

## **INITIAL STATEMENT OF REASONS**

### **CalSTRS 2% at 62 Compensation Paid Each Pay Period**

#### **Introduction**

Existing law establishes the Defined Benefit (DB) Program and the Defined Benefit Supplement (DBS) Program of the State Teachers' Retirement Plan, which provides defined benefits to California educators. The DB Program is a traditional defined benefit pension based on final compensation, service credit and age at retirement. The DBS Program is a supplemental cash balance pension plan that provides an additional benefit to DB members based on contribution credits for limited-term payments for 2% at 60 DB members and compensation for service in excess of one year, as well as interest credits and additional earnings credits. Final compensation, service credit, limited-term payments and compensation for service in excess of one year are determined based on creditable compensation reported by CalSTRS-covered employers.

Existing law also establishes the Cash Balance (CB) Benefit Program, a cash balance pension plan that employers may choose to offer their part-time educators as an alternative to participating in Social Security, private plans or the DB Program. The CB benefit is based on the balance of credits in a participant's account, which includes participant and employer contribution credits, interest credits and additional earnings credits.

The Public Employees' Pension Reform Act of 2013 (PEPRA), made various changes to California public employee pension systems that primarily affect those who first become CalSTRS members or participants on or after January 1, 2013, referred to as 2% at 62 DB members or CB participants subject to PEPRA, respectively. Among other things, PEPRA placed limits on the compensation paid to CalSTRS 2% at 62 DB members and CB participants subject to PEPRA that is creditable to CalSTRS benefit programs to compensation that is regularly payable in cash pursuant to a publicly available written contractual agreement.

#### **Problem Statement**

Education Code section 22119.3 requires that compensation be paid "each pay period the creditable service is performed" for it to be creditable to CalSTRS for 2% at 62 DB members. Education Code section 26139.5 requires that salary be paid "each pay period in cash by an employer to a participant for creditable service performed" for it to be creditable to CalSTRS for CB participants subject to PEPRA. Although these requirements are generally understood to prevent the one-time reporting of several months of accumulated service, thus ensuring that regular and recurring contributions are remitted to CalSTRS, there are routine and innocuous instances in which a member or participant may perform small amounts of creditable service outside of a regular pay period that were not intended to lead to the exclusion of compensation. For example, an employer may begin the school year on August 15, but its teachers do not receive the first of their 10 equal monthly salary payments until after the September pay period on October 1. Because the compensation for the service performed from August 15-31 is not paid until October 1, it is not clear whether such compensation would be considered to have been paid in each pay period in which the creditable service is performed in order to meet the definition of "creditable compensation" for CalSTRS 2% at 62 DB members and "salary" for CB participants subject to PEPRA.

**Purpose, Necessity and Rationale**

The proposed regulations ensure that members’ and participants’ compensation is credited in the manner intended by existing law, even when those members or participants perform creditable service outside of a regular pay period. Otherwise, employers might believe that existing law is not sufficiently clear for those situations in which their employees perform creditable service outside of a regular pay period, potentially denying those members proper crediting of their compensation and service. The wording of the regulation states that remuneration paid for the service performed within 30 days of the beginning or end of a pay period is deemed to be paid in a pay period in which a member or participant performs creditable service. This wording ensures that those members’ and participants’ compensation and service can continue to be credited to CalSTRS, while also providing flexibility for employers.

**Studies, Reports or Other Documents Relied Upon**

None.

**Economic Impact Analysis**

CalSTRS has considered the impact of these regulations on business, with consideration of industries affected and information supplied by interested parties, including the ability of California businesses to compete with businesses in other states.

CalSTRS has determined that the regulations proposed do not constitute a major regulation because there are no direct economic impacts on California businesses. The proposed changes are clarifying in nature to ensure that members’ and participants’ compensation is credited in the manner intended by existing law, even when those members or participants perform creditable service outside of a regular pay period.

Specifically:

- The action will not affect the creation or elimination of jobs within the state.
- The action will not affect the creation of new businesses or the elimination of existing businesses within the state.
- The action will not affect the expansion of businesses currently doing business within the state.
- The action will have no effect on the health and welfare of California residents and no effect on worker safety and the state’s environment.

**Benefits Anticipated**

Anticipated benefits of these regulations include: Consistent reporting of the compensation used for retirement benefit calculation purposes of California educators by all employers.

The proposed action will clarify the standards for creditable compensation and salary and promote consistent reporting by CalSTRS-covered employers. The proposed action is expected to result in an improved understanding of creditable compensation and salary among CalSTRS and its members and covered employers, but these positive qualitative effects are not expected to be accompanied by any associated time savings, nor any tangible monetary or other benefit.

**Evidence Supporting Finding of No Significant Statewide Adverse Economic Impact Directly Affecting Business**

These regulations do not place any additional licensing, record keeping or compliance requirements on businesses. These regulations solely affect CalSTRS' members and participants and school districts, community college districts, county offices of education and other employing agencies that submit reporting information directly to CalSTRS. Therefore, the proposed regulations will not have a significant statewide adverse economic impact on businesses.

**Conferring with Interested Persons**

Pursuant to Government Code section 11346.45, CalSTRS has involved parties who would be subject to the proposed regulations prior to the notice of proposed adoption of these regulations. CalSTRS staff provided information to, and solicited input regarding this proposed action from, stakeholder groups, including representatives from various school employers, Association of California School Administrators, California Teachers Association, California County Superintendents, California Retired Teachers Association and California Federation of Teachers. CalSTRS staff has provided information to the Department of Finance regarding the proposed regulations.

**Alternatives Considered**

The proposed regulations did not warrant a discussion of alternatives since they are simply providing additional clarity to current California statute.

No alternative has been proposed that would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that accomplishes the intent of the statute being implemented.

CalSTRS has not identified any alternative that would lessen any adverse impact on small businesses. No alternative has been proposed that would be less burdensome and equally effective in achieving the purposes of the regulation in a manner that accomplishes the purposes of the statute being implemented.