

ASSEMBLY BILL

No. 135

Introduced by Assembly Member Havice

January 23, 2001

An act to amend Sections 22134, 22136, 22820, 24411, 24412, 24415, 24416, and 24417 of, and to repeal Sections 22134.5, 22135, and 22136.5 of, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 135, as introduced, Havice. State teachers' retirement: final compensation: purchase power protection.

Under the existing Teachers' Retirement Law, calculation of service retirement allowances of members of the Defined Benefit Program, other than classroom teachers, as defined, and members with 25 or more years of service, is based on the highest average annual compensation earnable by the member during any 3-year period.

This bill would provide that the calculation of those allowances for all members of the program shall be based on the highest annual compensation earnable by the member during any 12-month period and would make related changes.

Under the Teachers' Retirement Law, quarterly supplemental payments are made to retired members, disabled members, and beneficiaries from specified accounts to restore up to 75% of the purchasing power of the initial monthly allowances provided under the Defined Benefit Program, as specified.

This bill would provide that those supplemental payments shall be made to restore up to 80% of the purchasing power of those allowances.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22134 of the Education Code is
2 amended to read:
3 22134. (a) “Final compensation” means the highest ~~average~~
4 annual compensation earnable by a member during any period of
5 ~~three 12 consecutive school years~~ *months* while an active member
6 of the Defined Benefit Program or time during which he or she was
7 not a member but for which the member has received credit under
8 the Defined Benefit Program, except time that was so credited for
9 service performed outside this state prior to July 1, 1944. The last
10 ~~three 12 consecutive years~~ *months* of employment shall be used
11 by the system in determining final compensation unless designated
12 to the contrary in writing by the member.

13 (b) For purposes of this section, periods of service separated by
14 breaks in service may be aggregated to constitute a period of ~~three~~
15 *12 consecutive —years months*, if the periods of service are
16 consecutive except for the breaks.

17 (c) The determination of final compensation of a member who
18 has concurrent membership in another retirement system pursuant
19 to Section 22115.2 shall take into consideration the compensation
20 earnable while a member of the other system, provided that all of
21 the following exist:

22 (1) The member was in state service or in the employment of
23 a local school district or a county superintendent of schools.

24 (2) Service under the other system was not performed
25 concurrently with service under the Defined Benefit Program.

26 (3) Retirement under the Defined Benefit Program is
27 concurrent with the member’s retirement under the other system.

28 (d) The compensation earnable for the first position in which
29 California service was credited shall be used when additional
30 compensation earnable is required to accumulate ~~three 12~~
31 consecutive ~~years~~ *months* for the purpose of determining final
32 compensation under Section 23805.

33 (e) If a member has received service credit for part-time service
34 performed prior to July 1, 1956, the member’s final compensation



1 shall be adjusted for that service in excess of one year by the ratio
2 that part-time service bears to full-time service.

3 (f) The board may specify a different final compensation with
4 respect to disability allowances, disability retirement allowances,
5 family allowances, and children's portions of survivor benefit
6 allowances payable on and after January 1, 1978. The
7 compensation earnable for periods of part-time service shall be
8 adjusted by the ratio that part-time service bears to full-time
9 service.

10 ~~(g)~~

11 ~~(f)~~ The amendment of former Section 22127 made by Chapter
12 782 of the Statutes of 1982 does not constitute a change in, but is
13 declaratory of, the existing law.

