



Regular Meeting

Item Number 7 – Open Session

Subject: Initiate Rulemaking Process for CalSTRS 2% at 62 Compensation Paid Each Pay Period

Presenter(s): Joycelyn Martinez-Wade

Item Type: Action

Date & Time: March 1, 2023 – 10 minutes

Attachment(s): Proposed text of CalSTRS 2% at 62 Compensation Paid Each Pay Period regulation

PowerPoint(s): None

Item Purpose

Staff is seeking approval to initiate the formal rulemaking process, pursuant to the Administrative Procedure Act, to adopt a regulation that would further clarify and make specific the statutory requirements that compensation be paid “each pay period the creditable services is performed” in order to be creditable for CalSTRS 2% at 62 members of the Defined Benefit (DB) Program and participants subject to the Public Employees’ Pension Reform Act of 2013 (PEPRA) in the Cash Balance (CB) Benefit Program.

Recommendation

Staff recommends that the board approve initiation of the formal rulemaking process and direct staff to schedule a public hearing to coincide with the July board meeting.

Executive Summary

The proposed regulatory text (Attachment 1) provides that remuneration paid for service performed within 30 days of the beginning or end of a pay period would be deemed to be paid in a pay period in which a member performs creditable service. This clarification would allow for additional flexibility in situations where employers report compensation for service performed outside of a regular pay period.

Background

At the November 2022 meeting, staff presented an [agenda item](#) seeking, and the board provided, approval for staff to begin preliminary rulemaking activities to further clarify and make specific the statutory requirements related to this issue. While regular and recurring contributions can be remitted to CalSTRS for creditable service, some clarity would be helpful for employers to achieve

that intent, while allowing for additional flexibility necessary for CalSTRS' unique population of educators and over 1,700 employers. There are instances where a member may perform service outside of a regular pay period, such as prior to the start of the school year, where it is not clear whether compensation for such service would be considered to meet the definition of "creditable compensation" for CalSTRS 2% at 62 members and CB participants subject to PEPRAs.

Next Steps

With the board's approval, staff will initiate the formal rulemaking process. The board may elect to preschedule a public hearing, or it can direct staff to schedule one if it is requested by the public no later than 15 days before the close of the written comment period.

The board may choose to conduct a hearing in person. If the board elects to do so, the hearing could potentially be scheduled to coincide with its July 2023 meeting. Under this scenario, the earliest the board could adopt the regulation would be at its September 2023 meeting, and the regulation could be codified as early as January 1, 2024, if no changes to the proposed regulation are needed.

Alternatively, the board may delegate the hearing to the Chief Executive Officer. Delegating the hearing will enable the hearing to be held earlier. Staff could potentially bring the proposed regulation before the board for adoption at the July 2023 meeting. However, due to the cycle of when regulations are codified into the California Code of Regulations, the earliest the regulation could be codified would also be January 1, 2024.