

Bill Number: SB 349 (Negrete McLeod) as introduced on February 15, 2011.

SUMMARY

SB 349 makes various technical and conforming changes, in addition to minor policy 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.

PURPOSE OF THE BILL

SB 349 will help ensure continued effective and efficient plan administration and compliance with federal law and make conforming changes to reconcile differences between the DB and CB programs.

BOARD POSITION

Sponsor. This bill will make various technical, conforming, compliance and minor policy amendments necessary for continued effective administration of the System.

LEGISLATIVE HISTORY

Chapter 306, Statutes of 2009 (AB 506) Conformed to federal law, which prohibits pension plans from distributing benefits before normal retirement age unless there was a separation from service. Required retired members who are under the normal retirement age of 60 to have their retirement benefit reduced by the amount earned in CalSTRS-covered employment for the first six calendar months following their retirement effective date or until their 60th birthday, whichever is sooner. Required this reduction to begin July 1, 2010, regardless of retirement effective date. Extends the sunset dates for the post-retirement earnings limit exemptions to June 30, 2012, and expands eligibility, where applicable, to members who retired on or before January 1, 2009. States that the vacant administrative position emergency exemption shall not apply to a retiree whose termination is the basis for the vacant administrator position.

Chapter 370, Statutes of 2008 (AB 2023) Required that CalSTRS make a determination on the basis of competent medical documentation when determining whether a member meets the definition of disability pursuant to Section 22126 of the Education Code. Prohibited the awarding of a disability allowance or disability retirement as a substitute for the disciplinary process.

Chapter 654, Statutes of 2006 (SB 1465--Soto) established a threshold for the payment and collection of benefit adjustments; provides a monthly benefit to dependent children under the Coverage B Survivor Benefits Program when there is no surviving spouse or

partner at the time of the active member's death; changed service credit purchase and benefit calculation provisions and eliminated two redundant reports to the Legislature.

Chapter 661, Statutes of 2005 (SB 525--Torlakson) reduced the one-year waiting period to six consecutive months for both members of the DBS Program and participants of the CB Benefit Program to receive a termination benefit; also prohibits the payment of more than one termination benefit under either program during a single five-year period.

Chapter 22, Statutes of 2000 (AB 141--Knox) extended a current exemption from the earnings limitation for retired members of CalSTRS who are employed under specified conditions to fill an administrative position vacated due to circumstances beyond the control of the employer. The extension could equal one-half of a full-time equivalent for the position and applied to the 1999-2000 school year and the 2000-2001 school year through December 31, 2000.

Chapter 896, Statutes of 2000 (AB 1733--Wildman) temporarily eliminated earnings limit exemption for members who return to work more than one year after retirement and increases limitation for other retired members.

Chapter 1021, Statutes of 2000 (AB 2700--Lempert) made all compensation for creditable service creditable to CalSTRS and credits member and employer contributions for service in excess of 1.000 years of service per school year to the DBS Program.

Chapter 680, Statutes of 1996 (SB 1877--Rogers) enacted provisions for CalSTRS/CalPERS and the 1937 Act counties to be in compliance with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

Chapter 592, Statutes of 1995 (AB 1298--) authorized CalSTRS to establish a Cash Balance retirement program administered by CalSTRS for part-time public school employees, which employers may elect to provide for persons employed less than half time at a contribution rate that is lower than Social Security tax. Note: The I.R.S. has expressly ruled that the CalSTRS CB Benefit Program qualifies as an alternative retirement plan to Social Security.

PROGRAM BACKGROUND & ANALYSIS:

Federal HEART Act Compliance

Background

The Heroes Earnings Assistance and Relief Act (HEART) Act of 2008, among other provisions, requires public pension systems to pay survivor and death benefits for military members who die while performing military service, if they would otherwise have been eligible for benefits had they remained in CalSTRS-covered employment. These death and survivor benefits are to be paid for military deaths that have occurred since January 1, 2007. The Act also specifies that the time members spend in the military be considered as time with the employer for vesting purposes.

