

AMENDED IN SENATE JUNE 1, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 3076

Introduced by Assembly Member Mullin

March 11, 2004

An act to amend Sections ~~22003, 22502, and 22601.5~~ 22502, 22504, 22601.5, 22604, 26400, and 26401 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 3076, as amended, Mullin. State Teachers' Retirement Law: part-time community college faculty.

Existing law requires any person who performs creditable service, as defined, on a part-time basis to become a member of the Defined Benefit Program of the *State Teachers' Retirement Plan* if the person is not already a member and is employed to perform 50% or more of the full-time equivalent for the position. Existing law provides that persons who teach adult or community college classes for not more than 60% of the full-time assignment are classified as temporary employees.

This bill would, *as of July 1, 2005*, exclude community college faculty members from mandatory membership in the Defined Benefit Program so long as they are classified as temporary employees. *The bill would make related technical and conforming changes.*

~~This bill would also make technical, nonsubstantive changes to the State Teachers' Retirement Law.~~

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 22003 of the Education Code is~~
2 ~~amended to read:~~
3 ~~22003. The revision of the State Teachers' Retirement Law,~~
4 ~~enacted at the 1971 and 1972 Regular Sessions of the Legislature,~~
5 ~~may not be construed to affect benefits of persons retired prior to~~
6 ~~July 1, 1972, or their beneficiaries, except as specifically provided.~~
7 ~~SEC. 2.—~~
8 SECTION 1. Section 22502 of the Education Code is
9 amended to read:
10 22502. (a) Any person employed by a school district or
11 county office of education to perform creditable service on a
12 part-time basis, who is not already a member of the Defined
13 Benefit Program, shall become a member as of the first day of
14 ~~subsequent~~ *the pay period following his or her* employment to
15 perform creditable service for 50 percent or more of the full-time
16 ~~equivalent for the~~ position, unless excluded from membership
17 pursuant to Section 22601.
18 (b) Any person employed by a community college district to
19 perform creditable service on a part-time basis, who is not already
20 a member of the Defined Benefit Program, shall become a member
21 as of the first day of ~~subsequent~~ *the pay period following his or her*
22 employment to perform creditable service that is not subject to
23 Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded
24 from membership pursuant to Section 22601.
25 (c) This section shall apply to persons who perform service
26 subject to coverage under this part and to persons who are
27 employed by employers who provide benefits for their employees
28 under Part 14 (commencing with Section 26000).
29 ~~(d) This section shall be deemed to have become operative on~~
30 ~~July 1, 1996.~~
31 SEC. 2. *Section 22504 of the Education Code is amended to*
32 ~~read:~~
33 22504. (a) Any person employed by a school district or
34 county office of education to perform creditable service on a
35 part-time basis who is not already a member of the Defined Benefit



1 Program shall become a member as of the first day of the pay
2 period following the pay period in which the person performed at
3 least 60 hours of creditable service, if employed on an hourly basis,
4 or 10 days of creditable service, if employed on a daily basis,
5 during the school year, in one school district, community college
6 district, or county superintendent's office, unless excluded from
7 membership pursuant to Section 22601.

8 ~~(b) This section shall~~ *Any person employed by a community*
9 *college district to perform creditable service on a part-time basis,*
10 *who is not already a member of the Defined Benefit Program, shall*
11 *become a member as of the first day of the pay period following his*
12 *or her employment to perform creditable service that is not subject*
13 *to Section 87474, 87480, 87481, 87482, or 87482.5, unless*
14 *excluded from membership pursuant to Section 22601.*

15 (c) *Subdivision (a) does not apply to persons who are employed*
16 *by employers who provide benefits for their employees under Part*
17 *14 (commencing with Section 26000).*

18 ~~(e) This section shall be deemed to have become operative on~~
19 ~~July 1, 1996.~~

20 SEC. 3. Section 22601.5 of the Education Code is amended
21 to read:

22 22601.5. (a) Any person employed by a school district or
23 county office of education to perform creditable service who is not
24 already a member in the Defined Benefit Program and whose basis
25 of employment is less than 50 percent of the ~~full-time equivalent~~
26 ~~for the time an employer requires for the full-time~~ position is
27 excluded from mandatory membership in the Defined Benefit
28 Program.

