

**BILL NUMBER: SB 1220 (Torres) as introduced February 20, 2014**

**SUMMARY**

SB 1220 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 1220 will help ensure continued effective and efficient plan administration for CalSTRS internal and external customers.

**PROGRAM BACKGROUND  
& ANALYSIS:**

Supplemental Base Allowance

*Background*

Existing law provides for periodic increases to a member's benefit to mitigate inflation and ensure adequate purchasing power. Several sections inconsistently refer to a member's benefit prior to an annual benefit adjustment and after modification for an option as the "initial," "base," or "original" allowance. These inconsistent references have caused confusion for members who believe they should receive a supplemental benefit based on their allowance at retirement rather than their allowance after an option change and the death of his or her option beneficiary.

*Proposed*

This measure adds a definition for the term "base allowance" and replaces "initial monthly" and "original" with "base allowance" to reduce inconsistent use of terms to refer to a member's benefit prior to an annual benefit adjustment and after modification for an option.

*Sections affected: 22106.1, 22106.2, 24412, 24415*

Break in Service

*Background*

Traditionally, the school year lasts from September to June of the following year. Existing law defines the school year as the fiscal year or academic year but does not provide any additional definition of "school year" or "academic year." Under existing law, as long as a member who is employed on a full-time basis begins creditable

service at the beginning of the school year, July and August are not considered a break in service, even if no service is performed during those months. However, members who work in school districts with nontraditional school years could be considered to have had a break in service.

*Proposed*

This measure replaces “July and August” with a general reference to the months not recognized as part of the school term for the purpose of excluding those months from the definition of a break in service, if a member started performing service at the beginning of, and completed, the school year. CalSTRS will be able to ensure members with traditional and nontraditional school years are treated consistently when calculating final compensation, since months that are not part of the school term will no longer be considered a break in service.

*Section affected: 22109.5*

PEPRA Conforming Bill Clean-Up

*Background*

Chapter 559, Statutes of 2013 (AB 1381, PER&SS), made various technical corrections and conforming changes that aligned the Teachers’ Retirement Law with the provisions of the Public Employees’ Pension Reform Act of 2013 (PEPRA). Minor grammatical and drafting errors remained in the language when it was chaptered.

*Proposed*

This measure makes minor punctuation corrections and specifies the Consumer Price Index for all Urban Consumers used to adjust the compensation cap for members subject to PEPRA (2% at 62) is the U.S. City Average.

*Sections affected: 22119.3, 24214.5, Section 1 of Chapter 559 of the Statutes of 2013*

Creditable Service

*Background*

Existing law defines creditable service for the DB and CB Benefit programs by providing a list of activities that are considered creditable service when they are performed for an employer in a position requiring a credential, certificate, or permit:

- Pursuant the Education Code,
- Under standards adopted by the Board of Governors of the California Community Colleges,
- Under the provisions of an approved charter for the operation of a charter school for which the employer is eligible to receive state apportionment, or
- Pursuant to a contract between a community college district and the U.S. Department of Defense.

*Proposed*

This measure clarifies the definition of creditable service by making minor grammatical changes and specifying that the clause related to state apportionment is only meant to

be applicable to charters schools. This measure also repeals an obsolete occurrence of section 22119.5.

*Sections affected: 22119.5, 26113*

### Credited Service

#### *Background*

Existing law defines “credited service” as service for which the required contributions have been paid. However, for 2% at 62 members there is a limit on creditable compensation, and no contributions are paid to CalSTRS on compensation in excess of the limit.

#### *Proposed*

This measure defines “credited service” for 2% at 62 members so that service for which compensation is in excess of the limit and no contributions are paid is deemed to be credited service.

*Section affected: 22121*

### Definition of Employer

#### *Background*

In the mid-1970s, the Government Code was amended to add the ability for two or more public agencies to join together and operate collectively, under a joint powers authority (JPA), to provide more effective and efficient government services or to solve a service delivery problem. Because JPAs are not explicitly included in the current definition of employer in the Teachers’ Retirement Law, it creates an ambiguity as to whether they may report contribution data to CalSTRS.

#### *Proposed*

This measure specifies that JPAs are among the entities considered to be employers if creditable service is performed at all of the entities in the JPA and they all report through the same county office of education.