Currently, under the Defined Benefit Program, unless a member dies within four months of CalSTRS-covered service, or their survivors can show that the member was continuously disabled since the last day of service, their survivors are not eligible for the one-time death benefit or for an ongoing survivor benefit or family allowance. In the event a member dies prior to retirement, CalSTRS provides a distribution of the member's remaining contributions and interest in their Defined Benefit, Cash Balance or Defined Benefit Supplement account upon notification of death. These distributions are made in all cases as long as there are funds in the respective account.

Proposed

This measure amends the Education Code to comply with the requirements of the HEART Act, in order to protect CalSTRS' status as a government pension fund under the Internal Revenue Code. The measure also would amend the disability application requirements to accommodate members who are disabled while on active military duty and unable to return to CalSTRS-covered employment.

Sections affected: 22161.3, 22851, 22853.5, 23801, 23851, 23854

\$10 Threshold

Background

The Teachers' Retirement Board is allowed to establish a \$10 minimum threshold for the processing of benefit payments or the collection of overpayments. If the amount of the payment or collection is below this \$10 minimum, then CalSTRS is not required to issue the payment or collect the overpayment. This allows CalSTRS to avoid the expense of issuing a benefit payment or collecting an overpayment when the amount of the payment is relatively small.

Proposed

This measure broadens the language in the Education Code to include "other" payments and collection of overpayments that would be subject to the \$10 threshold. By including unspecified "other" payments and collections, the number of payments or collections for relatively small amounts would be reduced by not limiting the application of that threshold amount to benefit payments or overpayment collections.

Section affected: 22404

Beneficiary Designation Invalidation

Background

Historically, if a member chose to receive a refund of his or her contributions and subsequently returned to membership without completing a new beneficiary designation form, the beneficiary designation in effect prior to the refund would continue to be in effect after returning to membership. Under recent updates to its information technology system, CalSTRS maintains on record the beneficiary designations after the member's more recent membership date and deems a prior designation as invalid. However, the law does not clearly state whether a member's designation is invalidated when he or she terminates service and receives a refund of his or her contributions.

Proposed

This measure clarifies that the beneficiary and option beneficiary designations are invalidated when a member completes a refund of his or her accumulated retirement contributions. This change clarifies the law so that CalSTRS may use up-to-date beneficiary designations that are made after the member's most recent membership date.

Section affected: 23101

Refund of Contributions After Retirement*Background*

Currently, a retired member must terminate his or her retirement and return to work for at least one day in order to collect a refund of his or her remaining contributions. Previously, CalSTRS allowed a retired member to elect to stop his or her retirement benefit and collect a refund of their remaining contributions, until being advised that that was an incorrect interpretation of the law. Current law also implies that CalSTRS must issue a refund when a member terminates employment.

Proposed

This measure allows a member to terminate a retirement or disability benefit and be eligible for a refund of the remaining contributions and interest. It also requires that the application for a refund be made on a properly executed form that is issued by CalSTRS.

Sections affected: 23100, 23103

Return of Refund*Background*

Under current law, a CalSTRS member who has requested a rollover to another qualified retirement plan and returns his or her refund check to CalSTRS' headquarters within 30 days of when the refund was mailed by CalSTRS is reinstated as a member of the DB program. However, in cases where a warrant is sent directly to the financial institution and is deposited, the member may not be able to return the check to CalSTRS. Under that circumstance, CalSTRS cannot accept the member back into the DB Program.

Proposed

Current law creates an implicit discrepancy in how refunds are treated based on whether a member receives a refund check or if the check is sent directly to another qualified retirement plan. This measure would clarify that an amount equal to the refund that is returned to CalSTRS, would be treated the same as if the actual refund warrant had been returned.

Section affected: 23104

Family Allowance and Survivor Benefits

Background

Upon the death of a member, beneficiaries or survivors may receive specified benefits. The benefits received depend on the coverage that the member was under, which is based on whether the member started his or her membership on or after October 16, 1992 (Coverage A or Coverage B). Eligibility for those benefits depends on the eligibility of the member.