14 SEC. 2. Section 22134.5 of the Education Code is repealed.

15 ~~22134.5. (a) Notwithstanding Section 22134, "final~~
16 ~~compensation" means the highest average annual compensation~~
17 ~~earnable by a member during any period of 12 consecutive months~~
18 ~~while an active member of the Defined Benefit Program or time~~
19 ~~during which he or she was not a member but for which the~~
20 ~~member has received credit under the Defined Benefit Program,~~
21 ~~except time that was so credited for service performed outside this~~
22 ~~state prior to July 1, 1944. The last consecutive 12-month period~~
23 ~~of employment shall be used by the system in determining final~~
24 ~~compensation unless designated to the contrary in writing by the~~
25 ~~member.~~

26 ~~(b) For purposes of this section, periods of service separated by~~
27 ~~breaks in service may be aggregated to constitute a period of 12~~
28 ~~consecutive months, if the periods of service are consecutive~~
29 ~~except for the breaks.~~

30 ~~(c) The determination of final compensation of a member who~~
31 ~~has concurrent membership in another retirement system pursuant~~
32 ~~to Section 22115.2 shall take into consideration the compensation~~
33 ~~earnable while a member of the other system, provided that all of~~
34 ~~the following exist:~~

35 ~~(1) The member was in state service or in the employment of~~
36 ~~a local school district or a county superintendent of schools.~~

37 ~~(2) Service under the other system was not performed~~
38 ~~concurrently with service under the Defined Benefit Program.~~

39 ~~(3) Retirement under the Defined Benefit Program is~~
40 ~~concurrent with the member's retirement under the other system.~~



1 ~~(d) The compensation earnable for the first position in which~~
2 ~~California service was credited shall be used when additional~~
3 ~~compensation earnable is required to accumulate three~~
4 ~~consecutive years for the purpose of determining final~~
5 ~~compensation under Section 23805.~~

6 ~~(e) If a member has received service credit for part-time service~~
7 ~~performed prior to July 1, 1956, the member's final compensation~~
8 ~~shall be adjusted for that service in excess of one year by the ratio~~
9 ~~that part-time service bears to full-time service.~~

10 ~~(f) The board may specify a different final compensation with~~
11 ~~respect to disability allowances, disability retirement allowances,~~
12 ~~family allowances, and children's portions of survivor benefit~~
13 ~~allowances payable on and after January 1, 1978. The~~
14 ~~compensation earnable for periods of part-time service shall be~~
15 ~~adjusted by the ratio that part-time service bears to full-time~~
16 ~~service.~~

17 ~~(g) This section shall only apply to a member who has 25 or~~
18 ~~more years of credited service, excluding service credited pursuant~~
19 ~~to Section 22714, 22715, 22717, or 22826, but including any~~
20 ~~credited service that a court has ordered be awarded to a~~
21 ~~nonmember spouse pursuant to Section 22652. This section also~~
22 ~~shall apply to a nonmember spouse, if the member had at least 25~~
23 ~~years of credited service, excluding service credited pursuant to~~
24 ~~Section 22714, 22715, 22717, or 22826, on the date the parties~~
25 ~~separated, as established in the judgment or court order pursuant~~
26 ~~to Section 22652.~~

27 SEC. 3. Section 22135 of the Education Code is repealed.

28 ~~22135. (a) Notwithstanding subdivisions (a) and (b) of~~
29 ~~Section 22134, "final compensation" means the highest annual~~
30 ~~compensation earnable by an active member who is a classroom~~
31 ~~teacher who retires, becomes disabled, or dies, after June 30, 1990,~~
32 ~~during any period of 12 consecutive months during his or her~~
33 ~~membership in the plan's Defined Benefit Program. The last 12~~
34 ~~consecutive months of employment shall be used by the system in~~
35 ~~determining final compensation unless designated to the contrary~~
36 ~~in writing by the member.~~

37 ~~(b) Section 22134, except subdivision (a) of that section, shall~~
38 ~~apply to classroom teachers who retire after June 30, 1990, and any~~
39 ~~statutory reference to Section 22134 or "final compensation" with~~
40 ~~respect to a classroom teacher who retires, becomes disabled, or~~



1 ~~dies, after June 30, 1990, shall be deemed to be a reference to this~~
2 ~~section.~~

3 ~~(c) As used in this section, “classroom teacher” means any of~~
4 ~~the following:~~

