

BILL NUMBER: SB 1165 (Pan) as amended April 19, 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 April 19, 2018, amendments:

- Remove Education Code section 22502 related to membership dates for members who are hired on a part-time basis for 50 percent or more of full time or on a permanent basis.

PROGRAM BACKGROUND & ANALYSIS:

Membership Dates for Mandated Membership

Background

Educators are mandated into the DB Program when they are employed to perform creditable service:

- On a full-time basis.
- On a part-time basis for 50 percent or more of the time required for a full-time position.
- As a substitute employee for 100 or more complete days of creditable service in one school year for one employer.
- On a part-time hourly basis for 60 or more hours of creditable service during a pay period for one employer.
- On a part-time daily basis for 10 or more days of creditable service during a pay period for one employer.
- On a permanent basis as specified for community college districts.

Membership for employees hired as substitutes or on a part-time hourly or part-time daily basis is effective the first day of the pay period following the pay period in which the membership threshold was reached. Statute states the service accrued to meet the

threshold must occur during one school year for one employer. However, the law is unclear as to whether the pay period when membership is effective needs to occur during the same school year.

Proposed

This measure clarifies that the DB Program membership date for members who meet the service thresholds begins the first day of the pay period following the pay period in which the threshold was met if service is performed for the same employer and that pay period is in the same school year. It also restructures various sections to remove redundancies and simplify readability.

Sections affected: 22503 and 22504

Membership Provisions for Community College Employees

Background

Current law references community college employees in code sections applying to full-time and substitute employment, while other sections classify these employees on a temporary or permanent basis. Community college districts classify their employees on a temporary or permanent basis so referencing them in full-time or substitute sections is confusing and inconsistent.

Proposed

This measure clarifies that DB Program membership for a community college employee is based on whether or not the person is employed on a temporary basis as specified. It also restructures various sections to remove redundancies and simplify readability.

Sections affected: 22001.5, 22501, 22503, 22504, 22601.5, 22602 and 22604

Defined Benefit Membership Provisions for Persons Employed by Cash Balance Employers

Background

The CB Benefit Program is a CalSTRS retirement plan that employers may offer as an alternative to Social Security or other plans for part-time, substitute, adjunct or temporary educators. Current law is intended to incentivize employers to offer the CB Benefit Program by allowing employers to avoid monitoring employees using service thresholds for mandatory DB membership under the program. Therefore, certain mandated membership statutes specify whether or not they apply to persons employed by an employer that offers the CB Benefit Program. However, the current language is unclear and not included in all related sections.

Proposed

This measure removes unnecessary language specifying application to employers offering the CB Benefit Program within those statutes that apply to all employers. The measure adds clarifying language to sections that do not apply to persons employed by employers offering the CB Benefit Program. It also clarifies that although persons under certain sections are not subject to DB membership, they are subject to coverage by the CB Benefit Program if it is offered by the employer.

Sections affected: 22503, 22504, 22601.5, 22602 and 22604

Continued Participation in Alternative Retirement Programs after Membership

Background

If a person is hired as a part-time, substitute, adjunct or temporary educator for an employer offering the CB Benefit Program, he or she defaults into the CB Benefit Program. However, that person can instead elect coverage under Social Security or an alternative retirement program (ARP). The Teachers' Retirement Law is silent on whether a person may continue that coverage under Social Security or an ARP with the existing employer once he or she mandates into DB membership with a different employer.

Proposed

This measure specifies that a person who elects coverage under Social Security or an ARP when employed by an employer offering the CB Benefit Program may continue that coverage if he or she later works for another employer as a DB member.

Section affected: 26400

Cash Balance Participation for Hourly and Daily Employees

Background

The Teachers' Retirement Law states that part-time, temporary and substitute employees can participate in the CB Benefit Program. Even though the program was intended to apply to all part-time employees, the law does not specifically identify participation by part-time hourly or part-time daily employees.

Proposed

This measure clarifies that part-time hourly and part-time daily employees default into participation in the CB Benefit Program if it is offered by their employer and may instead elect coverage by Social Security or an ARP as specified.

Sections affected: 26400 and 26401

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 CalPERS 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

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

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 twelve 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

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 member'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 member'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

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 1122 (Cannella, Chapter 390, Statutes of 1995) reduced the full-time minimum standard hours for part-time and adult education instructors employed by a community college district from 1,050 hours to 525 hours and 875 hours, respectively.

AB 1298 (Ducheny, Chapter 592, Statutes of 1995) established provisions for the Cash Balance Benefit Program.

AB 1586 (PER&SS, Chapter 442, Statutes of 2004) allowed CalSTRS to compare the benefits payable with the pre and post July 1, 1996, definition of full time and provide the member with the higher benefit payable.

AB 3076 (Mullin, Chapter 474, Statutes of 2004) amended CalSTRS membership requirements to add provisions specific to community college district employees who often temporarily exceed service for 50 percent or more of full time.

AB 991 (PER&SS, Chapter 123, Statutes of 2015) reorganized the Cash Balance Benefit Program participation statutes and specified participation in the program by substitute employees.

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

Samantha Kesner
Legislative Analyst,
CalSTRS Governmental Relations,
(916) 414-1987
skesner@calstrs.com

John Maradik-Symkowitz
Manager,
CalSTRS Governmental Relations,
(916) 414-1977
jmaradik-symkowitz@calstrs.com

Joycelyn Martinez-Wade
Director,
CalSTRS Governmental Relations,
(916) 414-1980
jmwade@calstrs.com