Proposed

This measure clarifies that the basis for eligibility of Family Allowance and Survivor benefits lies with the member, and not with the member's beneficiaries.

Sections affected: 23802, 23852

Disability Allowance Application

Background

CalSTRS members are eligible for disability benefits after they are vested and meet other requirements. Current law specifies time periods in which a member can apply for a disability benefit.

Proposed

The manner in which the language relating to disability benefit applications is placed in law results in some confusion among members and staff. This measure moves the language to a more appropriate code section, but would leave the language the same. This measure also makes a minor change to clarify an existing provision states that a member may not apply for a disability benefit if the basis for the disability is an impairment that began prior to the member's membership in CalSTRS.

Sections affected: 24001, 24002, 24102

Independent Medical Examinations

Background

CalSTRS can request a medical examination performed by a practicing physician to determine whether a member is incapacitated for performance of service in order to substantiate an application for a disability benefit. In most cases where a medical examination is requested, CalSTRS also requests a review of medical documentation to determine whether a member is incapacitated for performance of service. There are some instances where CalSTRS would only request a review of medical documentation and would not require the member to participate in an examination. A review of medical documentation is completed by a practicing physician without the physician meeting in person with the member. The term "medical examination" implies an in-person medical examination only.

The majority of the costs associated with the medical examination are paid directly by CalSTRS. However, additional costs related to travel and meals are paid by the member who is subsequently reimbursed by CalSTRS.

Proposed

This measure clarifies CalSTRS' authority to order a review of medical documentation in lieu of a physical examination when requesting an independent medical examination by specifying that CalSTRS may order a review of medical documentation. In addition, it clarifies that CalSTRS reimburses the member for any additional costs related to travel or meals associated with medical examinations. These changes reflect current administrative practice.

Sections affected: 24003, 24103

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 and extends to the last day of the month in which the retirement is to take effect. Each year, a number of members fail to submit their retirement application within that period. These members may not understand that they must submit an application in order to receive a service retirement benefit after their employment terminates.

Proposed

This measure allows a member to backdate his or her service retirement benefit effective date to as early as the day following the date the member terminated his or her employment regardless of whether the service retirement application is received after the employment termination date.

Section affected: 24204

Early Retirement Limited Term Reduction Program*Background*

The Early Retirement Limited Term Reduction Program (ERLTRP) allows a member retiring between the ages of 55 and 60 to elect to receive half the amount of his or her monthly retirement benefit for a specified term and then receive the full amount after that term. Due to the different calculations used to determine a member's monthly benefit, CalSTRS encounters administrative complications when a member:

- Reinstates to active service and subsequently retires with a multiple-retirement calculation;
- Retires for service after terminating a disability retirement or disability allowance;
- Retires for service after reinstating to active service from a disability allowance.

Proposed

This measure specifies that members who fall under those specific circumstances are not eligible for the program and specify that this program is available only upon a member's initial retirement. This provides consistency and eases administration of the ERLTRP.

Sections affected: 24205

DB Retiree Contributions

Background

Current law is not consistent between the DB Program and the CB Program when specifying that retired members do not make contributions for CalSTRS-covered employment. A retired member in the DB Program may not make contributions to the DB Program. However, current law does not specifically state whether or not a retired DB member can not participate in the CB Program.

Proposed

This measure specifies that retired DB members are not allowed to make contributions to the CB program, to provide consistency among the two programs.

Sections affected: 24214, 26813

Post Retirement Earnings Limit (Under Age 60)

Background

Members who retire under the normal retirement age of 60, and subsequently work in any CalSTRS-related service fall under a zero-dollar earnings limit for the first six calendar months after they retire. During those six calendar months, the zero-dollar earnings limit reduces the member's retirement benefit by the amount of compensation earned during that period. Members may retire for service, reinstate to active membership and subsequently retire again. This post-retirement earnings limit, as well as other earnings limits, applies to a member's most recent retirement.

Proposed

This measure specifies that the zero-dollar earnings limit applies to a member's age at the most recent retirement and reflects current CalSTRS administrative practice.