*Section affected: 22131*

### Final Compensation

#### *Background*

Final compensation is generally the highest average annual compensation earnable for any period of three consecutive schools years. However, final compensation may be the highest average annual compensation earnable during any period of 12 consecutive months, if a member not subject to PEPRA (2% at 60) has 25 or more years of service credit. Existing law inconsistently references the time periods used to calculate final compensation. The following situations show where confusion can arise.

One-Year Final Compensation: Generally, CalSTRS calculates final compensation using the member’s compensation earnable from one school year. For members with

one-year final compensation, 12 months of compensation is needed to calculate the average. In a 10-month school year when the school year does not begin in September, CalSTRS uses the 10 months of compensation earnable and two months of the earnable from the previous school year to accumulate the 12 months needed due to the current definition of break in service.

Mid-Year Retirement: The statutory definitions of “final compensation” and “compensation earnable” establish the school year as the period of time used to determine compensation earnable. For members who retire at the end of the school year and earned their highest salary that year, CalSTRS uses the compensation earnable for the final full school year. However, when a member is eligible for one-year final compensation, retires mid-year and earns his or her highest salary during the last partial year of employment, CalSTRS calculates the annual earnable for the partial year and combines it with the annual earnable from a portion of the previous school year, to reflect one full year of compensation.

Three-Year Non-Consecutive Final Compensation: Final compensation is usually based on three consecutive school years for 2% at 60 members with fewer than 25 years of service credit and all 2% at 62 members. However, members who experienced a salary reduction due to a decrease in state school funding may use any three highest years.

#### *Proposed*

This measure inserts a reference to the section defining “compensation earnable,” in all sections that define final compensation to make clear the period of time used to determine “compensation earnable” is the school year. This measure makes the references to the period of time used to calculate final compensation consistent by referring to months in each section. This measure requires employer certification that a member, whose salary was reduced because of a reduction in school funds, can elect the use of three non-consecutive years. This measure also makes clarifying changes and references to reduce confusion.

*Sections affected: 22134, 22134.5, 22135, 22136, 22516, 24600*

#### System’s Headquarters Office

##### *Background*

CalSTRS has the authority to select, purchase, or acquire in the name of the State Teachers’ Retirement Plan, an office building in the greater metropolitan Sacramento area, including the City of Sacramento, the County of Sacramento, and the eastern part of Yolo County, for the purposes of establishing a permanent headquarters facility for the system. In 2009, when construction of the current headquarters building was completed, CalSTRS staff moved into the new headquarters. Many sections of law continue to refer to Education Code section 22375, which authorizes the headquarters office. Chapter 558, Statutes of 2013 (AB 1379, PER&SS), defined “system’s headquarters office” and removed references to section 22375 in multiple sections of law. However, the removal of the reference was chaptered out, or omitted, in some sections of law.

*Proposed*

This measure removes unnecessary references to Education Code section 22375.

*Sections affected: 22662, 22663, 22664, 22801, 22826, 23828, 23104, 24306.7*

DBS Program Contributions*Background*

Under existing law, contributions on creditable compensation are credited to the DBS Program for compensation that is:

- For creditable service that exceeds one year in a school year;
- Paid for a limited number of times as specified by law, a collective bargaining agreement, or an employment agreement (not applicable to 2% at 62 members); or
- Determined to have been paid to enhance a member's benefits (not applicable to 2% at 62 members).

*Proposed*

This measure inserts a reference into section 22905 related to the provision of law listing the sound principles that support the integrity of the Teachers' Retirement Fund that are part of the definition of "creditable compensation."

*Section affected: 22905*

Disability Eligibility*Background*

A retired member may terminate his or her retirement and reinstate to active, creditable service. After at least one year of additional active service, the member, if eligible, may apply for disability benefits. Termination of the retirement benefit is required prior to applying for a subsequent disability benefit.

*Proposed*

This measure clarifies that a member cannot currently be receiving a retirement benefit when he or she subsequently applies for a disability benefit.

