

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

BILL ANALYSIS

Senate Bill 627 **Senate PE&R (As amended 8/25/03)**

Position: **Sponsor**

Proponents: **Teachers' Retirement Board**

Opponents: **Department of Finance**

SUMMARY

Senate Bill 627 is the annual California State Teachers' Retirement System (CalSTRS) technical "housekeeping" bill. The bill makes various grammatical, 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. Specifically, the bill:

1. Makes conforming changes to the collective bargaining or employment agreement that applies to part-time adult education instructors pertaining to the number of hours of creditable service that equals "full-time";
2. Clarifies the definition of an inactive member not retired for service as it pertains to creditable compensation under the DB Program;
3. Replaces the term "teacher" with "employee" in order to clarify other substitute positions are subject to mandatory membership under the DB Program;
4. Makes conforming changes to the nonmember spouse purchase of additional service credit monthly installments;
5. Clarifies language under the Reduced Workload Program that defines five years of "credited service", and to specify the type of leave that does not constitute a break in service;
6. Clarifies the 120 monthly payment time period for service credit purchases and the redeposit of contributions;
7. Eliminates the current limit on the amount of out-of-state service that can be purchased;
8. Completes the codification of CalSTRS regulations, as they read on January 1, 2000, for service credit purchases and the redeposit of contributions;

9. Clarifies contributions to be credited under the DBS Program;
10. Clarifies community property rights of a nonmember spouse in the DBS Program;
11. Clarifies the calculation of the post-retirement earnings limitation, and replaces the term "average earnable salary" with "average compensation earnable" to be consistent with terminology used to explain the compensation earned if a member worked full-time;
12. Updates reference to a code section referring to "Remedial instruction" that was repealed effective January 1, 2003, and replaced by a new code section that became effective January 1, 2003;
13. Clarifies the age requirement for a member retiring for service who elects a partial lump-sum payment;
14. Clarifies participation under the CB Benefit Program, and modifies the Joint and Survivor Options under Option 8 to streamline processing for community property cases;
15. Clarifies the disposition of funds from reverted warrants under the Plan;
16. Clarifies CalSTRS' ability to collect for an overpayment from the CB Benefit Program;
17. Clarifies member eligibility under an employer deferred compensation plan;
18. Clarifies eligibility of members receiving a disability allowance under the DBS Program;
19. Adds "nonbank custodian" to the current list of approved vendors under the 403(b) Program vendor registration process;
20. Clarifies eligibility of DB Program members who are receiving a disability allowance under the Medicare Premium Payment (MPP) Program;
21. Corrects grammatical errors and name changes in the TRL.

HISTORY

Chapter 1095, Statutes of 2002 (AB 2506—Steinberg) establishes a 403(b) registration program in CalSTRS that provides information on 403(b) investment options to school employees through the Internet.

Chapter 903, Statutes of 2002 (AB 2982—Soto) changes the calculation of post-retirement earnings limits.

Chapter 897, Statutes of 2000 (AB 2456—Wright) allows members of the DB Program who retired on or after January 1, 2002 and before 2001 to elect to receive a lump-sum payment and a reduced monthly allowance.

Chapter 74, Statutes of 2000 (AB 1509—Machado) requires that 25 percent of the contributions made by members of the DB Program be credited for the next ten years to a separate nominal account in the DBS Program.

Chapter 1021, Statutes of 2000 (AB 2700—Lempert) makes 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 1032, Statutes of 2000 (SB 1435—Johnston) requires CalSTRS to pay the Medicare Part A Premium for retired members who are not eligible for Medicare Part A without payment of a premium.

Chapter 569, Statutes of 1997 (SB 1027—Schiff) among other things, authorizes members of CalSTRS to purchase additional service credit for out-of-state public school employment without any date restriction.

Chapter 592, Statutes of 1995 (AB 1298—Ducheny) authorizes CalSTRS to establish the CB Benefit Program 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.

Chapter 542, Statutes of 1988 (SB1190—Lockyer) requires CalSTRS, pursuant to a court order, to establish a separate account for service credit and contributions and interest awarded a non-member spouse in a division of community property. The non-member spouse would be eligible to elect a retirement allowance or a refund of contributions and interest.

Chapter 1367, Statutes of 1974 (AB 3339—Brown) permits certificated and academic employees of school districts, state universities and colleges to reduce their workload from full-time to part-time duties, and permits CalSTRS members who are part-time employees to have their retirement benefits based on full-time employment if both the employee and employer elect to make retirement contributions required for full-time employment.