5 ~~(1) All teachers and substitute teachers in positions requiring~~
6 ~~certification qualifications who spend, during the last 10 years of~~
7 ~~their employment with the same employer which immediately~~
8 ~~precedes their retirement, 60 percent or more of their contract time~~
9 ~~each year providing direct instruction. For the purpose of~~
10 ~~determining continuity of employment within the meaning of this~~
11 ~~subdivision, an authorized leave of absence for sabbatical or~~
12 ~~illness or other collectively bargained or employer approved~~
13 ~~leaves shall not constitute a break in service.~~

14 ~~(2) Other certificated personnel who spend, during the last 10~~
15 ~~years of their employment with the same employer that~~
16 ~~immediately precedes their retirement, 60 percent or more of their~~
17 ~~contract time each year providing direct services to pupils,~~
18 ~~including, but not limited to, librarians, counselors, nurses, speech~~
19 ~~therapists, resource specialists, audiologists, audiometrists,~~
20 ~~hygienists, optometrists, psychologists, driver safety instructors,~~
21 ~~and personnel on special assignment to perform school attendance~~
22 ~~and adjustment services.~~

23 ~~(d) As used in this section, “classroom teacher” does not~~
24 ~~include any of the following:~~

25 ~~(1) Certificated employees whose job descriptions require an~~
26 ~~administrative credential.~~

27 ~~(2) Certificated employees whose job descriptions include~~
28 ~~responsibility for supervision of certificated staff.~~

29 ~~(3) Certificated employees who serve as advisers,~~
30 ~~coordinators, consultants, or developers or planners of curricula,~~
31 ~~instructional materials, or programs, who spend, during the last 10~~
32 ~~years of their employment with the same employer that~~
33 ~~immediately precedes their retirement, less than 60 percent of their~~
34 ~~contract time in direct instruction.~~

35 ~~(4) Certificated employees whose job descriptions require~~
36 ~~provision of direct instruction or services, but who are functioning~~
37 ~~in nonteaching assignments.~~

38 ~~(5) Classified employees.~~

39 ~~(e) This section shall apply only to teachers employed by an~~
40 ~~employer that has, pursuant to Chapter 10.7 (commencing with~~



1 Section 3540) of Division 4 of Title 1 of the Government Code,
2 entered into a written agreement with an exclusive representative,
3 that makes this section applicable to all of its classroom teachers,
4 as defined in subdivision (c).

5 (f) ~~The written agreement shall include a mechanism to pay for~~
6 ~~all increases in allowances provided for by this section through~~
7 ~~employer contributions or employee contributions or both, which~~
8 ~~shall be collected and retained by the employer in a trust fund to~~
9 ~~be used solely and exclusively to pay the system for all increases~~
10 ~~in allowances provided by this section and related administrative~~
11 ~~costs; and a mechanism for disposition of the employee's~~
12 ~~contributions if employment is terminated before retirement, and~~
13 ~~for the establishment of a trust fund board. The trust fund board~~
14 ~~shall administer the trust fund and shall be composed of an equal~~
15 ~~number of members representing classroom teachers chosen by~~
16 ~~the bargaining agent and the employer. If the employer agrees to~~
17 ~~pay the total cost of increases in allowances, the establishment of~~
18 ~~a trust fund and a trust fund board shall be optional to the employer.~~
19 ~~The employer, within 30 days of receiving an invoice from the~~
20 ~~system, shall reimburse the retirement fund the amount~~
21 ~~determined by the Teachers' Retirement Board to be the actuarial~~
22 ~~equivalent of the difference between the allowance the member or~~
23 ~~beneficiary receives pursuant to this section and the allowance the~~
24 ~~member or beneficiary would have received if the member's final~~
25 ~~compensation had been computed under Section 22134 and the~~
26 ~~proportionate share of the cost to the plan's Defined Benefit~~
27 ~~Program, as determined by the Teachers' Retirement Board, of~~
28 ~~administering this section. The payment shall include the cost of~~
29 ~~all increases in allowances provided for by this section for all years~~
30 ~~of service credited to the member as of the benefit effective date.~~
31 ~~Interest shall be charged at the regular interest rate for any payment~~
32 ~~not received within 30 days of receipt of the invoice. Payments not~~
33 ~~received within 30 days after receipt of the invoice may be~~
34 ~~collected pursuant to Section 23007.~~