*Sections affected: 24001, 24101*

Service Retirement Benefit Effective Date*Background*

Members currently may submit an application for service retirement during a period that begins six months prior to the chosen retirement date, as long as the effective date is after creditable service has been terminated. A member may backdate the effective date of his or her service retirement to any date on or after January 1, 2012, or on or after January 1, 2014, in the case of service retirement during evaluation of a disability, regardless of the amount of time that has passed since that date. When the law was changed to allow backdating, the phrase "retiring on and after January 1" was used. However, the term "retiring" is not clearly defined and may cause confusion.

*Proposed*

This measure removes the unclearly defined term, "retiring," and clarifies that the limit on backdating applies to a member who submits an application to retire on and after the applicable date.

*Sections affected: 24201.5, 24204*

Career Factor and Longevity Bonus*Background*

CalSTRS 2% at 60 members with 30 years of service credit by December 31, 2010, are eligible for the longevity bonus when they retire for service, which adds a flat dollar amount to their monthly benefit based on the total years of service. In addition, 2% at 60 members retiring with 30 or more years of service are eligible for the career factor, which provides an additional two-tenths of a percent of salary, up to the total maximum of 2.4 percent.

*Proposed*

This measure adds references to code sections authorizing retirement that were previously left out of the provisions of law pertaining to the longevity bonus and the career factor.

*Sections affected: 24203.5, 24203.6*

Benefit Calculations*Background*

Members receiving a disability retirement benefit may terminate the disability benefit and later retire for service. Upon subsequent service retirement, the member may be eligible for the longevity bonus, but the law omits that benefit enhancement from the service retirement calculation.

When a member terminates a disability allowance and subsequently retires for service, the service retirement benefit may or may not correctly reflect service credit granted for the following, depending on how many years of creditable service are performed before the subsequent retirement, because of discrepancies in the law,:

- Unused sick leave,
- Educational leave,
- Permissive service credit purchased by the member,
- Out-of-state service purchased by the member, and
- Service credit redeposited by the member.

Existing law does not consistently allow a member who service retires after receiving a disability allowance to elect an option on or before the effective date of a member's retirement. This affects members retiring in any situation, including after terminating a disability allowance, regardless of whether the member performed creditable service after the disability or the amount of time that elapses between the disability allowance and the retirement.

The age factor and the exclusion of the children's portion of the disability allowance are missing from the calculation of service retirement when a member moves directly from disability allowance to service retirement.

In addition, existing law inconsistently applies the longevity bonus and career factor when a member moves from disability allowance to service retirement.

*Proposed*

This measure:

- Includes a reference to the longevity bonus for members who terminate a disability retirement and subsequently service retire;
- Clarifies the language that provides additional service credit to certain, eligible members who retire after receiving a disability allowance;
- Corrects an inconsistency in the provisions allowing members to elect an option after terminating a disability allowance and retiring for service, by adding the ability to elect an option when members terminate disability and go immediately to service retirement;
- Adds a reference to the age factor where it is missing;
- Clarifies the children's portion of the disability allowance is excluded from retirement benefit determinations; and
- Clarifies the longevity bonus and career factor can be used as appropriate.

*Sections affected: 24210, 24211, 24212, 24213*

Option Change Window Period for Same-Sex Spouse

*Background*

The federal Defense of Marriage Act (DOMA) amended the Dictionary Act's definition of "spouse" and "marriage" to refer only to heterosexual unions. As a result, the federal Treasury Regulations used the terms "spouse" and "marriage" only in reference to opposite-sex couples.

In California, married heterosexual spouses, registered domestic partners, and married same-sex spouses have historically received the same treatment, except in specific situations detailed under the Treasury Regulations. As a result, same-sex spouses and registered domestic partners were considered as "non-spouse beneficiaries" for taxes and survivor benefits. Therefore, members who wanted to designate their same-sex spouse or registered domestic partner as their DB option beneficiary or DBS joint and survivor annuity beneficiary were prevented from electing certain options and annuities.

On June 26, 2013, the Supreme Court issued a decision in the case of *United States v. Windsor* in which it held that section 3 of DOMA amending the Dictionary Act's definition of "spouse" and "marriage" to refer only to heterosexual unions is unconstitutional. To comply with the decision, government benefit providers are to treat heterosexual married couples and same-sex married couples equally in all areas of benefit administration, including taxes and survivor benefits.

