

ASSEMBLY BILL

No. 2233

Introduced by Committee on Public Employees, Retirement and Social Security (Negrete McLeod (Chair), Levine (Vice Chair), Chan, Correa, and Kehoe)

February 18, 2004

An act to amend Sections 22663, 22705.5, 22714, 23203, 24114, 24221, and 44987 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2233, as introduced, Committee on Public Employees, Retirement and Social Security. State teachers' retirement.

(1) The Teachers' Retirement Law establishes the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would make technical changes to various provisions of that law.

(2) Existing law requires the governing board of a school district to grant an employee a leave of absence to enable the employee to serve as an elected officer of an employee organization.

This bill would make technical changes to that provision.

(3) This bill would declare that any act that amends or repeals any of the sections amended by this act shall prevail over this act.

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

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

1 SECTION 1. Section 22663 of the Education Code is
2 amended to read:

3 22663. The nonmember spouse who is awarded a separate
4 account under this part has the right to purchase additional service
5 credit in accordance with the determination of the court pursuant
6 to Section 22652.

7 (a) The nonmember spouse may purchase only the service
8 credit that the court, pursuant to Section 22652, has determined to
9 be the community property interest of the nonmember spouse.

10 (b) The nonmember spouse shall inform the system in writing
11 of his or her intent to purchase additional service credit within 180
12 days after the date the judgment or court order addressing the right
13 of the nonmember spouse to purchase additional service credit is
14 entered. The nonmember spouse shall elect to purchase additional
15 service credit on a form provided by the system within 30 days
16 after the system mails an election form and billing.

17 (c) If the nonmember spouse elects to purchase additional
18 service credit, he or she shall pay, prior to retirement under this
19 part, all contributions with respect to the additional service at the
20 contribution rate for additional service credit in effect at the time
21 of election and regular interest from July 1 of the year following
22 the year upon which contributions are based.

23 (1) (A) The nonmember spouse shall purchase additional
24 service credit by paying the required contributions and interest in
25 one lump sum, or in not more than 120 monthly installments,
26 provided that no installment, except the final installment, is less
27 than twenty-five dollars (\$25). Regular interest shall be charged on
28 the monthly, unpaid balance if the nonmember spouse pays in
29 installments.

30 (B) If any payment due, because of the election, is not received
31 at the system’s office in Sacramento within 120 days of its due
32 date, the election shall be canceled and any payments made under
33 the election shall be returned to the nonmember spouse.

34 (2) The contributions shall be based on the member’s
35 compensation earnable in the most recent school year during
36 which the member was employed, preceding the date of separation
37 established by the court pursuant to Section 22652.



1 (3) All payments of contributions and interest shall be received
2 by the system before the effective date of the retirement of the
3 nonmember *spouse*.

4 (d) The nonmember spouse does not have a right to purchase
5 additional service credit under this part after the effective date of
6 a refund of the accumulated retirement contributions in the
7 separate account of the nonmember spouse.

8 (e) The member does not have a right to purchase the
9 community property interest of the nonmember spouse of
10 additional service credit under this part whether or not the
11 nonmember spouse elects to purchase the additional service credit.
12 However, any additional service credit eligible for purchase that
13 is not explicitly awarded to the nonmember spouse by the
14 judgment or court order shall be deemed the exclusive property of
15 the member.

16 SEC. 2. Section 22705.5 of the Education Code is amended
17 to read:

18 22705.5. Service subject to coverage by the San Francisco
19 City and County *Employees' Retirement System* pursuant to
20 Section 24701 is excluded from coverage in the Defined Benefit
21 Program. The member shall retain the right to receive a retirement
22 allowance for creditable service that is subject to coverage under
23 the Defined Benefit Program unless he or she withdraws his or her
24 accumulated retirement contributions for that service.

25 SEC. 3. Section 22714 of the Education Code is amended to
26 read:

27 22714. (a) Whenever the governing board of a school district
28 or a community college district or a county office of education, by
29 formal action, determines pursuant to Section 44929 or 87488 that
30 because of impending curtailment of or changes in the manner of
31 performing services, the best interests of the district or county
32 office of education would be served by encouraging certificated
33 employees or academic employees to retire for service and that the
34 retirement will result in a net savings to the district or county office
35 of education, an additional two years of service credit shall be
36 granted under this part to a member of the Defined Benefit
37 Program if all of the following conditions exist:

38 (1) The member is credited with five or more years of service
39 credit and retires for service under Chapter 27 (commencing with
40 Section 24201) during a period of not more than 120 days or less



1 than 60 days, commencing no sooner than the effective date of the
2 formal action of the employer that shall specify the period.

