

Introduced by Committee on Public Employment and Retirement (Senators Soto (Chair), Karnette, and Ortiz)

February 22, 2001

An act to amend Sections 22119.2, 22138.6, 22151, 22352, 22900, 24001, 24001.5, 24101, 24203.5, 24203.6, 24209, 24211, 24212, 24255, 24260, and 24410.6 of, and to repeal Section 22136.5 of, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 501, as introduced, Committee on Public Employment and Retirement. State teachers' retirement.

(1) The Teachers' Retirement Law defines "creditable compensation," "full-time equivalent," and "overtime" for purposes of calculating benefits under that law.

This bill would make technical changes to those definitions.

(2) The Teachers' Retirement Law provides an optional, alternative method for calculating the final compensation for purpose of benefits under that law applicable to a member whose salary was reduced due to a reduction in school funds.

This bill would repeal that provision.

(3) Existing law requires the Teacher's Retirement Board to provide a specified annual report to, among others, the Joint Public Pension Fund Investments Committee.

This bill would delete the reference to that committee.

(4) Existing law prescribes service and disability benefits for members of the Defined Benefit Program of the State Teacher's Retirement Plan which benefits are calculated, in part, based upon the member's credited service; however, with respect to certain benefit

calculations, specified types of credited service, such as credit for unused sick leave, are excluded.

This bill would additionally exclude from those benefit calculations service credited for unused leave of absences for education, as specified.

(5) The Teacher’s Retirement Law prescribes contribution rates and disability retirement benefits and establishes a replacement benefits program for members of the Defined Benefit Program of the State Teachers’ Retirement Plan.

This bill would make technical changes to those provisions.

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 22119.2 of the Education Code is
2 amended to read:
3 22119.2. (a) “Creditable compensation” means salary and
4 other remuneration payable in cash by an employer to a member
5 for creditable service. Creditable compensation shall include:
6 (1) Money paid in accordance with a salary schedule based on
7 years of training and years of experience for creditable service
8 performed up to and including the full-time equivalent for the
9 position in which the service is performed.
10 (2) For members not paid according to a salary schedule,
11 money paid for creditable service performed up to and including
12 the full-time equivalent for the position in which the service is
13 performed.
14 (3) Money paid for the member’s absence from performance of
15 creditable service as approved by the employer, except as provided
16 in paragraph (7) of subdivision (b).
17 (4) Member contributions picked up by an employer pursuant
18 to Section 22903 or 22904.
19 (5) Amounts deducted by an employer from the member’s
20 salary, including deductions for participation in a deferred
21 compensation plan; deductions for the purchase of annuity
22 contracts, tax-deferred retirement plans, or other insurance
23 programs; and deductions for participation in a plan that meets the
24 requirements of Section 125, 401(k), or 403(b) of Title 26 of the
25 United States Code.



1 (6) Money paid by an employer in addition to salary paid under
2 paragraph (1) or (2) if paid to all employees in a class in the same
3 dollar amount, the same percentage of salary, or the same
4 percentage of the amount being distributed.

5 (7) Money paid in accordance with a salary schedule by an
6 employer to an employee for achieving certification from a
7 national board ~~awarding certifications, in which eligibility for this~~
8 ~~certification is~~ based, in part, on years of training or years of
9 experience in teaching service, if the compensation is paid by the
10 employer to all employees who achieved this certification.

11 (8) Any other payments the board determines to be “creditable
12 compensation.”

13 (b) “Creditable compensation” does not mean and shall not
14 include:

15 (1) Money paid for service performed in excess of the full-time
16 equivalent for the position.

17 (2) Money paid for overtime or summer school service, or
18 money paid for the aggregate service performed as a member of
19 the Defined Benefit Program in excess of one year of service credit
20 for any one school year.

21 (3) Money paid for service that is not creditable service
22 pursuant to Section 22119.5.

23 (4) Money paid by an employer in addition to salary paid under
24 paragraph (1) or (2) of subdivision (a) if not paid to all employees
25 in a class in the same dollar amount, the same percentage of salary,
26 or the same percentage of the amount being distributed, except as
27 provided in paragraph (7) of subdivision (a).

28 (5) Fringe benefits provided by an employer.

29 (6) Job-related expenses paid or reimbursed by an employer.

30 (7) Money paid for unused accumulated leave.

31 (8) Severance pay or compensatory damages or money paid to
32 a member in excess of salary as a compromise settlement.