*Proposed*

This measure opens a window period in which members who were married to a same-sex spouse and who elected an option prior to June 26, 2013, can change their option election if they were prevented from selecting the option of their choice due to the federal age restrictions previously in place that applied to same-sex spouse beneficiaries.

*Section affected: 24348*

Option Reorganization*Background*

The DB Program offered seven survivor benefit options that were available to members prior to January 1, 2007, and now offers four options that are available starting January 1, 2007. Members who had elected one of the old options had a window period during which they could change their option and elect one of the new choices. The provisions governing these options are found in Chapter 28, sections 24300 through 24313 of the Education Code. The order of these sections does not provide for ease of understanding, and clarification is needed on the treatment of options during the first year after termination of a service retirement benefit due to changes made by Chapter 135, Statutes of 2012 (AB 178, Gorell).

*Proposed*

This measure comprehensively reorganizes the sections of Chapter 28 of the Teachers' Retirement Law, aligns references to the new section numbers, and clarifies the provisions of law related to survivor benefit options, including:

- For retired members whose option beneficiary predeceases him or her, amending former section 24306 to correspond to and consolidate language that was found in section 24300 as follows:
  - For a member who elects Option 4 or 5, the retirement allowance adjusted for the specified option will be payable to the member and will start to accrue the day after the option beneficiary's death.
  - For a member who elects Option 4 or 5 within Option 8, the retirement allowance adjusted for the specified option will be payable to the member and will start to accrue the day after the option beneficiary's death.
  - For a member who elects Option 6 or 7, or elects Option 6 or 7 within Option 8, the member may designate a new beneficiary for that portion of the retirement allowance within the same option designated for the prior beneficiary.
  - For a member who elects one of the four joint and survivor options in effect since January 1, 2007, the retired member may designate a new beneficiary for that portion of the retirement allowance within the same option designated for the prior beneficiary.
  - A new option beneficiary cannot be an existing option beneficiary for that member designated under Option 8 or the Compound Option.
- Specifying in various sections that if, before a new election becomes effective, the member reinstates or the retired member or new option beneficiary dies, the new election is void.

- Amending section 24307 to remove a redundant requirement that a spouse's or registered domestic partner's signature be included on a form to elect a preretirement option within 30 days of the member's signature.
- Amending section 24307 to list requirements for a member who terminates a service retirement allowance:
  - If the member retires again within one year, he or she is required to keep the option and beneficiary or the unmodified election in place at the time the termination of benefits became effective.
  - If a member's option beneficiary predeceases the member within a year of the termination of benefits, the option and beneficiary will be removed from that portion of the benefit with modification by an option factor; the member cannot elect a new option or beneficiary until one year from the termination effective date.
  - If a final decree of dissolution of marriage or a judgment of nullity is entered or an order of separate maintenance is made within one year of the termination of benefits, CalSTRS will remove or change the option election in accordance with the court order; any additional changes cannot be made until one year from the termination effective date.

This measure also repeals an obsolete occurrence of section 24305.3.

*Sections affected: 22655, 24105, 24107, 24205, 24300, 24300.1, 24300.2, 24300.5, 24300.6, 24301, 24302, 24303, 24304, 24305, 24305.3, 24305.5, 24306, 24306.5, 24306.7, 24307, 24308, 24309, 24311, 24312, 24312.1, 24313, 24402, 25015,*

### Cash Balance Benefit Program Termination Requirements

#### *Background*

Existing law allows DB members and CB participants to refund their contributions and interest once they terminate their creditable service. Under the DB Program, if no contributions have been reported for 12 months, the member is considered to have terminated his or her employment. However, if the member has performed creditable service in the previous 12 months, the employer, or employers, must certify that employment has been terminated. Under the CB Benefit Program, every employer the participant has ever worked for must certify the termination of employment when the participant applies for a retirement or termination benefit.

#### *Proposed*

This measure allows a CB participant to apply for a retirement or termination benefit without requiring employer certification that employment has been terminated if no contributions are reported by the employer within the previous 12 months, consistent with the requirements in the DB Program.