Section affected: 24214.5

Post Retirement Earnings Limit

Background

Federal regulations governing tax-qualified pension programs prohibit paying a pension to a person who is under the normal retirement age of that pension system (age 60 in the case of CalSTRS) unless the employment that brought about the pension has been terminated. CalSTRS addresses this prohibition by limiting the yearly amount of money that can be earned by DB members and CB participants after retirement from CalSTRS-covered service. The DB and CB programs have different limitations on retired members and participants who return to work in CalSTRS-covered service. Under specific circumstances, postretirement earnings may be exempt from the limit, as specified in law.

Proposed

This measure makes conforming changes to reconcile the differences between the DB and the CB post-retirement employment limitations and provides consistency in the post-retirement limitations that are imposed on educators who retire under the State

Teachers' Retirement Plan. This measure would also remove citation to provisions related to two obsolete programs.

Specifically, the measure would make the following changes:

1. Reduce the period of time that CB participants who are under age 60 and receiving an annuity are precluded from performing creditable service to the earlier of 180 days or their 60th birthday. Participants who perform such service during that time would have their annuity reduced by the amount earned;
2. Allow retired participants who are over age 60 to perform creditable service without limitation;
3. Require no contributions for compensation paid to retired CB participants for creditable service. Because the CB benefit is directly based on the amount contributed, there is no net increased liability associated with a participant retiring sooner;
4. Require the employer to submit documentation to substantiate the eligibility for a retired DB member's post-retirement earnings limit exemption within 60 calendar days of the member's commencement of creditable service. Failure to submit the documentation within the deadline would be a basis for denying the exemption;
5. Remove reference to the "2+2 Retirement Incentive" program, which provided two additional years of service credit and two additional years to the retiring member's age, as an early retirement incentive, and to the "Pre-Internship Teaching Program," which is no also no longer in operation.

Sections affected: 24216, 24216.5, 24216.6, 26505, 26812

Option Elections

Background

A CalSTRS member may elect an option that designates a beneficiary to receive a lifetime monthly benefit upon the death of the member. If a preretirement election of an option is changed or cancelled, or the option beneficiary dies before the member retires, the member's retirement benefit may be permanently reduced.

Proposed

Currently, two provisions related to option elections are in contradiction with each other. This measure aligns the provisions to allow the election to be made as part of the retirement application process, or by the end of the month in which the retirement takes effect. The option effective date would be the same as the retirement date.

Sections affected: 24300.1, 24309

Child's Portion of Disability Retirement or Survivor Benefit

Background

The disability retirement allowance for CalSTRS members who became members on or after October 16, 1992, includes a portion of the benefit that is paid to a dependent child until the age of 21. Under the provisions of law at the time, CalSTRS paid the dependent child portion of the benefit even if the member died while receiving the disability retirement allowance. The law governing payment of a disability retirement benefit to a dependent child was incorrectly amended in 1997, and since then, has not allowed payment of a child benefit after the disabled member dies. This change was unintentional and no basis for the change can be found.

Proposed

Although the provision in law was deleted in 1997, CalSTRS practice did not change and to this date, CalSTRS continues to pay the child's portion of the benefit after the member has died. This measure adds the language that was deleted in 1997 and conforms the law to longstanding CalSTRS practice.

Sections affected: 24600

FISCAL IMPACT

Benefit Program Cost – The changes to the service retirement benefit effective date would expand the rights of members and could result in an increase in retroactive payments because allowing a member to request a retroactive benefit effective date would require CalSTRS to make payments for months prior to when the member submits his or her application. However, the member would still be required to meet existing requirements to receive a retirement benefit and would not receive benefits for which he or she is not otherwise eligible. In addition, although the number of payments for a member who retires retroactively would increase, because the member would be retiring at an earlier age, the amount paid per month would be reduced. Under current practice, only about 10 members per year seek a retroactive benefit effective date, so total retroactive payments would likely be minor.

Administrative Costs/Savings – Minor and absorbable.

SUPPORT

CalSTRS (Sponsor).

OPPOSITION

None known.

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