29 (b) Any person employed by a community college district to
30 perform creditable service pursuant to Section 87474, 87480,
31 87481, 87482, or 87482.5 who is not already a member ~~in~~ of the
32 Defined Benefit Program is excluded from mandatory
33 membership in the Defined Benefit Program.

34 (c) This section shall apply to persons who perform service
35 subject to coverage under this part and to persons who are
36 employed by employers who provide benefits for their employees
37 under Part 14 (commencing with Section 26000).

38 ~~(d) This section shall be deemed to have become operative on~~
39 ~~July 1, 1996.~~



1 SEC. 4. Section 22604 of the Education Code is amended to
2 read:

3 22604. (a) Any person employed to perform creditable
4 service on a part-time basis who is not already a member ~~in~~ of the
5 Defined Benefit Program and who performs less than 60 hours of
6 creditable service in a pay period if employed on an hourly basis,
7 or less than 10 days of creditable service in a pay period if
8 employed on a daily basis, during the school year in one school
9 district, ~~community college district~~, or county superintendent's
10 office is excluded from mandatory membership in the Defined
11 Benefit Program.

12 (b) ~~This section shall~~ Any person employed by a community
13 college district to perform creditable service pursuant to Section
14 87474, 87480, 87481, 87482, or 87482.5 who is not already a
15 member of the Defined Benefit Program is excluded from
16 mandatory membership in the Defined Benefit Program.

17 (c) Subdivision (a) does not apply to persons who are employed
18 by employers who provide benefits for their employees under Part
19 14 (commencing with Section 26000).

20 ~~(e) The amendments to this section enacted during the 1995-96~~
21 ~~Regular Session shall be deemed to have become operative on July~~
22 ~~1, 1996.~~

23 SEC. 5. Section 26400 of the Education Code is amended to
24 read:

25 26400. (a) A person employed on a part-time basis by a
26 school district or county office of education to perform creditable
27 service for less than 50 percent of ~~the each~~ full-time equivalent ~~for~~
28 ~~the~~ position shall become a participant on the later of the first day
29 on which creditable service is performed for an employer that
30 provides the Cash Balance Benefit Program or the effective date
31 of the employer's governing board's action to provide the Cash
32 Balance Benefit Program, provided the person is not subject to
33 mandatory membership in the Defined Benefit Program.

34 (b) A person employed on a temporary basis by a community
35 college district who is not subject to mandatory membership in the
36 Defined Benefit Program pursuant to Section 22502 or 22504
37 shall become a participant on the later of the first day on which
38 creditable service is performed for an employer that provides the
39 Cash Balance Benefit Program or the effective date of the



1 *employer's governing board's action to provide the Cash Balance*
2 *Benefit Program.*

3 (c) If the employer's governing board's action to provide the
4 Cash Balance Benefit Program gives employees the right to elect
5 coverage under social security or an alternative retirement plan
6 offered by the employer in addition to the Cash Balance Benefit
7 Program, the employee may elect within 60 calendar days of the
8 ~~later~~ *latest* of the first day on which creditable service is
9 performed, the date of the employer's governing board's action to
10 provide the Cash Balance Benefit Program, or the effective date
11 of the employer's governing board's action to provide the Cash
12 Balance Benefit Program to be covered by social security or to
13 participate in the alternative retirement plan in lieu of participating
14 in the Cash Balance Benefit Program. Any election ~~shall~~ *may* not
15 preclude an employee from participating in the Cash Balance
16 Benefit Program at a later date so long as the Cash Balance Benefit
17 Program is provided by the employer and the employee is eligible
18 to participate in the Cash Balance Benefit Program.

19 ~~(c)~~

20 (d) If subdivision ~~(b)~~ (c) is applicable, the employer shall
21 inform employees pursuant to subdivision (c) of Section 26300 of
22 their right to make an election and the election shall be made on
23 a form prescribed by the system and filed with the employer. The
24 election shall become effective on the later of the first day on
25 which creditable service is performed or the effective date of the
26 employer's governing board's action to provide the Cash Balance
27 Benefit Program.