35 (g) ~~Upon the execution of the agreement, the employer shall~~
36 ~~notify all certificated employees of the agreement and any~~
37 ~~certificated employee of the employer, who is a member of the~~
38 ~~Public Employees' Retirement System pursuant to Section 22508,~~
39 ~~that he or she may, within 60 days following the date of~~
40 ~~notification, elect to terminate his or her membership in the Public~~



1 ~~Employees' Retirement System and become a member of this~~
2 ~~plan's Defined Benefit Program. However, only service credited~~
3 ~~under the Defined Benefit Program subsequent to the date of that~~
4 ~~election shall be subject to this section.~~

5 ~~(h) An employer that agrees to become subject to this section,~~
6 ~~shall, on a form and within the timeframes prescribed by the~~
7 ~~system, certify the applicability of this section to a member~~
8 ~~pursuant to the criteria set forth in this section when a retirement,~~
9 ~~disability, or family allowance becomes payable.~~

10 ~~(i) For a nonmember spouse, final compensation shall be~~
11 ~~determined pursuant to paragraph (2) of subdivision (e) of Section~~
12 ~~22664. The employer, within 30 days of receiving an invoice from~~
13 ~~the system, shall reimburse the retirement fund pursuant to~~
14 ~~subdivision (f). Interest shall be charged at the regular interest rate~~
15 ~~for payments not received within the prescribed timeframe.~~
16 ~~Payments not received within 30 days of invoicing may be~~
17 ~~collected pursuant to Section 23007.~~

18 SEC. 4. Section 22136 of the Education Code is amended to
19 read:

20 22136. ~~(a)~~ "Final compensation" with respect to a member
21 whose salary while an active member was reduced because of a
22 reduction in school funds means the highest average annual
23 compensation earnable by the member during any ~~three years~~ 12
24 months while employed to perform creditable service subject to
25 coverage by the Defined Benefit Program if the member elects to
26 be subject to this section.

27 ~~(b) For the purposes of this section, a year shall be considered~~
28 ~~to be a period of 12 consecutive months.~~

29 SEC. 5. Section 22136.5 of the Education Code is repealed.

30 ~~22136.5. (a) Notwithstanding Section 22136, "final~~
31 ~~compensation" with respect to a member whose salary while an~~
32 ~~active member was reduced because of a reduction in school funds~~
33 ~~means the highest average annual compensation earnable by the~~
34 ~~member during any 12 months while employed to perform~~
35 ~~creditable service subject to coverage by the Defined Benefit~~
36 ~~Program if the member elects to be subject to this section.~~

37 ~~(b) This section shall only apply to a member who has 25 or~~
38 ~~more years of credited service, excluding service credited pursuant~~
39 ~~to Section 22714, 22715, 22717, or 22826, but including any~~
40 ~~credited service that a court has ordered be awarded to a~~



1 ~~nonmember spouse pursuant to Section 22652. This section also~~
2 ~~shall apply to a nonmember spouse, if the member had at least 25~~
3 ~~years of credited service, excluding service credited pursuant to~~
4 ~~Section 22714, 22715, 22717, or 22826, on the date the parties~~
5 ~~separated, as established in the judgment or court order pursuant~~
6 ~~to Section 22652.~~

7 SEC. 6. Section 22820 of the Education Code is amended to
8 read:

9 22820. (a) A member, other than a retired member, may elect
10 to purchase out-of-state service credited in a public retirement
11 system for service covering public education in another state or
12 territory of the United States or by the United States for its citizens.
13 In no event shall the member receive credit for this service if the
14 member has credit or is eligible to receive credit for the same
15 service in the Cash Balance Benefit Program under Part 14
16 (commencing with Section 26000) or another public retirement
17 system, excluding social security.

