November 15, 2016

Item Name: State Legislative Proposal: Policy and Technical Amendments to the Public Employee's Retirement Law

Program: Legislation

Item Type: Action

Recommendation

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

Executive Summary

Staff seeks approval of the CalPERS Board of Administration (Board) to sponsor legislation that would:

- Eliminate the requirement that a member provide CalPERS with signed approval from his or her spouse when designating that spouse as the sole primary beneficiary of his or her lump-sum death benefits, or the sole beneficiary of a retirement settlement option that provides the spouse with the same lifetime monthly benefit as the member upon the member's death,
- Clarify the alternative funding threshold for the Purchasing Power Protection Allowance (PPPA) program for state and school retirees,
- Allow CalPERS to assess employers a $200 penalty per month for each unenrolled retired annuitant or instance of unreported required-information for each retired annuitant, and
- Secure an author for potential legislation that would be necessary to enact improvements to practices and processes designed to reduce system complexity as identified in CalPERS' most recent Cost Effectiveness Measurement (CEM) reports.

Strategic Plan

This proposal supports Strategic Goal B to cultivate a high-performing, risk intelligent, and innovative organization.

Background

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processes are subject to numerous statutory requirements, several of which have been identified by staff as outdated, subject to confusion among stakeholders, or which otherwise represent an opportunity to realize efficiencies through their modification or clarification.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

Analysis

The following are proposed technical amendments to the Government Code:

Spousal Signature and Beneficiary Designation

Current law requires a CalPERS member's current spouse to be notified of his or her request for a refund of accumulated contributions, beneficiary designation, change in beneficiary designation, and retirement benefit option selection, unless the member declares in writing under penalty of perjury that a qualified exception applies. CalPERS meets this requirement by requiring the spouse to physically sign the application or form, in addition to the member. In the instance of applications and forms submitted electronically, CalPERS provides notice to the spouse directly, with a request for the individual's signed acknowledgement.

CalPERS currently requires a spousal signature for all retirement applications and beneficiary designation forms submitted to the System, which also satisfies the spousal notification request, including those that provide the member's spouse with the same monthly lifetime benefit payment or lump sum payment. Failure to satisfy the spousal signature requirement can result in CalPERS putting the member's application on hold or rejecting the application until the requirement is satisfied.

This proposal would exempt CalPERS members from the requirement that he or she provide CalPERS with a verified signed approval from his or her spouse when designating that spouse as the sole primary beneficiary of his or her lump-sum death benefits, or the sole beneficiary of a retirement settlement option that provides the spouse with the same lifetime monthly benefit as the member upon the member's death.

Purchasing Power Protection Allowance Clarification

Under existing law, PPPA provides a benefit that is designed to restore the purchasing power of CalPERS state and schools retirees to a percentage of their original allowance. Eligibility to receive the PPPA benefit is based on year of retirement, cost-of-living adjustments, one-time increases, and declining purchasing power measured by the United States City Average Consumer Price Index.

These technical amendments would clarify the alternative funding threshold for the purchasing power protection program for state and school retirees and will not alter the ongoing administration of this program.

The following are proposed minor policy changes to statute requiring their own legislation:

Employment after Retirement - Employer Consequences

Existing law requires each CalPERS employer to notify the System of any change in the employment status of a CalPERS member, and provide upon request, information on employees not enrolled in the System. Existing law allows CalPERS to assess a one-time $500 administrative fee on an employer that fails to timely enroll an active employee into CalPERS membership when he or she becomes eligible, or within 90 days thereof. It also authorizes the Board to terminate the contract of a contracting agency when it fails to provide information required by the System within three months of demand.

In circular letters and in the CalPERS public agency and school employer manual, the System has informed CalPERS public agency and school employers of their duty to enroll retired members working after retirement in the myICalPERS system at the time they are hired, and to report, by pay period, their payrate and hours worked. When an employer enrolls and reports payrate and hours worked for a retired member into my|CalPERS timely and accurately, the System will confirm for the employer whether the individual is a retired member, track the number of hours worked by the individual, and automatically issue letters to the employer and retired member as he or she nears the 960-hour limit on post-retirement employment.

CalPERS' audit findings have shown that several contracting agencies have failed to enroll or report payrate and hours worked for retired members timely and accurately, which has, at times, led to otherwise preventable post-retirement employment violations that have required retired members' reinstatement to active service. In an effort to ensure timely, accurate and consistent enrollment and reporting for retired members and improve compliance with statutory restrictions on post-retirement employment, this proposal will subject public agencies, school employers, and state employers to the aforementioned enrollment and reporting requirements and allow CalPERS to assess employers a fee of $200 per month for each unenrolled retired member until the retired member is enrolled, and $200 per month for each retired member for whom the employer fails to report the required-information, until the information is reported.

CEM Complexity Reduction
CEM Benchmarking, Inc. is a respected international entity in the field of retirement system benchmarking. It provides performance reporting, cost analysis, quality measurement, and management information, and peer comparisons to other pension systems in various areas of pension benefit administration.

The CEM Report provides an analysis of how CalPERS compares to its peers, and a view of its performance in such areas as operating costs, transactions per full-time equivalent, satisfaction and complexity levels using standardized measures. The results help CalPERS management identify areas for improvement, set priorities, and allocate resources effectively to meet strategic goals.

CalPERS has participated in the CEM survey for the past three consecutive years, where it scored highest in Total Relative Complexity compared to other participating retirement systems. Although complexity scores have remained high over this period, CalPERS has been able to improve its service score and reduce costs. In an effort to reduce complexity, the CalPERS Board successfully sponsored legislation this year that simplifies members' retirement choices and the System's benefit payment processes by eliminating and combining several of the optional retirement benefit settlements available to members that retire on and after January 1, 2018.

Staff is currently analyzing the CEM results to identify additional opportunities to reduce CalPERS' complexity, and anticipate returning to the Committee with a series of recommendations, some of which may require statutory changes. This proposal will allow staff to secure an author for potential legislation that would be necessary in order to enable implementation of approved process improvements designed to reduce system complexity.

Budget and Fiscal Impacts
Eliminating the spousal signature in certain instances where the member's spouse has been irrevocably designated as the sole beneficiary would require updates to my|CalPERS, publications, forms, and online content; however the costs of these one-time changes can be absorbed using existing resources and staff dedicated to the implementation of recently enacted retirement options simplification legislation. Additionally, any costs could be offset by efficiencies to streamlining the process.

Imposing fees for failure to enroll and report payrate and hours worked of a retired member may increase reporting and inquiries by employers, which may result in additional workload in associated program areas. However, reducing the number of potential violations of working after retirement rules may offset any increased efforts.

Benefits and Risks

1. Benefits
    - Exempting a member from obtaining a spousal signature when the member's spouse has been irrevocably designated as the sole beneficiary will decrease application processing time, reduce the number of forms submitted for staff review, eliminate time processing re-submitted applications, and reduce the notarization requirement for a portion of members submitting retirement applications or applications to modify their original election after retirement.
    - Allowing CalPERS the option to impose a $200 fee per month on an employer for failure to enroll and report the required information retired members working after retirement will assist the System in ensuring employers and retired members remain in compliance with existing post-retirement employment restrictions.

2. Risks
    - Clarifying statute, reducing system complexity and encouraging employer compliance all serve to reduce potential risks to the System.

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