33 (9) Annuity contracts, tax-deferred retirement programs, or
34 other insurance programs, including, but not limited to, plans that
35 meet the requirements of Section 125, 401(k), or 403(b) of Title
36 26 of the United States Code that are purchased by an employer for
37 the member and are not deducted from the member’s salary.

38 (10) Any payments determined by the board to have been made
39 by an employer for the principal purpose of enhancing a member’s
40 benefits under the Defined Benefit Program. An increase in the



1 salary of a member who is the only employee in a class pursuant
2 to subdivision (b) of Section 22112.5 that arises out of an
3 employer's restructuring of compensation during the member's
4 final compensation period shall be presumed to have been granted
5 for the principal purpose of enhancing benefits under the Defined
6 Benefit Program and shall not be creditable compensation. If the
7 board determines sufficient evidence is provided to the system to
8 rebut this presumption, the increase in salary shall be deemed
9 creditable compensation.

10 (11) Any other payments the board determines not to be
11 "creditable compensation."

12 (c) Any employer or person who knowingly or willfully reports
13 compensation in a manner inconsistent with subdivision (a) or (b)
14 shall reimburse the plan for any overpayment of benefits that
15 occurs because of that inconsistent reporting and may be subject
16 to prosecution for fraud, theft, or embezzlement in accordance
17 with the Penal Code. The system may establish procedures to
18 ensure that compensation reported by an employer is in
19 compliance with this section.

20 (d) The definition of "creditable compensation" in this section
21 is designed in accordance with sound funding principles that
22 support the integrity of the retirement fund. These principles
23 include, but are not limited to, consistent treatment of
24 compensation throughout the career of the individual member,
25 consistent treatment of compensation for an entire class of
26 employees, the prevention of adverse selection, and the exclusion
27 of adjustments to, or increases in, compensation for the principal
28 purpose of enhancing benefits.

29 (e) This section shall be deemed to have become operative on
30 July 1, 1996.

31 (f) This section shall become inoperative on July 1, 2002, if the
32 revenue limit cost-of-living adjustment computed by the
33 Superintendent of Public Instruction for the 2001-02 fiscal year
34 is equal to or greater than 3.5 percent. Otherwise this section shall
35 become inoperative on July 1, 2003 and as of January 1, 2004, this
36 section is repealed, unless a later enacted statute, that becomes
37 operative on or before January 1, 2004, deletes or extends the dates
38 on which it becomes inoperative and is repealed.

39 SEC. 2. Section 22136.5 of the Education Code is repealed.



1 ~~22136.5. (a) Notwithstanding Section 22136, “final~~
2 ~~compensation” with respect to a member whose salary while an~~
3 ~~active member was reduced because of a reduction in school funds~~
4 ~~means the highest average annual compensation earnable by the~~
5 ~~member during any 12 months while employed to perform~~
6 ~~creditable service subject to coverage by the Defined Benefit~~
7 ~~Program if the member elects to be subject to this section.~~

8 ~~(b) This section shall only apply to a member who has 25 or~~
9 ~~more years of credited service, excluding service credited pursuant~~
10 ~~to Section 22714, 22715, 22717, or 22826, but including any~~
11 ~~credited service that a court has ordered be awarded to a~~
12 ~~nonmember spouse pursuant to Section 22652. This section also~~
13 ~~shall apply to a nonmember spouse, if the member had at least 25~~
14 ~~years of credited service, excluding service credited pursuant to~~
15 ~~Section 22714, 22715, 22717, or 22826, on the date the parties~~
16 ~~separated, as established in the judgment or court order pursuant~~
17 ~~to Section 22652.~~

18 SEC. 3. Section 22138.6 of the Education Code is amended
19 to read:

20 22138.6. “Full-time equivalent” means the days or hours of
21 creditable service that a person who is employed on a part-time
22 basis would be required to perform in a school year if he or she
23 were employed full time in that *part-time* position.

24 SEC. 4. Section 22151 of the Education Code is amended to
25 read:

26 22151. “Overtime” means the aggregate creditable service in
27 excess of one year (1.000) of creditable service that is performed
28 by a ~~person~~ *member* in a school year.

29 SEC. 5. Section 22352 of the Education Code is amended to
30 read:

31 22352. (a) Upon a finding by the board that necessary
32 investment expertise is not available within existing civil service
33 classifications, and with the approval of the State Personnel Board,
34 the board may contract with qualified investment managers having
35 demonstrated expertise in the management of large and diverse
36 investment portfolios to render service in connection with the
37 investment program of the board.

