

CLIENT NEWS BRIEF

CalSTRS Sponsors Legislation Grandfathering CalSTRS Enrollees Into the System and Revising The Definition of Creditable Service

New changes are once again on the horizon for CalSTRS enrollment. A new bill amending the definition of "creditable service" for the CalSTRS system will be considered by the legislature in the coming months. Retirement benefits under the Defined Benefit Plan administered by CalSTRS are calculated using a member's years of creditable service, age at retirement, and final compensation. However, compensation is reported to CalSTRS only if paid for work that constitutes "creditable service," as defined by applicable law. School district employees not performing "creditable service" should be enrolled in CalPERS.

In recent years the definition of creditable service has come under scrutiny. Specifically, in August 2012, CalSTRS issued an Employer Information Circular that called into question public retirement system enrollment practices by K-12 and community college districts. Importantly, certain administrative positions, including Human Resources and Education Technology employees, as well as certain "educational administrators" in community colleges, were no longer automatic CalSTRS enrollees even if those employees held credentials from the Commission on Teacher Credentialing or met minimum academic qualifications set by community college employers.

Under current law, an employee at a California K-12 school district, community college or County Office of Education performs creditable service only if they meet the two-part test in Education Code section 22119.5. That is, an employee: (1) must be required by law to hold a credential (or, in the community college setting, meet minimum qualifications for an academic position); and (2) must perform certain duties set forth by statute. Generally speaking, the prescribed duties are instructional or curricular in nature. Current law does not provide guidance on how to enroll an employee performing a mix of both instructional and non-instructional work.

On February 26, 2015, Assembly Bill (AB) 963, sponsored by CalSTRS, was introduced by Assembly Member Susan Bonilla. At this time, the legislation has not yet been adopted by the legislature and so is not yet law. As amended on March 24, 2015, the bill would revise current law in several ways. Below are some of the more important highlights from the bill:

- **CTC Credential Requirements Now Linked to Definition:** Creditable service for K-12 employees will be linked to credential requirements of the California Commission on Teacher Credentialing.
- **Community College "Educational Administrators" Now Expressly Qualify:** For community college employees, educational administrators will qualify for CalSTRS enrollment as long as they meet certain criteria.
- **All Members Must Perform Listed Duties Regardless of Meeting Credential Requirements or Minimum Qualifications:** Regardless of their credential status or community college assignment, all employees enrolled in CalSTRS must still perform creditable service duties outlined in the revised statute.
- **New Duties Added to List:** New activities that will count as creditable service include activities connected with the enforcement of laws

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relating to compulsory education, mentorship of teachers and principals, and the work of community college presidents and chancellors.

- **New “More than 50% Rule” For Full-Time Employees:** Full-time employees who perform both creditable and non-creditable service duties will not be properly enrolled in CalSTRS unless their employer requires that they perform creditable service duties more than 50% of the time. The proposed law allows CalSTRS to require employers to provide information regarding the percentage of time that creditable service activities are performed by each position.
- **All Current Members Performing Non-Creditable Service Are Grandfathered Into CalSTRS:** Any employee or retiree enrolled in CalSTRS who performed non-creditable service duties on or before December 31, 2015 will be grandfathered into the CalSTRS system. Employees will likely need to file an election to remain in the CalSTRS system upon moving into a new position or taking a job with another school district.
- **Option to Move to CalPERS for Grandfathered Employees & Retirees:** Any employee or retiree who did not perform creditable service but nevertheless was enrolled in CalSTRS may choose to move to a different public retirement system (i.e., CalPERS) as long as they are otherwise eligible for that system and comply with the technical rules laid out in the proposed law.

The impact on California school district and community college employers will predominately be felt with the imposition of the new “50% Rule” and the administrative burden of addressing employee/retiree requests to move from CalSTRS to CalPERS. Additionally, employers should become familiar with the new creditable service definition and proper enrollment procedures for CalSTRS, including election requirements for employees moving into new positions.

Lozano Smith attorneys are available to provide guidance on creditable service, creditable compensation and other pre- and post- retirement employment issues for CalSTRS and CalPERS members, including the changes proposed by AB 963.

For a copy of AB 963 as amended on March 24, 2015, [click here](#).

If you have any questions about CalSTRS or how retirement law governs public schools and their employees, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).