

AMENDED IN ASSEMBLY MAY 13, 2003
AMENDED IN ASSEMBLY MAY 5, 2003
AMENDED IN ASSEMBLY FEBRUARY 11, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 91

Introduced by Assembly Member Dutton

(Principal coauthor: ~~Senator Battin~~)

(~~Coauthors: Assembly Members Bates, Chavez, Cogdill, Garcia,
Harman, Levine, Maze, Runner, Spitzer, and Wyland~~)

(~~Coauthor: Senator Margett~~)

January 8, 2003

An act to amend Sections 22455.5, 26000, 26300, and 26400 of, and to add Sections 26000.2 and 26113.5 to, the Education Code, relating to state teachers' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 91, as amended, Dutton. State teachers' retirement: part-time ~~community college~~ employees.

Existing law establishes the Cash Balance Benefit Program in the State Teachers' Retirement Plan as a program that school districts, community college districts, and county offices of education may provide to part-time certificated employees, as specified. Employee contributions under the Cash Balance Benefit Program are deposited in the Teachers' Retirement Fund, a continuously appropriated fund. Existing law provides that full-time classified employees of ~~community college districts, among others~~ are subject to coverage under the Public

Employees' Retirement System and authorizes those districts to offer that coverage to its part-time classified employees.

This bill would, *as of July 1, 2004*, make part-time classified employees ~~of community college districts~~, who are excluded from mandatory membership in the Public Employees' Retirement System, eligible for membership in the Cash Balance Benefit Program of the State Teachers' Retirement Plan. By expanding the class of employees who may make contributions to the Teachers' Retirement Fund, the bill would make an appropriation.

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

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

1 SECTION 1. Section 22455.5 of the Education Code is
 2 amended to read:
 3 22455.5. (a) The Legislature finds and declares that the
 4 federal Omnibus Budget Reconciliation Act of 1990 (P.L.
 5 101-508) requires all public employers to provide their employees
 6 with either social security coverage or membership in a qualified
 7 retirement plan.
 8 (b) Employers shall make available criteria for membership,
 9 including optional membership, in a timely manner to all persons
 10 employed to perform creditable service subject to coverage by the
 11 Defined Benefit Program, and shall inform part-time and
 12 substitute employees employed to perform creditable service
 13 subject to coverage by the Defined Benefit Program, within 30
 14 days of the date of hire, or by March 1, 1995, whichever is later,
 15 that they may elect membership in the plan's Defined Benefit
 16 Program at any time while employed. Written acknowledgment by
 17 the employee shall be maintained in employer files on a form
 18 provided by this system.
 19 (c) Employers shall be liable to the plan for employee and
 20 employer contributions and interest with respect to the Defined
 21 Benefit Program from the date of hire, or March 1, 1995,
 22 whichever is later, in addition to system administrative and audit
 23 costs, if an audit or a member's complaint reveals noncompliance.
 24 However, no employer shall be liable for employee contributions
 25 for service performed prior to January 1, 1995.



1 SEC. 2. Section 26000 of the Education Code is amended to
2 read:

3 26000. The Legislature hereby finds and declares that the
4 State Teachers' Retirement System Cash Balance Plan was created
5 and established on July 1, 1996, to provide a retirement plan for
6 persons employed to perform creditable service for less than 50
7 percent of the full-time equivalent for the position. The persons
8 eligible for the Cash Balance Plan were excluded from mandatory
9 membership in the State Teachers' Retirement System Defined
10 Benefit Plan. Both plans are administered by the Teachers'
11 Retirement Board. Because both plans were intended to provide
12 for the retirement of teachers and other persons employed in
13 connection with the public schools of this state and schools
14 supported by this state, a merger of these two plans is now hereby
15 made for the purpose of establishing a single retirement plan that
16 shall be known and may be cited as the State Teachers' Retirement
17 Plan consisting of the different benefit programs set forth in this
18 part and Part 13 (commencing with Section 22000). The plan shall
19 be administered by the Teachers' Retirement Board as set forth in
20 this part and Part 13 (commencing with Section 22000).

21 SEC. 3. Section 26000.2 is added to the Education Code, to
22 read:

23 26000.2. (a) As a result of the merger described in Section
24 26000, the Cash Balance Benefit Program shall be provided under
25 the State Teachers' Retirement Plan to provide a retirement plan
26 for persons employed to perform creditable service who are
27 excluded from mandatory membership in the Defined Benefit
28 Program and persons employed by community college district,
29 school district, county superintendent of schools or other
30 employing agency, who are excluded from mandatory
31 membership in the Public Employees' Retirement System. That
32 program is set forth in this part.

33 (b) The governing board of a school district, community
34 college district, or county superintendent of schools or other
35 employing agency, may, by formal action, elect to provide the
36 benefits of the Cash Balance Benefit Program for their eligible
37 employees.

38 SEC. 4. Section 26113.5 is added to the Education Code, to
39 read:



1 26113.5. “Creditable service,” for purposes of this part only,
2 also means any service not described in Section 26113 that is
3 performed for a community college district, school district, county
4 superintendent of schools or other employing agency by a person
5 who is excluded from mandatory membership in the Public
6 Employees’ Retirement System because he or she is serving on a
7 less than full-time basis.