38 (b) The board shall report to the Governor, the Legislature, *and*
39 the Joint Legislative Budget Committee, ~~and the Joint Public~~
40 ~~Pension Fund Investments Committee~~ on the nature, duration, and



1 ~~the~~ cost of investment contract services used. The report shall first
2 be submitted in April 1987, and annually in April of every year
3 thereafter.

4 SEC. 6. Section 22900 of the Education Code is amended to
5 read:

6 22900. By accepting employment *to perform creditable*
7 *service*, a person consents to make contributions pursuant to
8 Section 22901 for service and compensation credited under this
9 part.

10 SEC. 7. Section 24001 of the Education Code is amended to
11 read:

12 24001. (a) A member may apply for a disability allowance
13 under the Defined Benefit Program if the member has five or more
14 years of credited service and if all of the following requirements
15 are met:

16 (1) At least four years were credited for actual performance of
17 service subject to coverage under the Defined Benefit Program.
18 Credit received because of workers' compensation payments shall
19 be counted toward the four-year requirement in accordance with
20 Section 22710.

21 (2) The last five years of credited service were performed in
22 this state.

23 (3) At least one year was credited for service performed
24 subsequent to the date on which the member terminated the service
25 retirement allowance under Section 24208.

26 (4) At least one year was credited for service performed
27 subsequent to the most recent refund of accumulated retirement
28 contributions.

29 (5) The member has neither attained normal retirement age, nor
30 possesses sufficient unused sick leave days to receive creditable
31 compensation on account of sick leave to normal retirement age.

32 (6) The member is not applying for a disability allowance
33 because of a physical or mental condition known to exist at the
34 time the most recent membership in the Defined Benefit Program
35 commenced and remains substantially unchanged at the time of
36 application.

37 (b) Nothing in subdivision (a) shall affect the right of a member
38 to a disability allowance under this part if the reason that the
39 member is credited with less than four years of actual service
40 performed subject to coverage under the Defined Benefit Program



1 is due to an on-the-job injury or a disease that occurred while the
2 member was employed and the four-year requirement can be
3 satisfied by credit obtained under Chapter 14 (commencing with
4 Section 22800) or Chapter 14.5 (commencing with Section 22850)
5 in addition to any credit received from workers' compensation
6 payments.

7 (c) Nothing in subdivision (a) shall affect the right of a member
8 under this part who has less than five years of credited service to
9 a disability allowance providing the member has at least one year
10 of credited California service and if the reason for the disability is
11 due to an unlawful act of bodily harm committed by another
12 human being on the person of the member while the member was
13 performing his or her official duties in a position subject to
14 coverage under the Defined Benefit Program.

15 ~~(d) A member shall not be eligible for disability under the~~
16 ~~Defined Benefit Program while on a leave of absence to serve as~~
17 ~~a full-time elected officer of an employee organization, even if~~
18 ~~receiving service credit under Section 22711.~~

19 SEC. 8. Section 24001.5 of the Education Code is amended
20 to read:

21 24001.5. A member shall not be eligible for *a* disability
22 *allowance* under the Defined Benefit Program while on a leave of
23 absence to serve as a full-time elected officer of an employee
24 organization, even if ~~receiving~~ *the member receives* service credit
25 under Section 22711.

26 SEC. 9. Section 24101 of the Education Code is amended to
27 read:

28 24101. (a) A member may apply for a disability retirement
29 under this part if the member has five or more years of credited
30 service and if all of the following requirements are met:

31 (1) At least four years were credited for actual service
32 performed subject to coverage under the Defined Benefit
33 Program. Credit received because of workers' compensation
34 payments shall be counted toward the four-year requirement in
35 accordance with Section 22710.

36 (2) The last five years of credited service were performed in
37 this state.

38 (3) At least one year (1,000) of credited service was earned
39 subsequent to the date on which the member terminated the service
40 retirement allowance under Section 24208.



1 (4) At least one year (1.000) of credited service was earned
2 subsequent to the date on which the member's disability allowance
3 was terminated.

4 (5) At least one year (1.000) of credited service was earned
5 subsequent to the most recent refund of accumulated retirement
6 contributions.

7 (6) The member is not applying for a disability retirement
8 because of a physical or mental condition known to exist at the
9 time the most recent membership in the Defined Benefit Program
10 commenced and that remains substantially unchanged at the time
11 of application.