Chapter 1293, Statutes of 1974 (AB 3579—Lewis) makes technical and various clarifying changes to the TRL regarding costs of administration, tax exemptions, limitations on actions, fund references, definitions, service, membership, tax-sheltered annuities, contributions, merger of local systems, beneficiary designations, and allowances;

Chapter 795, Statutes of 1974 (SB 2247—Robbins) among other things, deletes the definition of “permanent fund” for purposes of the TRL. Requires the Teachers' Retirement Board (Board) to establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

Chapter 1010, statutes of 1972 (AB 962—Barnes) among other things, revises the TRL with respect to credit and contributions for certain out-of-state, deaf and blind school, and war service; disability allowances; employer contributions; nomination of beneficiary; death benefits; member's accounts; members of local teachers' retirement systems; reinstatement from retirement; unclaimed warrants; membership qualifications; and board meetings.

SUMMARY OF AMENDMENTS

The August 25, 2003 amendment:

- Modifies the Joint and Survivor Options under Option 8 to streamline processing for community property cases.

DISCUSSION

1. Extending specification of FTE requirement to part-time adult education instructors

Existing law defines the minimum standard for full-time equivalent (FTE) of instructional hours per school year that is applicable to part-time faculty of community colleges, except adult education instructors. The requirements are equally valid for adult education instructors working in K-12 districts. This bill extends the community college FTE requirement to adult education instructors working in K-12 districts.

Education Code section affected by amendment: 22138.5

2. Clarification of an inactive member

Current law defines an inactive member as one who was not retired or disabled and who has not earned creditable compensation during the school year immediately prior to and the school year during which the member retires for service. Consequently, the languages eliminated inactive members who terminate employment and delay retirement from CalSTRS. This bill clarifies the definition of an inactive member.

Education Code section affected by amendment: 22146

3. Clarification regarding the rights of substitute "employees" to mandatory membership

Existing law specifies the mandatory membership requirements for any person employed to perform creditable service as a substitute teacher. This bill replaces the term "teacher" with "employee" in order to clarify that other substitute employees, such as counselors and librarians, are subject to mandatory membership in the DB Program if the person performs 100 or more complete days of creditable service during the school year. This is consistent with current practice.

Education Code section affected by amendment: 22503

4. Conforming change in the nonmember spouse purchase of additional service credit

Existing law permits a member who purchases additional service to pay for the service over a maximum 120 months. Existing law also permits a nonmember spouse who is awarded a separate account to purchase additional service credit that he or she has a community property interest in, and to purchase such service over 60 months. This bill makes a conforming change in the purchase of additional service credit for nonmember spouses by extending the maximum installment period from 60 to 120 months.

Education Code section affected by amendment: 22663

5. Clarification of credited service and break in service under the Reduced Workload Program

Existing law specifies the service requirement for eligibility to participate in the Reduced Workload Program to include the five years of employment immediately preceding the reduction in workload. Consequently, this has created misinterpretation of the current language "including five years of full-time employment immediately preceding the reduction in workload". This bill clarifies the additional employment requirement of five years of "credited service".

Additionally, existing law specifies that a member may not have had a break in service during the five years preceding the reduction in workload. However, it is unclear whether the language covers instances where a member is shorted service due to other types of leave. This bill provides additional clarification as to what constitutes a break in services for purposes participation in the Reduced Workload Program.

Education Code section affected by amendment: 22713

6. Clarification of payment time period for service credit purchases and redeposit contributions

Existing law specifies that monthly payments for service credit purchases and redeposit of contributions must not exceed 120 monthly payments. This has been interpreted to mean the

maximum time to complete the payments is equivalent to 10 years. Consequently, when a member is paying via payroll deduction and the member is either a ten pay (10 paydays per year) or an eleven pay (11 paydays per year), an interpretation of the 120 monthly installment provision may imply that the payments may be made over a 12 year period (10 payments per year for 12 years equals 120 payments). This bill clarifies that the 120 monthly payment period to purchase service credit purchases and redeposit contributions will not exceed 10 years.

Education Code sections affected by amendment: 22801, 22801.5, 22823, 22826 and 23203

7. Elimination of the current limit for the amount of out-of-state service that can be purchased

Existing law permits a DB Program member to purchase up to 10 years of out-of-state service credited in a public retirement system for service covering public education in another state or territory of the United States. That limit was established in state law because it was anticipated that federal law would be enacted to require such a limit. However, the anticipated federal legislation was never enacted. This bill eliminates the 10-year purchase restriction for DB Program members who performed eligible out-of-state service and wish to purchase the full service. The cost of purchasing the service is paid in full the member.