18 (b) The amount of out-of-state service for which a member may
19 purchase credit may not exceed the number of years of service
20 credited to the member in the out-of-state retirement system or 10
21 years, whichever is less.

22 (c) Out-of-state service credit may be purchased under this
23 section by means of any of the following actions:

24 (1) Paying an amount equal to the amount refunded from the
25 other public retirement system and receiving service credit under
26 the Defined Benefit Program pursuant to subdivision (a) of
27 Section 22823.

28 (2) Paying the contributions required under the Defined
29 Benefit Program pursuant to subdivision (a) of Section 22823 for
30 the service credited in the other public retirement system.

31 (3) Paying an amount equal to the amount refunded from the
32 other public retirement system and an additional amount in
33 accordance with subdivision (a) of Section 22823 for the service
34 credited in the other public retirement system.

35 (d) Contributions made to a plan qualified under Section
36 403(b) of the Internal Revenue Code may not be used to purchase
37 credit for out-of-state service.

38 (e) Compensation for out-of-state service shall not be used in
39 determining the highest ~~average~~ annual compensation earnable
40 when calculating final compensation.



1 (f) The service credit purchased under this section shall not be
2 used to meet the eligibility requirements for benefits provided
3 under Sections 24001 and 24101.

4 SEC. 7. Section 24411 of the Education Code is amended to
5 read:

6 24411. (a) (1) Annual cost-of-living adjustments for retired
7 members, disabled members, and beneficiaries in excess of the
8 2-percent adjustment authorized by Section 22140 may be
9 included as a General Fund appropriation in the annual Budget
10 Act. In the annual budget submitted to the Legislature, the
11 Governor shall include a budget item equal to 5 percent of the
12 average annualized statewide increase in payroll for certificated
13 personnel over the three previous school years among school
14 districts, county offices of education, and community college
15 districts.

16 (2) The amount submitted in the annual Budget Act pursuant
17 to this section shall be considered as part of the overall budget
18 allocations to the public schools and community colleges.

19 (b) The annual appropriation shall be made to the system on
20 July 1, and shall be placed in a segregated account called the
21 Retirees' Purchasing Power Protection Account. The proceeds of
22 that account are continuously appropriated and shall be distributed
23 annually in quarterly payments commencing on September 1 to
24 retired members, disabled members, and beneficiaries under the
25 Defined Benefit Program as follows:

26 (1) The proceeds shall be allocated among those retired
27 members, disabled members, and beneficiaries under the Defined
28 Benefit Program whose allowances, after applying the 2-percent
29 adjustment authorized by Section 22140, have the lowest
30 purchasing power percentage, based on the amount that would be
31 paid had the original allowance been increased by the increases in
32 the index then being used by the Department of Finance to measure
33 changes in the cost of living, increasing those allowances to a
34 common minimum purchasing power level. In any year in which
35 the purchasing power of the allowances of all retired members,
36 disabled members, and beneficiaries under the Defined Benefit
37 Program equals not less than ~~75~~ 80 percent and additional funds
38 remain from the allocation authorized by this section, those funds
39 shall be allocated by the board to general accounts to reduce the
40 unfunded actuarial liability of the fund.



1 (2) The board may deduct from the annual appropriation an
2 amount necessary for administrative expenses to implement this
3 section.

4 (c) The board shall inform each recipient of an allowance under
5 subdivision (b) that the increases are not cumulative, are not part
6 of the base allowance, and shall be available only as appropriated
7 annually in the Budget Act.

8 (d) The adjustments authorized by this section shall not be
9 included in the base allowance for purposes of calculating the
10 2-percent adjustment authorized by Section 22140.

