# DEPARTMENT OF FINANCE BILL ANALYSIS

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| **AMENDMENT DATE:** RN 11 24329 | | **BILL NUMBER:** SB 27 |
| **POSITION:** Oppose | | **AUTHOR:** J. Simitian |
| **SPONSOR:** Author | | **RELATED BILLS:** SB 1425 of 2010 |

**BILL SUMMARY: Public Retirement: Final Compensation: Computation**

This bill would clarify and define which forms of compensation would be included in an employee's final compensation for the purpose of calculating retirement benefits in the California Public Employees' Retirement System (CalPERS) and the California State Teachers' Retirement System (CalSTRS). This bill would also require that increases to an employee's pay during the final compensation period before retirement be consistent with increases paid to other employees in the same or similar occupational group or classes. Finally, this bill would not allow a recently retired person to return to work for at least 180 days to any employer covered by the same state retirement system from which he or she retired.

**FISCAL SUMMARY**

CalPERS does not estimate any increased costs associated with the provisions of this bill.

CalSTRS estimates that the revised calculation of retirement benefits could result in savings to the Teachers' Retirement of $10 million annually. CalSTRS also estimates that this bill would require $5 million in one-time technology costs to reflect updated benefit calculations and to incorporate penalties and interest for late reporting. In addition, CalSTRS estimates a need for 12 positions (six ongoing) for implementation, customer service issues, communication, manual interaction with accounts and data, and maintenance once the process is automated. While CalSTRS does not quantify a cost for these positions, based on an average cost of $90,000 per position, these positions would initially cost approximately $1 million and $500,000 on an ongoing basis.

CalSTRS also notes that revised computation of retirement benefits may be considered impairment of contract for members that expected a retirement benefit based on law in place when they were hired. CalSTRS recommends applying the new computation of retirement benefits to employees hired after this bill is implemented to avoid potential lawsuits. CalSTRS did not quantify the potential cost of litigation.

The 180 day prohibition on retirees returning to work as retired annuitants could lead to increased costs for public employers as a retired annuitant could be a more cost effective option to the state in meeting limited-term needs.

**SUMMARY OF CHANGES**

Amendments to this bill since our analysis of the March 3, 2011 version are minor and do not alter our position. The amendments would:

- Specify existing postretirement compensation limits for members of CalSTRS are only applicable to employees retiring before January 1, 2013 and makes that section inoperative on July 1, 2013.

(Continued)

| Analyst/Principal | Date | Program Budget Manager | Date |
|---|---|---|---|
| (0931) K. Martone | | Diana Ducay | |

| Department Deputy Director | | | Date |
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| Governor's Office: | By: | Date: | Position Approved_______ |
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| | | | Position Disapproved |

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**SUMMARY OF CHANGES** (continued)

- Outline the criteria for a $2,500 exemption to the postretirement compensation limit for members of CalSTRS that retire after January 1, 2013 and specifies that this section shall only remain operative until June 30, 2014.
- Exempt specified California State University employees from the 180 day prohibition on working as a retired annuitant if authorized in a collective bargaining agreement in place prior to January 1, 2013, or for employees retiring before January 1, 2013.
- Make provisions of this bill severable.

**COMMENTS**

The Department of Finance is opposed to this bill for the following reasons:

- Not allowing a retiree to work for the first 180 days of retirement could be seen as unfairly restrictive to those individuals and presents operational and financial challenges to the state. Retiring employees often possess invaluable knowledge and experience that could be effectively utilized in limited-term critical work assignments. The Governor is currently developing a pension reform proposal to address the issue of retired annuitants.
- This bill is duplicative of requirements within the state retirement system to audit final compensation and assure the avoidance of pension spiking. CalPERS notes that they already perform final compensation audits to avoid pension spiking and assure accuracy of final retirement benefits. However, CalPERS is supportive of this bill.
- This bill is intended to clarify what items are to be included in final compensation for the purpose of determining an employee's retirement benefits. While the bill more specifically defines compensation and special compensation for determining retirement benefits, it generally does so following the complicated model in existing law. Moreover, the components of special compensation are still somewhat left to the general discretion of each retirement board. This creates ambiguity and confusion on how retirement benefits are to be determined. The Governor has proposed pension reforms that include a definition of final compensation that goes beyond what is proposed in this bill and provides more clarity on what items of compensation are to be included in calculating retirement benefits.
- This bill is duplicative of requirements within the state retirement system to audit final compensation and assure the avoidance of pension spiking. CalPERS notes that they already perform final compensation audits to avoid pension spiking and assure accuracy of final retirement benefits. However, CalPERS is supportive of this bill.
- This bill could potentially result in litigation associated with impairment of vested benefits for members of CalSTRS.
- A section in this bill modifies the same section of law as SB 807 of 2011, which could result in chaptering conflicts.

This bill would become effective July 1, 2012 with the exception of the 180 day waiting period for retired annuitants which would be effective January 1, 2013.

A similar bill, SB 1425 of 2010, was vetoed by Governor Schwarzenegger.

**BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)** **Form DF-43**

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| Code/Department Agency or Revenue Type | SO LA CO RV | PROP 98 | FC | 2011-2012 | FC | 2012-2013 | FC | 2013-2014 | Fund Code |
|---|---|---|---|---|---|---|---|---|---|
| | | | (Fiscal Impact by Fiscal Year) (Dollars in Thousands) | | | | | | |
| 1900/PERS | SO | No | | ------------------ No/Minor Fiscal Impact ------------------ | | | | | 0830 |
| 1920/STRS | SO | No | M | -$5,000 | M | -$10,000 | M | -$10,000 | 0835 |
| 1920/STRS | SO | No | C | $3,050 | C | $3,550 | C | $500 | 0835 |
| 9901/Var Depts | SO | No | | --------------------- See Fiscal Summary --------------------- | | | | | 0001 |

| Fund Code | Title |
|---|---|
| 0001 | General Fund |
| 0830 | Public Employees' Retirement Fund |
| 0835 | Teachers' Retirement Fund |