8 SEC. 5. Section 26300 of the Education Code is amended to
9 read:

10 26300. (a) Within 10 working days following the latest of the
11 first day of employment, the date of the employer’s governing
12 board’s action to provide the Cash Balance Benefit Program, or the
13 effective date of the employer’s governing board’s action to
14 provide the Cash Balance Benefit Program, the employer shall
15 make available to the employee the following information:

16 (1) The employee’s rights and responsibilities as a participant
17 in the program, the employer’s responsibilities under the program,
18 and the benefits payable under the program.

19 (2) The employee’s right to elect membership in the Defined
20 Benefit Program in lieu of participation in the Cash Balance
21 Benefit Program, the rights and responsibilities of a member and
22 the employer under the Defined Benefit Program, and benefits
23 payable under the Defined Benefit Program. This paragraph does
24 not apply to an employee employed to perform creditable service
25 described in Section 26113.5.

26 (b) Written acknowledgment by the employee that he or she has
27 received the information specified in subdivision (a) shall be
28 retained in the employer’s files on a form prescribed by the system.

29 (c) If an employer’s governing board’s action to provide the
30 Cash Balance Benefit Program gives employees the right to elect
31 other coverage in lieu of the Cash Balance Benefit Program
32 pursuant to Section 26400, the employer shall, within 10 working
33 days following the latest of the first day on which creditable
34 service is performed, the date of the employer’s governing board’s
35 action to provide the program or the effective date of the
36 employer’s governing board’s action to provide the program,
37 notify existing employees of the following:

38 (1) The employee’s right to elect other coverage if offered by
39 the employer in lieu of participation in the Cash Balance Benefit
40 Program.



1 (2) The rights and responsibilities of the employer and a
2 participant in an alternative retirement plan if offered by the
3 employer.

4 (3) The benefits payable under an alternative retirement plan if
5 offered by the employer.

6 SEC. 6. Section 26400 of the Education Code is amended to
7 read:

8 26400. (a) A person employed to perform creditable service
9 for less than 50 percent of the full-time equivalent for the position
10 shall become a participant on the later of the first day on which
11 creditable service is performed for an employer that provides the
12 Cash Balance Benefit Program or the effective date of the
13 employer's governing board's action to provide the Cash Balance
14 Benefit Program, provided the person is not subject to mandatory
15 membership in the Defined Benefit Program.

16 (b) If the employer's governing board's action to provide the
17 Cash Balance Benefit Program gives employees the right to elect
18 coverage under social security or an alternative retirement plan
19 offered by the employer in addition to the Cash Balance Benefit
20 Program, the employee may elect within 60 calendar days of the
21 later of the first day on which creditable service is performed, the
22 date of the employer's governing board's action to provide the
23 Cash Balance Benefit Program, or the effective date of the
24 employer's governing board's action to provide the Cash Balance
25 Benefit Program to be covered by social security or to participate
26 in the alternative retirement plan in lieu of participating in the Cash
27 Balance Benefit Program. Any election may not preclude an
28 employee from participating in the Cash Balance Benefit Program
29 at a later date so long as the Cash Balance Benefit Program is
30 provided by the employer and the employee is eligible to
31 participate in the Cash Balance Benefit Program.

32 (c) If subdivision (b) is applicable, the employer shall inform
33 employees pursuant to subdivision (c) of Section 26300 of their
34 right to make an election and the election shall be made on a form
35 prescribed by the system and filed with the employer. The election
36 shall become effective on the later of the first day on which
37 creditable service is performed or the effective date of the
38 employer's governing board's action to provide the Cash Balance
39 Benefit Program.



1 (d) *If, on July 1, 2004, an employer is offering the Cash*
2 *Balance Benefit Program pursuant to subdivision (a), the*
3 *governing board may take action to provide an election period to*
4 *offer the Cash Balance Benefit Program to its employees who are*
5 *employed to perform creditable service described in Section*
6 *26113.5.*

7 (e) *If the participant's basis of employment with an employer*
8 *that provides the Cash Balance Benefit Program changes to*
9 *employment to perform creditable service, as defined in Section*
10 *26113, for 50 percent or more of the full-time equivalent for the*
11 *position, contributions to the Cash Balance Benefit Program on*
12 *behalf of the participant shall no longer be made and creditable*
13 *service performed for that employer shall be subject to coverage*
14 *by the Defined Benefit Program as of the first day of the pay period*
15 *in which the change in the participant's basis of employment*
16 *occurred.*

17 ~~(e)~~

18 (f) *If the participant's basis of employment with an employer*
19 *that provides the Cash Balance Benefit Program changes to*
20 *employment to perform service that is subject to mandatory*
21 *membership in the Public Employees' Retirement System,*
22 *contributions to the Cash Balance Benefit Program on behalf of the*
23 *participant may no longer be made and that service performed for*
24 *the community college district shall be subject to coverage by the*
25 *Public Employees' Retirement System as of the first day of the pay*
26 *period in which the change in the participant's basis of*
27 *employment occurred.*

28 *SEC. 7. This act shall become operative on July 1, 2004.*