3 (2) The employer transfers to the retirement fund an amount
4 determined by the Teachers' Retirement Board to equal the
5 actuarial equivalent of the difference between the allowance the
6 member receives after receipt of service credit pursuant to this
7 section and the amount the member would have received without
8 the service credit and an amount determined by the Teachers'
9 Retirement Board to equal the actuarial equivalent of the
10 difference between the purchasing power protection supplemental
11 payment the member receives after receipt of service credit
12 pursuant to this section and the amount the member would have
13 received without the service credit. The payment for purchasing
14 power shall be deposited in the Supplemental Benefit Maintenance
15 Account established by Section 22400 and shall be subject to
16 Section 24415. The transfer to the retirement fund shall be made
17 in a manner and a time period, not to exceed eight years, that is
18 acceptable to the Teachers' Retirement Board. The employer shall
19 transfer the required amount for all eligible employees who retire
20 pursuant to this section.

21 (3) The employer transmits to the retirement fund the
22 administrative costs incurred by the system in implementing this
23 section, as determined by the Teachers' Retirement Board.

24 (4) The employer has considered the availability of teachers or
25 academic employees to fill the positions that would be vacated
26 pursuant to this section.

27 (b) (1) The school district shall demonstrate and certify to the
28 county superintendent that the formal action taken would result in
29 a net savings to the district.

30 (2) The county superintendent shall certify to the Teachers'
31 Retirement Board that the result specified in paragraph (1) can be
32 demonstrated. The certification shall include, but not be limited to,
33 the information specified in subdivision (b) of Section 14502.

34 (3) The school district shall reimburse the county
35 superintendent for all costs to the county superintendent that result
36 from the certification.

37 (c) (1) The county office of education shall demonstrate and
38 certify to the Superintendent of Public Instruction that the formal
39 action taken would result in a net savings to the county office of
40 education.



1 (2) The Superintendent of Public Instruction shall certify to the
2 Teachers' Retirement Board that the result specified in paragraph
3 (1) can be demonstrated. The certification shall include, but not be
4 limited to, the information specified in subdivision (b) of Section
5 14502.

6 (3) The Superintendent of Public Instruction may request
7 reimbursement from the county office of education for all
8 administrative costs that result from the certification.

9 (d) (1) The community college district shall demonstrate and
10 certify to the chancellor's office that the formal action taken would
11 result in a net savings to the district.

12 (2) The chancellor shall certify to the Teachers' Retirement
13 Board that the result specified in paragraph (1) can be
14 demonstrated. The certification shall include, but not be limited to,
15 the information specified in subdivision (c) of Section 84040.5.

16 (3) The chancellor may request reimbursement from the
17 community college district for all administrative costs that result
18 from the certification.

19 (e) The opportunity to be granted service credit pursuant to this
20 section shall be available to all members employed by the school
21 district, community college district, or county office of education
22 who meet the conditions set forth in this section.

23 (f) The amount of service credit shall be two years.

24 (g) Any member of the Defined Benefit Program who retires
25 under this part for service under Chapter 27 (commencing with
26 Section 24201) with service credit granted under this section and
27 who subsequently reinstates shall forfeit the service credit granted
28 under this section.

29 (h) Any member of the Defined Benefit Program who retires
30 under this part for service under Chapter 27 (commencing with
31 Section 24201) with service credit granted under this section and
32 who takes any job with any school district in the state less than one
33 year after receiving the credit shall forfeit the ongoing benefit he
34 or she receives from the additional service credit granted under this
35 section.

36 (i) Any member of the Defined Benefit Program who retires
37 under this part for service under Chapter 27 (commencing with
38 Section 24201) with service credit granted under this section and
39 who takes any job with the school district that granted the member
40 the service credit less than five years after receiving the credit shall



1 forfeit the ongoing benefit he or she receives from the additional
2 ~~age and~~ service credit granted under this section.

3 (j) This section does not apply to any member otherwise
4 eligible if the member receives any unemployment insurance
5 payments arising out of employment with an employer subject to
6 this part during a period extending one year beyond the effective
7 date of the formal action, or if the member is not otherwise eligible
8 to retire for service.

