CalPERS

Board of Administration

Agenda Item 8c

November 16, 2022

Item Name: State Legislative Proposal: Technical and Clarifying Amendments to the Public Employees' Retirement Law

Program: Legislation

Item Type: Action

Recommendation

Sponsor legislation to make technical and clarifying changes to sections of the Government Code affecting the benefit programs administered by the California Public Employees' Retirement System (CalPERS).

Executive Summary

CalPERS team members are seeking the approval of the CalPERS Board of Administration (Board) to sponsor legislation that would make the following technical and clarifying changes:

- Authorize the State Controller's Office to execute fund-to-fund transfers between the California Employers' Pension Prefunding Trust (CEPPT) Fund and the Public Employees' Retirement Fund (PERF)
- Cap the interest assessed on CalPERS contracting agencies at 10% when a contracting agency fails to remit the required contributions when due, rather than the higher of either the prior year's investment rate of return or 10%
- Authorize a judge who is a member of the Judges' Retirement System II (JRS II) to designate a beneficiary, such as a trust, when opting for the return of remaining contributions optional settlement (Option 1) in cases where there is no surviving spouse
- Conform existing law to ensure proper implementation of Assembly Bill (AB) 2443 (2022) when it becomes operative on January 1, 2024

Strategic Plan

These proposals are outside of the scope of the 2022-2027 CalPERS Strategic Plan.

Background

CalPERS benefit programs and administrative processes are subject to numerous statutory requirements, several of which have been identified by team members as subject to confusion among stakeholders or which otherwise represent an opportunity to realize efficiencies through their modification and clarification. In these cases, recommended legislative changes are appropriate for the continued administration and good governance of CalPERS.

Analysis

The following are proposed amendments to sections of the Government Code:

<u>CEPPT to PERF Fund-to-Fund Transfers</u>
The CEPPT program allows state and local public agency employers that provide a defined benefit pension plan to their employees to prefund their required pension contributions. While existing law addresses the transfer of funds for terminated agencies, it does not explicitly address the transfer of funds for participating agencies. Currently, employers who request to have CEPPT funds dispersed are issued a warrant from the CEPPT fund and the warrant is mailed to the requesting employer. Once received and processed, the requesting employer must then issue and mail a warrant to the PERF.

This proposal will allow for a fund-to-fund transfer that can be processed by the State Controller's Office (SCO). At this time, the SCO cannot process a fund-to-fund transfer unless the Government Code allows for such transfers.

<u>Cap on Interest Assessments for Non-Payment</u>
Existing law provides that the interest payment owed to CalPERS when contracting agencies do not pay their contributions in a timely manner is a 10% interest rate or the investment return rate for the prior fiscal year, whichever is higher. It also allows CalPERS to assess a 10% penalty to a contracting agency more than three months delinquent that is in addition to the interest charged to contracting agencies until their payment is received. In addition, the Public Employees' Medical and Hospital Act (PEMHCA) imposes a 10% penalty on contracting agencies that are delinquent with required payments under the PEMHCA.

This proposal will replace the interest assessment for non-payment with a simple annual rate of 10% and remove the option to assess the prior fiscal year's investment rate of return if higher. While this proposal does not amend the penalty assessed when a payment is more than three months delinquent, this proposal is consistent with and brings conformity to the 10% penalty assessment.

<u>JRS II Beneficiary Conformity</u>
Existing law does not allow a JRS II judge to name a beneficiary, such as a trust, for the optional settlement that provides for the distribution of remaining contributions (Option 1). If the deceased judge does not have a surviving spouse, the payment must be made to the estate. Depending on the amount payable, payment to the estate could necessitate a probate of the estate, which can be costly and time-consuming.

This proposal will allow a JRS II judge to designate a beneficiary for the return of remaining contributions in cases where a JRS II judge has elected Option 1 but there is no surviving spouse. This proposal is consistent with the Option 1 settlement for JRS and CalPERS retirement options, and will not permit a surviving spouse's community property rights to be circumvented.

<u>AB 2443 (2022) Conformity</u>
AB 2443 allows a JRS II judge who is not eligible to retire and receive a retirement allowance under existing law but is at least 60 years old with 15 years or more of service or 65 years old with a minimum of 10 years of service, to retire and elect one of two deferred retirement allowance options. This bill also made other conforming changes to existing JRS II law related to retiree health coverage and benefits for a surviving spouse to accommodate the deferred payment of a judge's retirement allowance. The provisions of this bill will become operative on January 1, 2024, and will only remain in effect until January 1, 2029, and after that date are repealed.

In order to ensure proper implementation of AB 2443 on January 1, 2024, multiple code sections throughout the JRS II statutes will need to be amended to be consistent with existing laws related to death, divorce, and other circumstances that impact the retirement benefits provided.

Budget and Fiscal Impacts

Administrative Costs/Savings:

- Allowing for fund-to-fund transfers will reduce the amount of time, material, and postage spent to process these transfers manually
- Setting a flat 10% simple annual interest will reduce the amount of time needed for CalPERS team members to adjust the myCalPERS system to a fluctuating interest rate

Benefits and Risks

Benefits:

- Provides consistency in the administration of benefits and streamlines processes to be efficient

Risks:

- None

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