11 ~~(e) It is the ultimate intent and purpose of the Legislature in
12 amending this section by Chapters 323 and 780 of the Statutes of
13 1983, to achieve a common minimum purchasing power level
14 equal to 75 percent of the purchasing power of the original
15 allowance. It is the present intent of the Legislature that until
16 adequate funds are available to fulfill the ultimate intent, those
17 persons whose allowances have been most impacted by inflation
18 shall be accorded first priority in receiving, pursuant to this
19 section, supplemental cost of living adjustments from the
20 Retirees' Purchasing Power Protection Account.~~

21 ~~(f) This section shall not be operative in any fiscal year during
22 which, as determined by the board, distributions provided for by
23 Section 24415 are being made.~~

24 SEC. 8. Section 24412 of the Education Code is amended to
25 read:

26 24412. (a) The annual revenues deposited to the Teachers'
27 Retirement Fund pursuant to Section 6217.5 of the Public
28 Resources Code are continuously appropriated without regard to
29 fiscal year for the purposes of this section and shall be distributed
30 annually in quarterly supplemental payments commencing on
31 September 1 of each year to retired members, disabled members,
32 and beneficiaries under the Defined Benefit Program. The amount
33 available for distribution in any year shall be the income for that
34 year from the sale or use of school lands and lieu lands, as
35 estimated by the State Lands Commission prior to the beginning
36 of the fiscal year, adjusted by the difference between the estimated
37 and actual income for the preceding fiscal year. The board shall
38 deduct from the revenues an amount necessary for administrative
39 expenses to implement this section.



1 (b) The net revenues to be distributed shall be allocated among
2 those retired members, disabled members, and beneficiaries, as
3 defined in subdivision (a) of Section 22107, whose allowances
4 under the Defined Benefit Program, after sequentially applying
5 the annual improvement factor as defined in Section 22140 and the
6 annual supplemental payment as specified in Section 24411, if
7 any, are below ~~75~~ 80 percent of the original purchasing power. The
8 purchasing power calculation for each individual allowance shall
9 be based on the change in the All Urban California Consumer Price
10 Index between June of the calendar year of retirement and June of
11 the fiscal year preceding the fiscal year of the distribution. The
12 allocation shall provide a pro rata share of the amount needed to
13 restore the allowance payable, after sequential application of the
14 current year annual improvement factor and the supplemental
15 payment under Section 24411, to ~~75~~ 80 percent of the original
16 purchasing power.

17 (c) The allowance increase shall not be applicable to annuities
18 payable from the accumulated annuity deposit contributions or the
19 accumulated tax-sheltered annuity contributions.

20 (d) In any year that the net revenues from school lands and lieu
21 lands is greater than that needed to adjust the allowances of all
22 retired members, disabled members, and beneficiaries, as defined
23 in subdivision (a) of Section 22107, under the Defined Benefit
24 Program to ~~75~~ 80 percent of the original purchasing power, the net
25 revenues in excess of that needed for distribution shall be used by
26 the board to reduce the unfunded actuarial obligation of the fund,
27 *if any*.

28 (e) The board shall inform each recipient of supplemental
29 payments under this section that the increases are not cumulative
30 and are not part of the base allowance.

31 SEC. 9. Section 24415 of the Education Code is amended to
32 read:

33 24415. (a) The proceeds of the Supplemental Benefit
34 Maintenance Account shall be distributed annually in quarterly
35 supplemental payments commencing on September 1, 1990, to
36 retired members, disabled members, and beneficiaries, as defined
37 in subdivision (a) of Section 22107. The amount available for
38 distribution in any fiscal year shall not exceed the amount
39 necessary to restore purchasing power up to ~~75~~ 80 percent of the
40 purchasing power of the initial monthly allowance after the



1 application of all allowance increases authorized by this part,
2 including those specified in Section 24412, and excluding those
3 provided pursuant to Sections 24410.5, 24410.6, and 24410.7.