12 (b) Nothing in subdivision (a) shall affect the right of a member
13 to a disability retirement if the reason that the member has
14 performed less than four years of actual service is due to an
15 on-the-job injury or a disease while in employment subject to
16 coverage by the Defined Benefit Program and the four-year
17 requirement can be satisfied by credit obtained under Chapter 14
18 (commencing with Section 22800) or Chapter 14.5 (commencing
19 with Section 22850) in addition to any credit received from
20 workers' compensation payments.

21 (c) Nothing in subdivision (a) shall affect the right of a member
22 who has less than five years of credited service to a disability
23 retirement allowance providing the member has at least one year
24 of credited California service and if the reason for the disability is
25 due to an unlawful act of bodily harm committed by another
26 human being on the person of the member while the member was
27 performing his or her official duties in a position subject to
28 coverage under the Defined Benefit Program.

29 ~~(d) A member shall not be eligible for disability retirement
30 from the Defined Benefit Program while on a leave of absence to
31 serve as a full-time elected officer of an employee organization,
32 even if receiving service credit under Section 22711.~~

33 SEC. 10. Section 24203.5 of the Education Code is amended
34 to read:

35 24203.5. (a) The percentage of final compensation used to
36 compute the allowance pursuant to Section 24202.5, 24203, or
37 24205 of a member retiring on or after January 1, 1999, who has
38 30 or more years of credited service, excluding service credited
39 pursuant to ~~Section~~ Sections 22714, 22715, ~~or~~ 22717, and
40 22717.5, shall be increased by two-tenths of 1 percentage point,



1 provided that the sum of the percentage of final compensation used
2 to compute the allowance in Section 24202.5, 24203, or 24205,
3 including any adjustments for retiring before the normal
4 retirement age, and the additional percentage provided by this
5 section does not exceed 2.40 percent. For purposes of establishing
6 eligibility for the increased allowance pursuant to this section only,
7 credited service shall include credited service that a court has
8 ordered be awarded to a nonmember spouse pursuant to Section
9 22652. A nonmember spouse shall also be eligible for the
10 increased allowance pursuant to this section if the member had 30
11 or more years of credited service on the date the parties separated,
12 as established in the judgment or court order pursuant to Section
13 22652.

14 (b) Nonqualified service credit for which contributions
15 pursuant to Section 22826 were made in a lump sum on or after
16 January 1, 2000, or for which the first installment was made on or
17 after January 1, 2000, shall not be included in determining the
18 eligibility for an increased allowance pursuant to this section.

19 (c) The amendments made to subdivision (a) in the first year of
20 the 1999–2000 Regular Session are declaratory of existing law.

21 SEC. 11. Section 24203.6 of the Education Code is amended
22 to read:

23 24203.6. (a) In addition to the amount otherwise payable
24 pursuant to this chapter, a member who (1) retires for service on
25 or after January 1, 2001, (2) has, prior to January 1, 2011, 30 or
26 more years of credited service, excluding service credited pursuant
27 to Sections 22714, 22715, 22717, 22717.5, and 22826 but
28 including any credited service that a court has ordered be awarded
29 to a nonmember spouse pursuant to Section 22652, and (3) is
30 receiving an allowance subject to Section 24203.5, shall receive
31 a monthly increase in the allowance, prior to any modification
32 pursuant to ~~Section~~ *Sections 24300 and 24309*, in the amount
33 identified in the following schedule for the number of years of the
34 member’s credited service at the time of retirement, excluding
35 service credited pursuant to Sections 22714, 22715, 22717,
36 22717.5, and 22826 but including any credited service that a court
37 has ordered be awarded to a nonmember spouse pursuant to
38 Section 22652:

39



1	30 years of credited service	\$200
2	31 years of credited service	\$300
3	32 or more years of credited service	\$400

4
5 (b) This section also shall apply to a nonmember spouse, if the
6 member is eligible for the allowance increase pursuant to
7 subdivision (a) upon his or her retirement for service and had at
8 least 30 years of credited service, excluding service credited
9 pursuant to ~~Section~~ Sections 22714, 22715, 22717, ~~or~~ 22717.5,
10 and 22826, on the date the parties separated, as established in the
11 judgment or court order pursuant to Section 22652.

12 (c) The allowance increase provided under this section shall
13 not be subject to Sections 24415 and 24417, but shall be subject
14 to Section 22140.

