
Bill Number: Senate Bill 973 (Kuehl) – As Amended 8/25/05

SUMMARY:

Among other things, SB 973 makes various technical changes to the provisions of the Teacher's Retirement Law (TRL), which implemented the California Domestic Partner Rights and Responsibilities Act of 2003, Chapter 421, Statutes of 2003 (AB 205—Goldberg). It also clarifies that retired members of the Defined Benefit (DB) Program may name their registered domestic partner as an option beneficiary under the same circumstances that apply to married members, and that registered domestic partners must sign pre-retirement option election forms before they are submitted to the System.

PURPOSE OF THE BILL:

According to the author, this bill implements the California Domestic Partner Rights and Responsibilities Act of 2003 as it relates to public employee retirement systems governed directly by statute, including '37 Act County Retirement Systems, the California Public Employees' Retirement System (CalPERS), and the California State Teachers' Retirement System (CalSTRS). Specifically, it would mitigate the impact of future legal challenges to AB 205 that would negatively effect the benefits and rights of CalSTRS members and their registered domestic partners.

BOARD POSITION:

The Teachers' Retirement Board (Board) supported AB 205, which provided registered domestic partners with the same rights and responsibilities that state law provides married spouses, and sponsored AB 2233, which amended the TRL to implement AB 205. The Board's support was based, in part, on the ability of the legislation to reduce inequities and deficiencies in the design of the Teachers' Retirement Plan. The provisions of SB 973 that apply to CalSTRS are technical in nature and do not affect eligibility requirements for CalSTRS benefits or dictate changes to the administration of CalSTRS.

ANALYSIS:

Among other things, Senate Bill 973:

- Removes registered domestic partners from the TRL's definition of spouse and instead creates a separate definition of registered domestic partner that specifies they shall be treated in the same manner as a spouse, or in the case of separation or dissolution of a registered domestic partnership, as a non-member spouse.
- Clarifies that a DB member who retired without an option and was not part of a registered domestic partnership and later enters a registered domestic partnership is eligible to make an option election naming his or her partner;
- Clarifies that a DB member's registered domestic partner is held to the same requirement to sign pre-retirement option elect forms as a member's spouse.

CalSTRS' 2004 annual technical housekeeping legislation amended the Teachers' Retirement Law to implement AB 205, the California Domestic Partner Rights and Responsibilities Act of

2003. These changes became effective at the same time as AB 205 on January 1, 2005, and provided for equal treatment of member and participant spouses and registered domestic partners by adding registered domestic partners to the definition of spouse provided in statute. The definitional change represented an efficient approach to conforming with the new law and eliminated the need to add the term “registered domestic partner” following every reference to “spouse” in statute. SB 973 establishes a separate identity for registered domestic partners in the TRL while continuing to provide them with the same rights and benefits. This technical change represents a more appropriate approach to conforming with the provisions of AB 205.

Since CalSTRS’ implementation of AB 205, which primarily involved changes to member publications and forms, and employee training and reference manuals, staff has identified a need for further clarification in law that specifies a member’s benefit election will not be processed unless he or she provides the System with the signed acknowledgement of their spouse that the election may affect their community property rights. SB 973 adds a reference to registered domestic partner to that provision in law to reduce the number of benefit determination appeals filed by members and their partners where an impairment may have occurred, saving staff time and CalSTRS resources.

The bill also provides further clarification regarding the right of a retired member who: 1) has not selected an option beneficiary (which can be anyone of their choosing, including their partner) and 2) has not previously been married or participated in a registered domestic partnership, to subsequently elect their spouse or registered domestic partner as their beneficiary by adding a reference to registered domestic partner to that provision in law. Members of the DB Program have had the right under these circumstances to name their registered domestic partner as their option beneficiary since January 1, 2005, however, this right is so vital to retired DB members that a specific reference to registered domestic partners is necessary to avoid confusion.

SB 973 does not change any CalSTRS benefits, administrative processes, forms or publications. All CalSTRS administrative and benefit program changes required to recognize the statutory rights of registered domestic partners have been implemented pursuant to AB 2233.

LEGISLATIVE HISTORY:

Chapter 912, Statutes of 2004 (AB 2233—PER&SS) the annual CalSTRS technical housekeeping bill, among other things, conforms the TRL to the provisions of Chapter 421, Statutes of 2003.

Chapter 421, Statutes of 2003 (AB 205—Goldberg), beginning January 1, 2005, extends the rights, protections, benefits, responsibilities, obligations and duties of current, former and surviving married spouses to current, former and surviving registered domestic partners in California; requires that a formal, same-sex union created in another state be recognized as a registered domestic partnership in California; also outlines the criteria for establishing a new domestic partnership and the requirements and methods for terminating an existing partnership.

Chapter 1020, Statutes of 2000 (AB 820—PER&SS), allows a member who retired unmarried and with an unmodified allowance to designate their new spouse as a new option beneficiary if the member gets married.

PROGRAM BACKGROUND:Option Beneficiaries

The DB Program currently provides seven options from which members may choose to provide an on-going annuity to their survivors. Joint and survivor options (options) were introduced into the plan structure in 1937. An option is an election by a member to provide a lifetime benefit to an option beneficiary, spreading the member's allowance over two or more lifetimes. The allowance of the member is actuarially reduced from the unmodified allowance to pay for the portion that the option beneficiary will receive upon the member's death, such that the present value of the modified allowance paid over the lifetime of the member and the option beneficiary will be equal to the present value of the unmodified allowance over the member's lifetime. Unlike the benefit offered to members of CalPERS and '37 Act County Retirement Systems, a member of the CalSTRS DB Program may name any person as their option beneficiary.

To provide a lifetime benefit to an option beneficiary, a member must elect an option and name an option beneficiary, which may be done at the time of retirement or at the time the member is eligible to retire (known as a pre-retirement election of an option). However, once members retire, their option selection is irrevocable except under the following limited circumstances:

- Death of the original option beneficiary after the member's effective date of retirement. The member may elect an option again, but the benefit is further reduced.
- A member divorces or terminates a registered domestic partnership. The member may cancel his or her option.
- The member was unmarried or unregistered, and previously designated a person other than his or her current or former spouse or current or former registered domestic partner. The member may cancel the previous designation and name his or her spouse or registered domestic partner as their new option beneficiary. The member's allowance will be further modified to adjust for the age of the new spouse/partner and current age of the member.

Retired members who retired without an option election may elect an option and name an option beneficiary if they:

- Were unmarried or not part of a registered domestic partnership at the time of retirement,
- Subsequently got married or entered a registered domestic partnership; and
- Name their new spouse/partner as their option beneficiary.

CalSTRS has also provided various "window periods" in the past, in which active and retired members had the opportunity to change an existing option election, or elect a new option if one was not previously elected. These window periods were provided at the time CalSTRS introduced new options to give active and retired members the chance to take advantage of one of the new options. If a member elected to change an option during one of these enrollment periods, he or she was required to designate the same option beneficiary as under the previous option. A member who designates his or her spouse or registered domestic partner is required to provide a copy of either the marriage certificate or the certification of registered domestic partnership at the time benefit eligibility is determined.

FISCAL IMPACT:

Benefit Program Costs—None

Administrative Costs—Minor and Absorbable

SUPPORT/OPPOSITION

Support:

Equality California (Sponsor); American Civil Liberties Union; AFSCME; CFT; CALPERS; California School Employees Association; California State Employees Association; LACERA; National Association of Social Workers; SEIU, Local 1000

Opposition:

Department of Finance

ARGUMENTS

Pro: Provisions of the law related to public employees' retirement and benefits will be clarified where confusion is currently possible.

Con: None