4 (b) The net revenues to be distributed shall be allocated among
5 those retired members, disabled members, and beneficiaries, as
6 defined in subdivision (a) of Section 22107, whose allowances,
7 after sequentially applying the annual improvement factor as
8 defined in Sections 22140 and 22141, and the annual supplemental
9 payment as specified in Section 24412, have the lowest purchasing
10 power percentage. The purchasing power calculation for each
11 individual shall be based on the change in the All Urban California
12 Consumer Price Index between June of the calendar year of
13 retirement and June of the fiscal year preceding the fiscal year of
14 distribution. In any year in which the purchasing power of the
15 allowances of all retired members, disabled members, and
16 beneficiaries, as defined in subdivision (a) of Section 22107,
17 equals not less than ~~75~~ 80 percent and additional funds remain
18 from the allocation authorized by this section, those funds shall
19 remain in the Supplemental Benefit Maintenance Account for
20 allocation in future years.

21 (c) The allowance increase shall not be applicable to annuities
22 payable from the accumulated annuity deposit contributions or the
23 accumulated tax-sheltered annuity contributions.

24 (d) The increases provided by subdivision (b) are not
25 cumulative, not part of the base allowance, and will be payable
26 only to the extent that funds are available from the Supplemental
27 Benefit Maintenance Account. The board shall inform each
28 recipient of the contents of this subdivision.

29 (e) The adjustments authorized by this section are vested only
30 up to the amount payable as a result of the annual appropriation
31 made pursuant to Section 22954 and shall not be included in the
32 base allowance for purposes of calculating the annual
33 improvement defined by Sections 22140 and 22141.

34 (f) Notwithstanding subdivision (b), for purposes of restoring
35 the purchasing power of benefits provided pursuant to Section
36 24410.5 for members and beneficiaries receiving benefits
37 pursuant to subdivision (b), the purchasing power calculation shall
38 be based on ~~75~~ 80 percent of the change in the All Urban California
39 Consumer Price Index between January 2000 and June of the fiscal
40 year preceding the fiscal year of distribution, after the application



1 of increases authorized by Section 24412 that are made to the
2 allowances provided pursuant to Section 24410.5.

3 (g) Notwithstanding subdivision (b), for purposes of restoring
4 the purchasing power of benefits provided pursuant to Sections
5 24410.6 and 24410.7 for members and beneficiaries receiving
6 benefits pursuant to subdivision (b), the purchasing power
7 calculation shall be based on ~~75~~ 80 percent of the change in the All
8 Urban California Consumer Price Index between January 2001
9 and June of the fiscal year preceding the fiscal year of distribution,
10 after the application of increases authorized by Section 24412 that
11 are made to the allowances provided pursuant to Sections 24410.6
12 and 24410.7.

13 SEC. 10. Section 24416 of the Education Code is amended to
14 read:

15 24416. (a) ~~Beginning in the 1997–98 fiscal year, if~~ *If* the
16 board determines by June 30 of the then current fiscal year that the
17 Supplemental Benefit Maintenance Account will not have
18 sufficient funds to provide purchasing power of up to ~~75~~ 80
19 percent for the subsequent fiscal year, the board, for that year, may
20 do either, or a combination of the following:

21 (1) Increase the employer contribution rate commencing in the
22 next fiscal year by an amount that would provide sufficient funds
23 for no more than the estimated difference between the funds in the
24 Supplemental Benefit Maintenance Account and the amount
25 needed to pay the benefit level specified by the board, provided the
26 benefit level is no more than ~~75~~ 80 percent. Notwithstanding any
27 other provision of this part, the increase in the employer
28 contribution rate shall only become operative if the increase is
29 approved or authorized in the Budget Act.

30 (2) Reduce the supplemental benefit payment for the
31 subsequent fiscal year to the amount ~~which~~ *that* can be funded by
32 the available funds in the Supplemental Benefit Maintenance
33 Account.

34 (b) If the board finds that there is no unfunded obligation, as
35 determined by the board’s professional consulting actuary and
36 affirmed by the Director of Finance, then in addition to the
37 authority pursuant to subdivision (a), the board may transfer to an
38 auxiliary Supplemental Benefit Maintenance Account, from any
39 funds that are in excess of the amount needed to fund fully the
40 benefits for which the Teachers’ Retirement Fund is liable, an



1 amount that would provide sufficient funds for no more than the
2 estimated difference between the funds in the Supplemental
3 Benefit Maintenance Account and the amount needed to pay the
4 benefit level specified by the board, provided the benefit level is
5 no more than ~~75~~ 80 percent.