15 SEC. 12. Section 24209 of the Education Code is amended to
16 read:

17 24209. (a) Upon retirement for service following
18 reinstatement, the member shall receive a service retirement
19 allowance equal to the sum of both of the following:

20 (1) An amount equal to the monthly allowance the member was
21 receiving immediately preceding reinstatement, exclusive of any
22 amounts payable pursuant to Section 22714 or 22715, increased by
23 the improvement factor that would have been applied to the
24 allowance if the member had not reinstated.

25 (2) An amount calculated pursuant to Section 24202, 24202.5,
26 24203, 24203.5, or 24206 on service credited subsequent to the
27 most recent reinstatement, the member’s age at retirement, and
28 final compensation.

29 (b) If the total amount of credited service, other than that
30 accrued pursuant to Sections 22714, 22715, 22717, 22717.5, and
31 22826, is equal to or greater than 30 years, the amounts identified
32 in paragraphs (1) and (2) of subdivision (a) shall be calculated
33 pursuant to Section 24203.5. The improvement factor required in
34 paragraph (1) of subdivision (a) shall be based on the allowance
35 calculated pursuant to this subdivision.

36 (c) If the total amount of credited service, other than that
37 accrued pursuant to Sections 22714, 22715, 22717, 22717.5, and
38 22826, is equal to or greater than 30 years, upon retirement for
39 service following reinstatement, a member who retired pursuant
40 to Section 24213, and received the terminated disability allowance



1 for the prior retirement, shall receive a service retirement
2 allowance equal to the sum of the following:

3 (1) An amount based on the service credit accrued prior to the
4 effective date of the disability allowance, the member's age at the
5 prior retirement increased by the factor provided in Section
6 24203.5, and projected final compensation.

7 (2) An amount calculated pursuant to Section 24202, 24202.5,
8 24203.5, or 24206 on service credited subsequent to the
9 reinstatement, the member's age at retirement, and final
10 compensation.

11 SEC. 13. Section 24211 of the Education Code is amended to
12 read:

13 24211. When a member who has been granted a disability
14 allowance under this part after June 30, 1972, returns to
15 employment subject to coverage under the Defined Benefit
16 Program and performs:

17 (a) Less than three years of creditable service after termination
18 of the disability allowance, the member shall receive a retirement
19 allowance which is the sum of the allowance calculated on service
20 credit accrued after the termination date of the disability
21 allowance, the age of the member on the last day of the month in
22 which the retirement allowance begins to accrue, and final
23 compensation using compensation earnable and projected final
24 compensation, plus the greater of either of the following:

25 (1) A service retirement allowance calculated on service credit
26 accrued as of the effective date of the disability allowance, the age
27 of the member on the last day of the month in which the retirement
28 allowance begins to accrue, and projected final compensation
29 excluding service credited pursuant to ~~Section~~ *Sections 22717 and*
30 *22717.5* or Chapter 14 (commencing with Section 22800) or
31 Chapter 14.2 (commencing with Section 22820), to the
32 termination date of the disability allowance.

33 (2) The disability allowance the member was receiving
34 immediately prior to termination of that allowance, excluding
35 children's portions.

36 (b) Three or more years of creditable service after termination
37 of the disability allowance, the member shall receive a retirement
38 allowance that is the greater of the following:

39 (1) A service retirement allowance calculated on all actual and
40 projected service excluding service credited pursuant to ~~Section~~



1 *Sections 22717 and 22717.5* or Chapter 14 (commencing with
2 Section 22800) or Chapter 14.2 (commencing with Section
3 22820), the age of the member on the last day of the month in
4 which the retirement allowance begins to accrue, and final
5 compensation using compensation earnable, or projected final
6 compensation, or a combination of both.

7 (2) The disability allowance the member was receiving
8 immediately prior to termination of that allowance, excluding
9 children's portions.

10 (c) The allowance shall be increased by an amount based on any
11 service credited pursuant to Section 22714, 22715, ~~or 22717~~, and
12 *22717.5* or Chapter 14 (commencing with Section 22800) or
13 Chapter 14.2 (commencing with Section 22820) and final
14 compensation using compensation earnable, or projected final
15 compensation, or a combination of both.

16 (d) If the total amount of credited service, other than projected
17 service or service that accrued pursuant to Sections 22714, 22715,
18 *22717, 22717.5*, and 22826, is equal to or greater than 30 years,
19 the amounts identified in subdivisions (a) and (b) shall be
20 calculated pursuant to Section 24203.5.

