

BILL NUMBER: [AB 2901](#) (Aguiar-Curry) as introduced February 15, 2024

SUMMARY

AB 2901 provides for up to 14 weeks of fully paid leave for California public school employees for pregnancy, miscarriage, childbirth, termination of pregnancy or recovery from those conditions. Additionally, the bill prohibits a leave of absence for any of these reasons from being deducted from other leaves of absence available to the employee.

RECOMMENDATION

Support. The board’s policy is to support legislation that reduces inequities or deficiencies in plan design. While this bill does not directly impact the system, by improving pregnancy-related leave benefits for California educators, this bill potentially creates a downstream effect of female CalSTRS members having more sick leave available to convert to service credit at retirement. In doing so, this bill provides for greater equity between female and male CalSTRS members.

REASON FOR THE BILL

According to the sponsor, this bill will end the practice of requiring employees to use their sick leave for pregnancy leave, thereby alleviating the difference in the amount of unused sick leave available to convert to service credit at retirement and improving working conditions to help attract and retain talent while there is a historic shortage of workers who are choosing careers in public education.

ANALYSIS

Existing Law:

California preK-12 and community college certificated, academic and classified employees have certain rights and benefits for pregnancy disability and parental leave as governed by state law, federal law and individual collective bargaining agreements. California employers may not refuse an employee’s request to take leave for up to four months for disability related to pregnancy, childbirth or a related medical condition under the California Pregnancy Disability Leave Law. Concurrently, the federal Family Medical Leave Act and the California Family Rights Act provide up to 12 weeks of protected leave without pay. A physician must certify that there is a need for pregnancy disability leave.

While various bargaining agreements may offer somewhat different pregnancy leave benefits, in general California public school employees must exhaust their sick leave to receive pay during pregnancy leave. Once sick leave is exhausted, educators may receive:

- Up to five months of differential pay, which is the difference between their salary and the cost of their substitute, or
- Not less than 50% of the employee’s regular salary for districts that provide an annual employee credit of not less than 100 working days of paid sick leave.

Under existing law, creditable compensation includes pay for the use of sick leave, vacation leave or an employer-approved compensated leave of absence. CalSTRS receives contributions on the percentage of a member’s salary paid for the time they are on differential pay, but contributions

and service credit are not provided for members on unpaid leaves of absence, such as unpaid maternity leave. Members may purchase service credit for time spent on unpaid maternity or paternity leave, though not all members can afford to do so.

Existing law permits CalSTRS members to convert unused sick leave to service credit at retirement for the purpose of increasing their total service credit in the system. In doing so, members have the ability to create a modest increase in their retirement benefits.

This Bill:

Specifically, this bill:

- Requires public school employers and community college districts to provide up to 14 weeks of leave with full pay to certificated and classified employees who experience pregnancy, miscarriage, childbirth, termination of pregnancy or recovery from those conditions as determined by the employee and employee's physician.
- Permits the paid leave to begin before or continue after childbirth.
- Prohibits a paid leave of absence for any of these reasons from being deducted from other leaves of absence available to the employee.
- States that employers have an obligation to continue complying with bargaining agreements that provide greater disability or parental leave rights to employees than those provided by this bill.
- Extends provisions that require, except as provided by the bill, employers to apply policies and practices for disability due to pregnancy or childbirth in the same manner as other temporary disabilities to classified employees.

Discussion

This bill does not directly change CalSTRS programs or processes, but it is likely that changes to pregnancy leave for members will have downstream effects on the system. The exact impact to the fund is difficult to estimate because of the numerous ways members may respond to the improved leave benefits. One effect is that female members who need time off for pregnancy and birth-related disability will be able to retain more of their sick leave. Members may choose to use that sick leave towards other circumstances such as additional parental leave to care for their new child or to avoid using other leave or dock time to care for their sick child. Other female members may choose to save their additional sick leave to cash out with their employer or convert to service credit at retirement. If a significant portion of female members choose to convert additional unused sick leave to service credit at retirement, it could create an increase in the normal cost of benefits for the system over time. At the same time, the conversion of additional unused sick leave to service credit at retirement may help alleviate the service credit inequity that exists between female and male CalSTRS members at retirement.

