New Law Modifies Post-Retirement Employment Limitations for CalSTRS Retirees, Making it Easier for Districts to Hire Retirees

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Senate Bill (SB) 765, signed into law on October 13, 2023, creates a temporary exemption from post-retirement earnings limitations under the CalSTRS system and makes it easier for Districts to hire recently retired teachers.

CalSTRS Post-Retirement Earning Limitations

When a public employer hires a CalSTRS retiree to perform creditable service, the employer is required to compensate the retiree at a rate that shall neither be below the minimum nor exceed the maximum paid to other public employees performing comparable duties. Additionally, CalSTRS retirees performing creditable service for a district are subject to the general CalSTRS earning limit—which is adjusted annually. Money earned in excess of this limit is deducted dollar for dollar from the retiree's annual CalSTRS retirement benefit for that year. The earning limit adjusts annually and previously represented one-half of the median final compensation amount paid to members who retired from service during the fiscal year ending in the prior calendar year.

The general rule is that CalSTRS retirees, in addition to other post-retirement work restrictions, have a zero-dollar earning limitation during the first 180 days following their retirement ("separation from service" requirement). (Ed. Code, § 24214.5, subd. (a)(1).) Practically, this creates a 180-day waiting period for post-retirement employment because if the retiree receives any compensation during this time period, they will incur a penalty. In the event that an employee does not comply with the 180-day earning limit, the employee's retirement allowance will be reduced dollar for dollar for any compensation earned for retired member activities. After the 180 days expire, then the general annual earnings limit applies.

Temporary Modifications to Earning Limitations

Under SB 765, the annual earnings limit for CalSTRS retirees performing creditable service was increased to 70% of the median final compensation amount paid to members who retired from service during the fiscal year ending in the prior calendar year.

Additionally, SB 765 waives the separation from service requirement (180 day waiting period) if the Superintendent or chief executive of the school District submits a waiver request that includes the following:

- Specifies the nature of the work.
- A finding that the retiree's appointment is necessary to fill a critically needed position before the 180 days have lapsed.
- A finding that the retiree did not participate in the CalSTRS Retirement Incentive Program or receive any other financial inducement to retire from any public employer.
- A finding that the district did not have a reduction in force within the last 18 months.
- A finding that the employee's termination of service was **not** the basis for the need to acquire the retiree's services. Note that CalSTRS guidance has interpreted this criterion to include that "The member would not be working in the same job from which the member retired."

Further, SB 765 adds a requirement that the CalSTRS Board submit a report to the Legislature stating the number of waiver requests received, the number of retirees hired, the hours worked by retirees, and related information regarding use of the waivers.

The bill, jointly supported by the State Superintendent of Public Instruction and the California School Boards Association, was intended to streamline the process of hiring retired teachers and to provide school districts with options for combatting the teacher shortage. SB 765 takes effect on July 1, 2024, and ends on July 1, 2026, at which point the prior version of the statute will resume effectiveness. Accordingly, the temporary modifications are in place only for the 2024-2025 and the 2025-2026 school years.

If you have any questions about the revised post-retirement earnings limitations for CalSTRS members, please contact the author of this Client News Brief or any attorney at one of our eight offices located statewide. You can also subscribe to our podcasts, follow us on Facebook, Twitter and LinkedIn or download our mobile app.