2010.

*Sections affected: 25008.5, 25010, 25011.1, 25017, and 25020.*

## **FISCAL IMPACT**

Benefit Program Cost – None.

Administrative Costs/Savings – Minor and absorbable.

## **SUPPORT**

CalSTRS (Sponsor).

## **OPPOSITION**

None known.

## **ARGUMENTS**

**Pro:** SB 634 provides for the continued efficient administration of the Plan by extending the required reporting dates to determine state contributions and clarifying a portion of the survivor benefits law.

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