Education Code section affected by amendment: 22820

8. Specification of Permissive Service Credit Purchases and Redeposit Contributions under CalSTRS Regulations

Chapter 939, Statutes of 1999 (SB 1074 – PE&R) codified regulations pertaining to CalSTRS programs, as they read on January 1, 2000. Inadvertently, language was omitted that pertained to the purchase of service credit and the redeposit of contributions for DB Program members. This bill completes the codification of CalSTRS regulations, as they existed on January 1, 2000, that specifies that the payment of all service credit purchases and the redeposit of contributions must be paid in full prior to retirement and before any adjustment is made to the member's retirement allowance as a result of the purchase or redeposit.

Education Code sections affected by amendment: 22823 and 23203

9. Clarification of contributions to be credited under the DBS Program

Existing law specifies the crediting of contributions to the DBS Program, but is unclear as to when the contributions are credited. This bill clarifies that employer contributions related to limited-term enhancements (such as a bonus in the final year of teaching) and other types of one-time payments are to be credited to the member's DBS account upon receipt. This change also specifies that employer contributions in excess of one-year of service credit are creditable to the DBS Program as of July 1, to correspond to current practice.

Education Code section affected by amendment: 22905

10. Clarification of the community property rights of a nonmember spouse in the DBS Program

Existing law extends the provisions of the TRL to nonmember spouses who are eligible for benefits in the plan under community property laws and who are awarded a separate account for service retirement allowance. This bill provides clarification that community property rights of a nonmember spouse under the DBS Program conform to community property rights a nonmember spouse has under the DB Program.

Education Code sections affected by amendment: 23300 and 25000.9

11. Clarification of the post-retirement earnings limitation calculation and the “average earnable compensation”

Existing law establishes a maximum amount of creditable earnings a retired member can earn in a school year. This bill provides clarifying language that the amount of the earnings limitation be increased each year by the *percentage increase* in the average earnable salary. The term “percentage increase” was inadvertently left out of Chapter 903, Statutes of 2002 (SB 1983-Soto) which changed the basis for calculating the post retirement compensation limitation from the All Urban California Consumer Price Index (CCPI) to the average earnable salary of active members.

In addition, existing law establishes the term “average earnable salary” in determining the basis for the increase in the post-retirement earnings limit. This term is not defined in law, but applies the same language used in “compensation earnable”, that is defined in law. This bill provides consistency by using of one term to mean the compensation that would be earned if a member worked on a full-time basis.

Education Code section affected by amendment: 24214

12. Update of existing section pertaining to “Remedial Instruction”

Section 37252.5 of the Education Code allows members who retired for service on or before July 1, 2000, to accept temporary part-time or full-time employment performing “Remedial instruction” for grades 2-12, and be exempt from the post-retirement earnings limitation. That section was repealed and replaced by Section 37252.2 of the Education Code, effective January 1, 2003. This bill updates reference in the TRL.

Education Code section affected by amendment: 24216.6

13. Clarification in the age requirement for a member retiring for service who elects a partial lump-sum payment

Existing law allows a member who retires at or after age 60 to receive a portion of his or her retirement benefit as a partial lump-sum payment. However, the calculation of the partial lump-sum requires the age factor for the service retirement to be greater than two percent. This is the age factor a member with less than 30 years of service receives for retiring at age 60. This has caused confusion with some members. This bill clarifies that a member with less than 30 years of service must be at least age 60 and 3 months (when the age factor is higher than two percent) in order to receive a partial lump-sum benefit. This requirement is consistent with the current program.

Education Code section affected by amendment: 24221

14. Clarification of "participant" eligibility under the CB Benefit Program, and modification of Joint and Survivor Options under Option 8

Existing law authorizes the Board to evaluate the existing options and annuities provided under the DB Program, DBS Program and the CB Benefit Program and adopt as a Plan amendment, any appropriate changes to the options and annuity options offered to CalSTRS members and participants. This bill clarifies that any amendments made to Part 13 (governing the DB and DBS Program) will also apply to Part 14 of the TRL that governs the CB Benefit Program.

Additionally, existing law specifies that a member, prior to the effective date of retirement, must designate multiple option beneficiaries under Option 8. However, members involved in a dissolution of marriage or legal separation are forced to elect Option 8 to abide by a court order that requires the member to provide their former spouse a continuing benefit in the event of their death. Currently, members must name their former spouse as the first option beneficiary of a percentage specified in the court order, and elect a second option beneficiary for at least one (1) percent, in order to keep a portion of their benefit unmodified. This bill allows members involved in a legal separation or dissolution of marriage to elect their spouse or former spouse as their sole option beneficiary under Option 8 for a stated percentage, and keep a portion of their benefit unmodified. The percentages assigned would not exceed 100 percent of the member's unmodified allowance.