6 (c) If the board increases the employer contribution rate
7 pursuant to paragraph (1) of subdivision (a), the increase between
8 the current fiscal year contribution rate and the contribution rate
9 in the next fiscal year, shall not exceed one-quarter of 1 percent of
10 the creditable compensation upon which contributions are based.

11 SEC. 11. Section 24417 of the Education Code is amended to
12 read:

13 24417. (a) The proceeds of an auxiliary Supplemental
14 Benefit Maintenance Account shall be distributed annually in
15 quarterly supplemental payments, commencing when funds in the
16 Supplemental Benefit Maintenance Account are insufficient to
17 support ~~75~~ 80 percent, to retired members, disabled members, and
18 beneficiaries, as defined in subdivision (a) of Section 22107. The
19 amount available for distribution in any fiscal year shall not exceed
20 the amount necessary to restore purchasing power up to ~~75~~ 80
21 percent of the purchasing power of the initial monthly allowance
22 after the application of all allowance increases authorized by this
23 part, including those specified in Sections 24412 and 24415, and
24 excluding those provided pursuant to Sections 24410.5, 24410.6,
25 and 24410.7.

26 (b) The net revenues to be distributed shall be allocated among
27 those retired members, disabled members, and beneficiaries, as
28 defined in subdivision (a) of Section 22107, whose allowances,
29 after sequentially applying the annual improvement factor as
30 defined in Sections 22140 and 22141, and the annual supplemental
31 payment as specified in Sections 24412 and 24415, have the lowest
32 purchasing power percentage. The purchasing power calculation
33 for each individual shall be based on the change in the All Urban
34 California Consumer Price Index between June of the calendar
35 year of the benefit effective date and June of the fiscal year
36 preceding the fiscal year of distribution.

37 (c) The allowance increase shall not be applicable to annuities
38 payable from the accumulated annuity deposit contributions or the
39 accumulated tax-sheltered annuity contributions.



1 (d) The increases provided by subdivision (b) are not
2 cumulative, nor part of the base allowance, and will be payable
3 only to the extent that funds are available from the Supplemental
4 Benefit Maintenance Account and the auxiliary Supplemental
5 Benefit Maintenance Account. The board shall inform each
6 recipient of the contents of this subdivision.

7 (e) The distributions authorized by this section are vested only
8 up to the amount payable as a result of the annual appropriation
9 made pursuant to Section 22954 and shall not be included in the
10 base allowance for purposes of calculating the annual
11 improvement defined by Sections 22140 and 22141.

12 (f) Notwithstanding subdivision (b), for purposes of restoring
13 the purchasing power of benefits provided pursuant to Section
14 24410.5 for members and beneficiaries receiving benefits
15 pursuant to subdivision (b), the purchasing power calculation shall
16 be based on ~~75~~ 80 percent of the change in the All Urban California
17 Consumer Price Index between January 2000 and June of the fiscal
18 year preceding the fiscal year of distribution, after the application
19 of increases authorized by Section 24412 that are made to the
20 allowances provided pursuant to Section 24410.5.

21 (g) Notwithstanding subdivision (b), for purposes of restoring
22 the purchasing power of benefits provided pursuant to Sections
23 24410.6 and 24410.7 for members and beneficiaries receiving
24 benefits pursuant to subdivision (b), the purchasing power
25 calculation shall be based on ~~75~~ 80 percent of the change in the All
26 Urban California Consumer Price Index between January 2001
27 and June of the fiscal year preceding the fiscal year of distribution,
28 after the application of increases authorized by Section 24412 that
29 are made to the allowances provided pursuant to Sections 24410.6
30 and 24410.7.