21 SEC. 14. Section 24212 of the Education Code is amended to
22 read:

23 24212. (a) If a disability allowance granted under this part
24 after June 30, 1972, is terminated for reasons other than those
25 specified in Section 24213 and the member does not return to
26 employment subject to coverage under the Defined Benefit
27 Program, the member's service retirement allowance, when
28 payable, shall be based on projected service, excluding service
29 credited pursuant to ~~Section~~ *Sections 22717 and 22717.5* or
30 Chapter 14 (commencing with Section 22800) or Chapter 14.2
31 (commencing with Section 22820), projected final compensation,
32 and the age of the member on the last day of the month in which
33 the retirement allowance begins to accrue. The allowance payable
34 under this section, excluding annuities payable from accumulated
35 annuity deposit contributions, shall not be greater than the
36 terminated disability allowance excluding children's portions.

37 (b) The allowance shall be increased by an amount based on
38 any service credited pursuant to Section 22714, 22715, ~~or 22717~~,
39 *and 22717.5* or Chapter 14 (commencing with Section 22800) or
40 Chapter 14.2 (commencing with Section 22820) and final



1 compensation using compensation earnable, or projected final
2 compensation, or a combination of both.

3 SEC. 15. Section 24255 of the Education Code is amended to
4 read:

5 24255. (a) There is in the State Treasury a trust fund to be
6 known as the Teachers' Replacement Benefits Program Fund.
7 There shall be deposited directly in that fund, and not transferred
8 from the Teachers' Retirement Fund, that portion of employer
9 contributions determined by the board as necessary to fund the
10 replacement benefits program.

11 (b) Notwithstanding Section 13340 of the Government Code,
12 moneys in the Teachers' Replacement Benefits Program Fund are
13 continuously appropriated without regard to fiscal years to pay
14 benefits to members and beneficiaries of the ~~defined-benefit~~
15 ~~program~~ *Defined Benefit Program*, and to pay related
16 administrative expenses.

17 (c) The board may authorize the transfer and disbursement of
18 funds from the Teachers' Replacement Benefits Program Fund for
19 the purpose of carrying into effect this chapter upon the signature
20 of either or both of its chairperson and vice chairperson or the chief
21 executive officer or any employee of the system designated by the
22 chief executive officer.

23 (d) Disbursements of money from the Teachers' Replacement
24 Benefits Program Fund of whatever nature shall be made upon
25 claims duly audited in the manner prescribed for the disbursement
26 of other public funds except that, notwithstanding the foregoing,
27 disbursements may be made to return funds deposited in the fund
28 in error.

29 SEC. 16. Section 24260 of the Education Code is amended to
30 read:

31 24260. (a) A replacement benefits program is hereby
32 established under this chapter for the exclusive purpose of
33 providing to members or their beneficiaries in accordance with
34 subdivisions (c) and (d) that portion of the annual benefit of the
35 member or the member's beneficiaries otherwise payable under
36 the provisions of this part that exceeds the limitations on the dollar
37 amount of annual benefit under Section 415 of the Internal
38 Revenue Code of 1986 (26 U.S.C. Sec. 415) as applicable to a
39 governmental plan, as defined in subdivision (d) of Section 414.



1 (b) The replacement benefits program established by this
2 chapter is intended to comply with the provisions of Section
3 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Sec.
4 415(m)).

5 (c) In any case in which (1) the annual benefit of the member
6 or the member's beneficiaries for the calendar year otherwise
7 payable under the terms of this part, as measured under the
8 provisions of Section 415(b)(2) of the Internal Revenue Code of
9 1986 (26 U.S.C. Sec. 415(b)(2)) and adjusted to exclude the
10 portion of the annual benefit attributable to employee
11 contributions that are not "picked up" under Section 414(h)(2) of
12 the Internal Revenue Code of 1986 (26 U.S.C. Sec. 414(h)(2)) or
13 attributable to rollover contributions described in Section
14 415(b)(2) of the Internal Revenue Code of 1986, exceeds (2) the
15 limitation on the dollar amount of an annual benefit applicable for
16 the calendar year under Section 415(b)(1)(A) or subdivision (e) as
17 applicable to a governmental plan, as defined in Section 414(d) of
18 the Internal Revenue Code of 1986 (26 U.S.C. Sec. 414(d)), the
19 amount of the portion of the annual benefit shall be paid to the
20 member or the member's beneficiaries under the replacement
21 benefit program in the manner described in subdivision (d). In no
22 event shall the portion of the annual benefit from the replacement
23 benefits program be payable from the assets of the Teachers'
24 Retirement Fund. In no event shall the replacement benefits
25 program provide to the member or the member's beneficiaries,
26 directly or indirectly, any election to defer compensation.