9 SEC. 4. Section 23203 of the Education Code is amended to
10 read:

11 23203. (a) A member who elects to redeposit refunded
12 accumulated retirement contributions shall pay, prior to
13 retirement, all contributions and interest as determined under
14 Section 23200.

15 (b) If the system is unable to inform the member or beneficiary
16 of the amount required to ~~purchase additional service credit~~
17 *redeposit the refunded accumulated retirement contributions* prior
18 to the effective date of the applicable allowance, the member or
19 beneficiary may make the required payment within 30 working
20 days after the date of mailing of the statement of contributions and
21 interest required or the effective date of the appropriate allowance,
22 whichever is later. The payment shall be paid in full before a
23 member or beneficiary receives any adjustment in the appropriate
24 allowance due because of that payment.

25 (c) Redeposit of refunded accumulated retirement
26 contributions shall be made in one sum, or in not more than 120
27 monthly installments, not to exceed ten years, provided that no
28 installment, except the final installment, is less than twenty-five
29 dollars (\$25).

30 SEC. 5. Section 24114 of the Education Code is amended to
31 read:

32 24114. (a) A member retired for disability under this part
33 may be employed or self-employed in any capacity,
34 notwithstanding Section 22132, but may not make contributions
35 to the retirement fund with respect to the Defined Benefit Program
36 or accrue service credit under this part based on earnings from any
37 employment.

38 (b) A member retired for disability under this part may earn in
39 any one calendar year up to the limitation specified in subdivision



1 (c) without a reduction in his or her disability retirement
2 allowance.

3 (c) The limitation that shall apply to the earnings of a member
4 retired for disability under this part shall be fifteen thousand
5 dollars (\$15,000), in any one calendar year, adjusted annually by
6 the board effective each January 1 by the ~~annual~~ amount of
7 increase in the All Urban California Consumer Price Index using
8 December 1989 as the base.

9 (d) If a member retired for disability under this part earns in
10 excess of the limitation specified in subdivision (c) from all
11 employment in any calendar year, notwithstanding Section 22132,
12 his or her retirement allowance shall be reduced by the amount of
13 the excess earnings. The amount of the reduction may be equal to
14 the monthly allowance payable but may not exceed the amount of
15 the annual allowance payable under this part for the calendar year
16 in which the excess compensation was earned.

17 (e) The earnings limitation specified in this section ~~shall~~ *does*
18 ~~not be applicable~~ *apply* to a member retired for disability under this
19 part who is participating in an approved rehabilitation program
20 pursuant to Section 24111.

21 (f) This section does not apply to a member retired for
22 disability under this part who began receiving a disability
23 retirement allowance prior to October 16, 1992.

24 SEC. 6. Section 24221 of the Education Code is amended to
25 read:

26 24221. (a) A member who retires for service on or after
27 January 1, 2004, and prior to January 1, 2011, and who has reached
28 either the age of 60 years and three months within the month he or
29 she retires or the age of 60 years if he or she has at least 30 years
30 of credited service may elect, on a form prescribed by the system,
31 to receive a lump-sum payment and an actuarially reduced
32 ~~monthly allowance~~ *benefit* pursuant to this section in lieu of the
33 monthly allowance that would otherwise be payable to the member
34 pursuant to this chapter. The election under this section shall be
35 made at the time the member files his or her application for service
36 retirement allowance as provided in Section 24204.

37 (b) A member who makes the election described in subdivision
38 (a) shall receive a one-time, lump-sum payment in an amount that
39 equals or does not exceed the lesser of the following amounts:



1 (1) The actuarial present value of the difference between (A)
2 the monthly ~~allowance~~ *benefit* payable to the member pursuant to
3 this chapter, and (B) an amount equal to 2 percent of the member's
4 final compensation multiplied by the number of years of credited
5 service and divided by 12.

6 (2) Fifteen percent of the actuarial present value of the monthly
7 ~~allowance~~ *benefit* payable to the member under this chapter.

8 (c) Notwithstanding any other provision of this part, a member
9 who makes the election described in subdivision (a) shall receive
10 a monthly allowance, pursuant to this chapter, that shall be
11 actuarially reduced to reflect the lump-sum amount paid under
12 subdivision (b).