A direct and immediate impact of this bill is improved benefits for active CalSTRS members by bringing pregnancy leave benefits for public educators more in line with leave benefits of other California workers as well as the International Labour Organization minimum standard of 14 weeks. The CalSTRS members most likely to be directly affected by the bill are female members under the age of 45, which constitutes approximately 36% of all active members. Numerous studies support the fact that providing paid pregnancy leave benefits significantly improves the health and financial outcomes of mothers, newborns and their families. This improved benefit may encourage more women to become educators or to remain in the profession after having children,

thereby helping schools retain experienced staff and providing relief to persistent teacher shortages. Additionally, if teachers receive fully paid pregnancy leave benefits, CalSTRS would benefit from the additional contributions on full pay as opposed to the lower contributions on differential pay. CalSTRS also would continue to receive contributions for the substitute's creditable compensation while a member is on pregnancy leave, as long as the substitute is a CalSTRS member.

PROGRAM BACKGROUND

Historical data shows that, while over 70% of CalSTRS membership is female, those female members on average receive lower benefits at retirement than male members. For the fiscal years ending on June 30, 2019, through June 30, 2023, the median Member-Only benefit was \$4,708 per month for female members and \$5,041 for male members. This difference is due to a number of factors, which could include a higher portion of male members holding higher-paid administrator or community college positions during their careers.

Another contributing factor is that female members on average have less service credit and less unused sick leave available to convert to additional service credit at retirement. For the same five-year period, female members had a median total service credit of 24.25 years and 0.505 average years of converted unused sick leave at retirement, while male members had a median total service credit of 24.48 years and 0.704 average years of converted unused sick leave at retirement. One contributing factor to this inequity is that female members must use their sick leave for pregnancy leave. If pregnancy leave benefits improved, such that female members would no longer have to exhaust their sick leave, this change could help alleviate the inequity in service credit between female and male members at retirement.

CalSTRS pension administration system does not track leaves of absence or why a member may be paid less than the full-time equivalent, so visibility of when a member is on pregnancy leave is limited. CalSTRS permits members to purchase service credit for unpaid maternity or paternity leave. During each of the last three fiscal years, between 82 and 111 members purchased this type of service credit, with an average of 0.32 to 0.58 years of service credit purchased for maternity or paternity leave. CalSTRS does not track gender for service credit purchases, so it is not clear how much of this time was associated with pregnancy or birth-related leave versus other parental leave for newborn, foster or adoption bonding time.

FISCAL IMPACT

Program Cost – Increase in the normal cost of the average member's benefit of 0.004% of pay, or \$4 per year, for each additional day of unused sick leave that is converted to service credit. If the bill results in a large number of members using less sick leave during their careers and converting that leave to service credit at retirement beyond the amount that is currently expected in the actuarial assumptions, this change may result in an increase in the unfunded actuarial obligation, which could eventually impact contribution rates. CalSTRS will receive more contributions for the time period in which members on pregnancy leave receive full pay instead of differential pay or half pay, but this increase is unlikely to be material to the fund.

Administrative Costs/Savings – Minor and absorbable.

SUPPORT

California Teachers Association (sponsor)
California State Superintendent of Public Instruction, Tony Thurmond (sponsor)
California State Treasurer, Fiona Ma (sponsor)

OPPOSITION

None known.

ARGUMENTS

- Pro:** May help to decrease the inequity in service credit between female and male CalSTRS members at retirement.
- Increases contributions to CalSTRS for the period of time members receive full pay instead of differential pay or half pay during pregnancy leave.
- Brings pregnancy leave benefits for public school educators closer to more generous leave programs provided to many private sector employees.
- May improve retention of experienced teachers.
- Con:** Significantly increases costs for school employers to compensate members for pregnancy leave.
- May increase the unfunded liability if a large portion of members choose to retain additional unused sick leave beyond the amount that is currently expected in the actuarial assumptions and convert it to service credit at retirement.