27 (d) Any portion of the annual benefit of a member or the
28 member's beneficiaries for the year described in subdivision (c)
29 shall be payable, at the same time and in the same form as the
30 remainder of the annual benefit and subject to the terms and
31 conditions of this part except as otherwise provided under this
32 section, from the proceeds of the employer contributions due
33 under Section 22950, and, notwithstanding Section 22956, prior
34 to the deposit of those employer contributions in the State Treasury
35 to the Teachers' Retirement Fund. Upon receipt of the warrants for
36 the employer contributions as described in Section 23001, the
37 board shall retain and place in the Teachers' Replacement Benefits
38 Program Fund only the amounts of employer contributions as are
39 necessary for the exclusive purpose of paying currently the
40 monthly installment next due of the portion of the annual benefit



1 payable from the replacement benefits program to the member or
2 the member's beneficiaries as well as any administrative expenses
3 associated with the replacement benefits program. Amounts shall
4 not be accumulated in the Teachers' Replacement Benefits
5 Program Fund for the payment of future benefits, and a member
6 or the member's beneficiaries who are to receive the portion of his
7 or her annual benefit under the replacement benefits program shall
8 have no entitlement to amounts in the Teachers' Replacement
9 Benefits Program Fund until distributed to him or her as a benefit.

10 (e) The portion of the annual benefit payable under the
11 replacement benefits program shall be subject to withholding for
12 any applicable income or employment taxes.

13 (f) *The administrative expenses of the replacement benefits*
14 *program may include the employer portion of the Medicare payroll*
15 *tax on the replacement benefits program payments of a retired*
16 *member who is required to contribute to Medicare. The employee*
17 *portion of the Medicare payroll tax on the replacement benefits*
18 *program payments to retired members in this program who are*
19 *required to contribute to Medicare shall be withheld from the*
20 *replacement benefits program payments to the retired member.*

21 (g) The board may by plan amendment amend the terms of the
22 replacement benefits program established under this section as
23 appropriate to comply with applicable federal or state law.

24 ~~(g)~~

25 (h) All references to sections of the Internal Revenue Code of
26 1986 are to such sections as are amended from time to time or their
27 successor sections.

28 SEC. 17. Section 24410.6 of the Education Code is amended
29 to read:

30 24410.6. (a) Notwithstanding any provision of this part,
31 including, but not limited to, subdivision (e) of Section 22664, and
32 except as provided in subdivisions (b) and (c), the annual
33 allowance payable on the effective date of this section to a retired
34 member, an option beneficiary, or a surviving spouse receiving an
35 allowance pursuant to either Section 23805 or 23855 shall not be
36 less than the amount identified in the following schedule for the
37 number of years of the member's credited service under the
38 Defined Benefit Program at the time of the member's retirement,
39 disability, or death, excluding service credited pursuant to
40 Sections 22714, 22715, 22717, 22717.5, and 22826, after the



1 application of all allowances and allowance increases authorized
2 by this part, including those specified in Sections 24412 and
3 24415, as those sections read on December 31, 2000, and
4 excluding *increases authorized by Section 24410.7* and annuities
5 payable from the accumulated annuity deposit contributions or the
6 accumulated tax-sheltered annuity contributions:

7		
8	20 years of credited service	\$15,000
9	21 years of credited service	\$15,500
10	22 years of credited service	\$16,000
11	23 years of credited service	\$16,500
12	24 years of credited service	\$17,000
13	25 years of credited service	\$17,500
14	26 years of credited service	\$18,000
15	27 years of credited service	\$18,500
16	28 years of credited service	\$19,000
17	29 years of credited service	\$19,500
18	30 years or more of credited service	\$20,000

19
20 (b) Notwithstanding subdivision (a), the amount identified in
21 the schedule in subdivision (a) shall be reduced:

22 (1) By 50 percent for a beneficiary receiving an allowance
23 under Option 3 or Option 7.

24 (2) By one-third for an option beneficiary receiving an
25 allowance under Option 4 after the death of the member or for a
26 member receiving an allowance under Option 4 after the death of
27 the option beneficiary.