*Sections affected: 26803, 27201*

### Waiver Authority Exemption

#### *Background*

The State Board of Education has the authority to waive portions of the Education Code, so they do not apply to school districts that request a waiver. However, there are

several provisions of the Education Code that cannot be waived. Part 13 of the Education Code, which governs the DB and DBS programs, is included among those provisions that cannot be waived. Part 13.5, which relates to health care benefits programs, and Part 14, which relates to the CB Benefit Program, were added to the Education Code after the enactment of the waiver authority.

*Proposed*

This measure adds Parts 13.5 and 14 to the provisions of law that cannot be waived by the State Board of Education.

*Section affected: 33050*

## LEGISLATIVE HISTORY

AB 1381 (PER&SS, Chapter 559, Statutes of 2013) Made various technical corrections and conforming changes that align the Teachers' Retirement Law with the provisions of the Public Employees' Pension Reform Act of 2013 (PEPRA), as enacted in AB 340 (Furutani).

AB 340 (Furutani, Chapter 296, Statutes of 2012) Made various changes to the CalSTRS benefit structure that affect 2% at 62 members, including reducing the age factor, increasing minimum and normal retirement age, eliminating the career factor, requiring final compensation be calculated based on the highest average annual compensation earnable over three consecutive school years, reducing the limit on compensation that counts toward retirement benefits, limiting the type of compensation that counts toward retirement benefits, eliminating the Replacement Benefits Program, and requiring the contribution rate to equal 50 percent of the normal, ongoing cost of benefits. Also made other changes that apply to all CalSTRS members, including prohibiting the purchase of nonqualified service, requiring that a conviction for a work-related felony result in the forfeiture of benefits, expanding the separation from service requirement or zero-dollar limit to all members who retire on or after January 1, 2013, adding a narrow exemption to the separation from service requirement, extending the narrow exemption to the annual postretirement earnings limit to June 30, 2014, and prohibiting retroactive benefit enhancements.

AB 1389 (Budget, Chapter 751, Statutes of 2008) Increased the targeted non-vested purchasing power benefit from 80 percent to 85 percent but gave the Teachers' Retirement Board authority to adjust that target between 80 and 85 percent based on long-term actuarial projections. Reduced state General Fund payments into the SBMA by \$66 million in 2008–09, \$70 million in 2009–10, \$71 million in 2010–11, and \$72 million in 2011–12 and thereafter.

SB 973 (Kuehl, Chapter 418, Statutes of 2005) Made various technical changes to the provisions of the Teachers' Retirement Law. Implemented the California Domestic Partner Rights and Responsibilities Act of 2003 (AB 205) and clarified that a DB member's registered domestic partners must sign preretirement option election forms before submission to CalSTRS.

AB 821 (PER&SS, Chapter 1028, Statutes of 2000) Based final compensation on the highest average annual compensation earnable by a member during a consecutive 12-

month period of employment, rather than highest three consecutive years, for members with at least 25 years of credited service.

AB 2700 (Lempert, Chapter 1021, Statutes of 2000) Made all compensation for creditable service creditable to CalSTRS and credited member and employer contributions for service in excess of one year in a school year to the DBS Program.

## **FISCAL IMPACT**

Program Cost – None.

Administrative Costs/Savings – Costs for one-time changes to the CalSTRS member database system are estimated to range from \$55,000 to \$63,000, which include costs for the following components of this measure:

“Break in Service”-- \$15,000.

“Cash Balance Termination Requirements”-- \$5,000 to \$8,000.

“Option Change Window Period for Same-Sex Spouse”-- \$35,000 to \$40,000.

## **SUPPORT**

CalSTRS (Sponsor)

## **OPPOSITION**

None known.

## **LEGISLATIVE STAFF CONTACT**

Sal Sanchez  
Legislative Analyst,  
CalSTRS Legislative Affairs,  
(916) 414-1984  
ssanchez@calstrs.com

Joycelyn Martinez-Wade  
Legislative Affairs Manager,  
CalSTRS Legislative Affairs,  
(916) 414-1980  
jmwade@calstrs.com

Mary Anne Ashley  
Director,  
CalSTRS Governmental Affairs and Program Analysis,  
(916) 414-1981  
mashley@calstrs.com

Nancy Farias  
Deputy Secretary, Legislation  
(916) 651-9373  
nancy.farias@govops.ca.gov