



## Pension & Health Benefits Committee

# Agenda Item 5a

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**March 19, 2024**

**Item Name:** Proposed Amendment to Regulation: Definition and Reporting of Full-Time Employment

**Program:** Employer Account Management Division

**Item Type:** Action

### **Recommendation**

Approve staff's recommendation to amend Section 574 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations to describe how a classified school member's full-time payrate shall be reported to the California Public Employees' Retirement System (CalPERS), followed by submission of the final rulemaking package to the Office of Administrative Law (OAL) upon conclusion of the 45-day public comment period if no public comments are received.

### **Executive Summary**

Section 574 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations defines "full-time" employment for purposes of determining CalPERS membership eligibility, reporting overtime positions, and determining compensation earnable and pensionable compensation. The attached proposed amended regulation is necessary to describe how a classified school member's full-time payrate shall be reported to CalPERS in accordance with Government Code (GC) section 20636.1. The proposed amended regulation would explicitly define how to determine a classified school member's hourly, daily, and monthly full-time equivalent (FTE) payrates and provide clarity and uniformity for CalPERS, its classified school members, and school employers in reporting a classified school member's full-time payrate to CalPERS.

### **Strategic Plan**

This agenda item supports the 2022-27 CalPERS Strategic Plan, Member Experience Goal through the objective of delivering accurate benefits to our members and their beneficiaries.

### **Background**

Assembly Bill 2177 (Stats. 2000, Chapter 1030) established GC section 20636.1 to clarify and standardize the reporting of compensation for classified school members. Prior to this bill,

school employers had discretion to establish how many hours were considered full-time employment for their classified school members, and overtime work was considered to be hours in excess of what the school employer considered to be full-time, which resulted in inconsistent reporting among school employers. GC section 20636.1 defines full-time employment for classified school members as “40 hours per week,” and further states that “payments for all services rendered, not to exceed 40 hours per week, shall be reported as compensation earnable for all months of the year in which work is performed.”

In 2019, CalPERS promulgated Section 574 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations to define “full-time” employment for purposes of determining CalPERS membership eligibility, reporting overtime positions, and determining compensation earnable and pensionable compensation. Consistent with GC section 20636.1, the regulation provides that full-time employment for classified school members means 40 hours per week.

While GC section 20636.1 and Section 574 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations standardized the definition of full-time employment for classified school members, it is necessary to describe how school employers determine full-time payrates for purposes of reporting payrates to CalPERS. For example, some school employers report classified school members’ earnings as payrate, but the earnings are not based on a 40-hour work week. Since GC section 20636.1 explicitly defines full-time employment as 40 hours per week, the full-time payrate reported to CalPERS must be based on a 40-hour work week regardless of whether the classified school member works 40 hours per week.

## **Analysis**

The proposed regulatory amendments provide that a school employer must determine and report a classified school member’s hourly, daily, or monthly FTE payrate for purposes of reporting full-time payrates to CalPERS and describe the manner in which the hourly, daily, and monthly FTE payrates are determined.

GC section 20630 states that compensation includes payment for time worked during normal working hours and paid time off, including but not limited to holidays, sick leave, and vacation. Payrates reported to CalPERS should therefore account not only for time worked, but also any paid leave. Considering there are 52 weeks in a year and compensation includes time worked as well as paid leave, full-time employment of 40 hours per week is equivalent to 2,080 hours per year<sup>1</sup> and 173.3333 hours per month<sup>2</sup>.

To determine a classified school member’s FTE payrate, the number of work days per year and the number of hours in a work day are to include days and hours during which the member is excused from work as set forth in GC section 20630. Overtime and compensation based on overtime are to be excluded. The classified school member’s FTE payrates shall be calculated to the nearest cent and determined as follows:

- Hourly FTE payrate: Divide the classified school member’s annual base salary by the number of work days per year, and then divide that result by the number of hours in a work day.

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<sup>1</sup> 40 hours per week x 52 weeks per year = 2,080 hours per year.

<sup>2</sup> 40 hours per week x 52 weeks per year ÷ 12 months per year = 173.3333 hours per month.

- Daily FTE payrate: Divide the classified school member's annual base salary by the number of work days per year, then divide that result by the number of hours in a work day, and then multiply that result by 8.
- Monthly FTE payrate: Divide the classified school member's annual base salary by the number of work days per year, then divide that result by the number of hours in a work day, and then multiply that result by the result of multiplying 52 (number of weeks in a year) by 40 (full-time work hours in a week) divided by 12 (number of months in a year).

Payrates reported to CalPERS must be based on 40 hours per week. Reporting monthly earnings as payrate, when the monthly earnings are not based on 40 hours per week, results in noncompliant payrates. To ensure school employers report correct payrates to CalPERS, they need to determine the hourly, daily, or monthly FTE payrate.

To illustrate this, please consider the following hypothetical scenario:

	Employee A	Employee B	Employee C
Monthly Base Salary	\$5,000	\$5,000	\$5,000
Annual Base Salary	\$60,000	\$50,000	\$60,000
Work Months per Year	12	10	12
Work Days per Year	260	215	260
Hours per Work Day	7.5	7.5	8
Hours per Work Week	37.5	37.5	40
Hours per Year	1,950	1,612.5	2,080
Hours per Work Month	162.5	161.25	173.3333
Work Days per Month	20.313	20.156	21.6667
Hourly FTE Payrate	\$30.77	\$31.01	\$28.85
Daily FTE Payrate	\$246.15	\$248.06	\$230.77
Monthly FTE Payrate	\$5,333.32	\$5,374.68	\$5,000

This hypothetical scenario illustrates that although Employee A's, Employee B's, and Employee C's monthly salaries are the same, the difference in the work months per year, work days per year, and hours per work day impact the FTE payrates. Employee A and Employee B are not working full-time for purposes of GC section 20636.1, and Employee A's and Employee B's FTE payrates are higher than Employee C's because they all earn the same monthly salaries, but Employee A is working less hours and Employee B is working less hours, days, and months.

### **Budget and Fiscal Impacts**

There are no budget or fiscal impacts to CalPERS.

## **Benefits and Risks**

This proposed amendment to Section 574 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations will standardize how FTE payrates are determined to ensure school employers report accurate full-time payrates to CalPERS as defined by GC section 20636.1.

## **Attachment**

Attachment 1 – Proposed Amendment to Regulation

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