Education Code section affected by amendment: 24300

15. Clarification of disposition of funds from reverted warrants

Existing law authorizes the disposition of all reverted warrants, from whichever program they originated when reverted, to be used to pay benefits of the DB Program. CalSTRS has three programs in the Plan, and all of the assets of the Plan are available to pay benefits in any of the three programs. This bill deletes language that unnecessarily limits the use and disposition of reverted funds to the DB Program.

Education Code section affected by amendment: 24606

16. Collection for an overpayment from the CB Benefit Program

When the Cash Balance Benefit Plan and the Defined Benefit Plan were merged into one plan, the assets of which are available to pay benefits in any of the Plan's three programs (DB, DBS, and CB), the Education Code sections regarding the collection of the overpayments did not change to reflect the ability to collect for an overpayment in any program from any other program within the plan. This bill provides clarification that allows for the collection of an overpayment, including from the CB Benefit Program.

Education Code section affected by amendment: 24616 and 24617

17. Clarification of "participant" eligibility in an employer deferred compensation plan

Existing law authorizes CalSTRS to provide deferred compensation plans to school employers pursuant to the Sections 403(b) and 457 of the Internal Revenue Code. This bill adds the term "participant" to clarify that a CB Benefit Program participant can participate in a 457 deferred compensation plan if offered by their employer.

Education Code section affected by amendment: 24975

18. Clarification of disability benefits under the DBS Program

Existing law permits a disabled member who returns to work in his or her former position of employment or comparable level position, to again become eligible for the DBS Program disability benefit if within six months of returning to employment, the member experiences a recurrence of the original disability. This bill conforms the requirements for the resumption of disability benefits payments under the DBS Program to the requirements specified in the DB Program.

Education Code section affected by amendment: 25018.5

19. Adds "nonbank custodian" to 403 (b) Program vendor registration process

Existing law authorizes CalSTRS to establish a vendor registration process whereby information about tax-deferred retirement investment products are made available to employees of local school districts, community college districts and county offices of education. This bill adds "nonbank custodian" to the list of registered vendors allowed to sell these products.

Education Code section affected by amendment: 25100

20. Clarification of eligibility of members receiving a disability allowance under the Medicare Premium Payment Program

Under the MPP Program, CalSTRS pays the Medicare Part A premiums, as well as the Part A (hospital) and Part B (medical) surcharges for retired eligible DB Program members age 65 or older who are not otherwise eligible for premium-free coverage. Eligibility for the MPP Program is limited to retired DB Program members; those members receiving a disability allowance are not considered retired and therefore do not qualify for the MPP Program benefit until they reach age 60 when their disability allowance is converted to retirement status. A small number of disabled members continue to receive a disability allowance after age 60 because they have dependents, and under certain circumstances, they may never become eligible for the MPP Program. This bill expands the eligibility for the MPP Program to include DB Program members age 65 or older who are receiving disability allowance payments.

Education Code section affected by amendment: 25940

21. Correction of grammatical errors in the TRL

- This bill deletes 'or' and adds 'of' in reference to unpaid leave of absence.

Education Code section affected by amendment: 22109.5

- This bill adds a comma and deletes 'and' in reference to employers and employing agencies.

Education Code section affected by amendment: 22203.5

- This bill adds a comma and deletes 'and' in reference to employers and employing agencies.

Education Code section affected by amendment: 22213

- This bill makes formatting changes.

Education Code section affected by amendment: 22714

- This bill deletes a comma and adds 'the' in reference to receipt of a disability application.

Education Code section affected by amendment: 24002

- This bill adds a comma in reference to "participate in the program".

Education Code sections affected by amendment: 24012 and 24111

- This bill deletes a comma in reference to installment payments.

Education Code sections affected by amendment: 24615

Finally, this bill adds 'the' in reference to the Internal Revenue Code, respectively.

Education Code section affected by amendment: 25101

FISCAL IMPACT

Benefit Program Cost– Based on previous program experience, about six percent of retired members over the age of 65 participate in the MPP Program. At that rate, between 1 and 3 disabled members would be participating in the program, resulting in a present value cost of between \$47,700 and \$98,650.

Administrative Costs– The cost of the required changes to the System's database is expected to be minor and absorbable.

BOARD POSITION

Sponsor. This bill will make grammatical and technical amendments necessary for continued effective administration of the system. It also deletes unessential provisions of the law.