28 (3) By 50 percent for an option beneficiary receiving an
29 allowance under Option 5 after the death of the member or for a
30 member receiving an allowance under Option 5 after the death of
31 the option beneficiary.

32 (4) By a percentage equal to 100 percent minus the percentage
33 of the member's modified allowance received by the option
34 beneficiary for each option beneficiary receiving an allowance
35 under Option 8.

36 (5) By 60 percent for a surviving spouse receiving an allowance
37 pursuant to subdivision (a) of Section 23805.

38 (6) By 50 percent for a surviving spouse receiving an allowance
39 pursuant to subdivision (c) of Section 23805 or Section 23855.



1 (c) A benefit shall be paid pursuant to this section if both of the
2 following apply:

3 (1) The retired member, the option beneficiary, or the surviving
4 spouse had an allowance payable on January 1, 2000, and was not
5 eligible to receive a benefit pursuant to Section 24410.5.

6 (2) The retired member or the member whose service was the
7 basis of the allowance payable to the option beneficiary or
8 surviving spouse was one of the following:

9 (A) A member who retired prior to the age of 55 years,
10 provided the minimum allowance specified in subdivision (a) shall
11 be reduced to an amount equal to that minimum allowance
12 multiplied by the ratio of the percentage of final compensation per
13 year of credited service on which the member's initial allowance
14 was based to 1.4.

15 (B) A member who was paid a retirement allowance pursuant
16 to Section 24213, if the member's credited service, excluding
17 service credited pursuant to Sections 22714, 22715, 22717,
18 22717.5, and 22826, was less than 20 years but whose projected
19 service to normal retirement age, excluding service credited
20 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,
21 was equal to or greater than 20 years, provided that the minimum
22 allowance payable shall be based on 20 years of credited service.

23 (C) A member who retired as an inactive member.

24 (D) A member who retired prior to March 21, 1974, with 19.5
25 years or more of credited service, provided that the minimum
26 allowance payable shall be based on 20 years of credited service.

27 (E) A member who retired on or after March 21, 1974, and
28 prior to January 1, 2000, and whose credited service, excluding
29 service credited pursuant to Sections 22714, 22715, 22717,
30 22717.5, and 22826, was less than 20 years, but whose credited
31 service, excluding service credited pursuant to Sections 22714,
32 22715, 22717.5, and 22826, but including service credited
33 pursuant to Section 22717, was equal to or greater than 20 years,
34 provided that the minimum allowance payable shall be based on
35 20 years of credited service.

36 (F) A member whose credited service, excluding service
37 credited pursuant to Sections 22714, 22715, 22717.5, and 22826,
38 but including credited service that a court has ordered be awarded
39 to the member's nonmember spouse pursuant to Section 22652,
40 equaled at least 20 years, provided that the amount payable to the



1 member pursuant to this section shall be based on the amount of
2 service credited to the member, excluding service credited
3 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,
4 and the amount awarded to the nonmember spouse, and further
5 provided that the minimum allowance specified in subdivision (a)
6 shall be reduced to an amount equal to that minimum allowance
7 multiplied by the ratio of (i) the amount of service credited to the
8 member, excluding service credited pursuant to Sections 22714,
9 22715, 22717, 22717.5, and 22826, to (ii) the sum of the amount
10 of service credited to the member, excluding service credited
11 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,
12 and the amount awarded to the nonmember spouse.

13 (d) A benefit shall be paid pursuant to this section to a retired
14 member receiving a benefit pursuant to Section 24410.5 if (1) the
15 member meets the criteria of subparagraph (F) of paragraph (2) of
16 subdivision (c), and (2) the allowance payable under that
17 subparagraph, after the application of all allowances and
18 allowance increases authorized by this part, including those
19 specified in Sections 24412 and 24415, is greater than the
20 allowance payable under Section 24410.5, after the application of
21 all allowances and allowance increases authorized by this part,
22 including those specified in Sections 24412 and 24415.

23 (e) A retired member, option beneficiary, or surviving spouse
24 subject to this section shall receive the annual minimum allowance
25 pursuant to this section unless the system receives in writing, on
26 a form prescribed by the system, notification from the member,
27 option beneficiary, or surviving spouse of his or her election not
28 to receive the increase provided under this section.

29 (f) Benefits payable under this section shall be initially paid by
30 the system on or before September 1, 2001.