13 (d) A member may not apply a lump-sum payment made
14 pursuant to this section for the purposes of redepositing previously
15 refunded retirement contributions pursuant to Chapter 19
16 (commencing with Section 23200) or purchasing service credit
17 pursuant to Chapter 14 (commencing with Section 22800),
18 Chapter 14.2 (commencing with Section 22820) or Chapter 14.5
19 (commencing with Section 22850). The Legislature hereby finds
20 and declares that if a member who elects to receive a partial
21 lump-sum payment also elects to redeposit previously refunded
22 contributions or purchase service credit as a result of the receipt of
23 the lump-sum payment, the Defined Benefit Program may
24 experience a net actuarial impact.

25 (e) The Legislature reserves the right to modify the provisions
26 of this section to further the objective of permitting eligible
27 members to receive a lump-sum distribution of a portion of their
28 benefits, with a corresponding actuarial reduction in their monthly
29 allowance, so that there is no net actuarial impact to the Defined
30 Benefit Program.

31 SEC. 7. Section 44987 of the Education Code is amended to
32 read:

33 44987. (a) The governing board of a school district shall
34 grant to any employee, upon request, a leave of absence without
35 loss of compensation for the purpose of enabling the employee to
36 serve as an elected officer of any local school district public
37 employee organization, or any statewide or national public
38 employee organization with which the local organization is
39 affiliated.



1 The leave shall include, but is not limited to, absence for
 2 purposes of attendance by the employee at periodic, stated,
 3 special, or regular meetings of the body of the organization on
 4 which the employee serves as an officer. Compensation during the
 5 leave shall include retirement fund contributions required of the
 6 school district as employer. The required employer ~~contribution~~
 7 ~~rate shall be the contribution rate for additional service credit less~~
 8 ~~the member contribution rate prescribed by Section 22804~~ *rate*
 9 *adopted by the Teachers' Retirement Board as a plan amendment*
 10 *with respect to the Defined Benefit Program as provided in Section*
 11 *22711.* The employee shall earn full service credit during the leave
 12 of absence and shall pay member contributions as prescribed by
 13 Section ~~22804~~ *22711.* The maximum amount of the service credit
 14 earned shall *may* not exceed twelve calendar years. Any employee
 15 who serves as a full-time officer of a public employee organization
 16 shall *is not* be eligible for disability benefits under the State
 17 Teachers' Retirement ~~System~~ *Plan* while on the leave of absence.

18 Following the school district's payment of the employee for the
 19 leave of absence, the school district shall be reimbursed by the
 20 employee organization of which the employee is an elected officer
 21 for all compensation paid the employee on account of the leave.
 22 Reimbursement by the employee organization shall be made
 23 within 10 days after its receipt of the school district's certification
 24 of payment of compensation to the employee.

25 The leave of absence without loss of compensation provided for
 26 by this section is in addition to the released time without loss of
 27 compensation granted to representatives of an exclusive
 28 representative by subdivision (c) of Section 3543.1 of the
 29 Government Code.

30 For purposes of this section, "school district" also means
 31 "county superintendent of schools."

32 (b) An employee who after August 31, 1978, was absent on
 33 account of elected-officer service, shall receive full service credit
 34 in the State Teachers' Retirement ~~System~~ *Plan*; provided that, not
 35 later than April 30, 1981: (1) the employee makes a written request
 36 to the employer for a leave of absence for the period of the
 37 elected-officer service, and (2) the employee organization of
 38 which the employee is an elected officer pays to the employee's
 39 school district an amount equal to the required State Teachers'



1 Retirement ~~System~~ *Plan* member and employer retirement
2 contributions, as prescribed by this section.

3 The school district, following this written request and payment,
4 shall transmit the amount received to the State Teachers'
5 Retirement System, informing it of the period of the employee's
6 leave of absence. The State Teachers' Retirement System shall
7 credit the employee with all service credit earned for the period of
8 the elected-officer leave of absence.

9 ~~In the event that~~

10 *If* the employee has been compensated by the school district for
11 the period of the service, then, as a condition to the employee's
12 entitlement to service credit for this period, the school district shall
13 be reimbursed by the employee organization for the amount of the
14 compensation.

15 The provisions of this subdivision shall apply retroactively to all
16 service as an elective officer in a public employee organization
17 occurring after August 31, 1978.

18 SEC. 8. Any section of any act enacted by the Legislature
19 during the second year of the 2003–04 Regular Session that
20 amends, amends and renumbers, adds, repeals and adds, or repeals
21 a statute that is amended by this act shall prevail over this act,
22 whether that act is enacted prior or subsequent to the enactment of
23 this act.