28 ~~(d)~~

29 (e) If the participant's basis of employment with ~~an employer~~
30 *a school district or county office of education* that provides the
31 Cash Balance Benefit Program changes to employment to perform
32 creditable service for 50 percent or more of the full-time
33 ~~equivalent for the position, contributions to the Cash Balance~~
34 ~~Benefit Program on behalf of the participant shall no longer be~~
35 ~~made and during one school year with the same employer,~~
36 creditable service performed for that employer shall *no longer be*
37 *covered under the Cash Balance Benefit Program. Creditable*
38 *service performed for that employer shall be subject to coverage*
39 *by the Defined Benefit Program as of the first day of the pay period*



1 ~~in which~~ following the change in the participant's basis of
2 employment ~~occurred~~.

3 (f) *If the participant's basis of employment with a community*
4 *college district changes to employment that is subject to*
5 *mandatory membership in the Defined Benefit Program pursuant*
6 *to Section 22501, 22502, or 22504 during one school year with the*
7 *same employer, creditable service performed for that employer*
8 *shall no longer be covered under the Cash Balance Benefit*
9 *Program. Creditable service performed for that employer shall be*
10 *subject to coverage by the Defined Benefit Program as of the first*
11 *day of the pay period following the change in the participant's*
12 *basis of employment.*

13 SEC. 6. *Section 26401 of the Education Code is amended to*
14 *read:*

15 26401. (a) A member of the Defined Benefit Program who is
16 employed to perform creditable service *on a part-time basis* for
17 less than 50 percent of ~~the each~~ full-time ~~equivalent for the~~
18 ~~position for an employer~~ *by a school district or county office of*
19 *education that provides the Cash Balance Benefit Program may*
20 *elect to become a participant for creditable service subject to*
21 *coverage under the Cash Balance Benefit Program for that*
22 *employer, provided that the creditable service is not performed for*
23 *the same employer with whom the member is also subject to*
24 *mandatory membership in the Defined Benefit Program.*

25 (b) *A member of the Defined Benefit Program who is employed*
26 *pursuant to Section 87474, 87480, 87481, 87482, or 87472.5 by*
27 *a community college district that provides the Cash Balance*
28 *Benefit Program may elect to become a participant for creditable*
29 *service subject to coverage under the Cash Balance Benefit*
30 *Program for that employer, provided that the creditable service is*
31 *not performed for the same employer with whom the member is*
32 *also subject to mandatory membership in the Defined Benefit*
33 *Program.*

34 (c) The election shall be made on a form prescribed by the
35 system and shall be filed with the employer within 60 calendar
36 days of the later of the first day of employment with an employer
37 that provides the Cash Balance Benefit Program, the date of the
38 employer's governing board's action to provide the Cash Balance
39 Benefit Program, or the effective date of the employer's governing
40 board's action to provide the Cash Balance Benefit Program.



1 ~~(e)~~
 2 (d) Employers shall make available to employees specified in
 3 ~~subdivision~~ *subdivisions* (a) and (b) information and forms
 4 provided by the system for making an election regarding
 5 participation, and shall maintain the written election by the
 6 employee in employer files. The election shall become effective
 7 on the first day of the pay period following the pay period in which
 8 the election is made.

9 ~~(d)~~
 10 (e) If an election is made pursuant to subdivision (a) and the
 11 participant's basis of employment with that employer changes to
 12 employment to perform creditable service for 50 percent or more
 13 of the full-time equivalent for the position, ~~contributions to the~~
 14 ~~Cash Balance Benefit Program on behalf of the participant shall no~~
 15 ~~longer be made and during one school year with the same~~
 16 ~~employer, creditable service performed for that employer shall no~~
 17 ~~longer be covered under the Cash Balance Benefit Program.~~
 18 *Creditable service performed for that employer shall be subject to*
 19 *coverage under the Defined Benefit Program as of the first day of*
 20 *the pay period in which following the change in the participant's*
 21 *basis of employment occurred.*

22 (f) *If an election is made pursuant to subdivision (b) and the*
 23 *participant's basis of employment with the community college*
 24 *district changes to employment that is subject to mandatory*
 25 *membership in the Defined Benefit Program pursuant to Section*
 26 *22501, 22502, or 22504 during one school year with the same*
 27 *employer, creditable service performed for that employer shall no*
 28 *longer be covered under the Cash Balance Benefit Program.*
 29 *Creditable service performed for that employer shall be subject to*
 30 *coverage under the Defined Benefit Program as of the first day of*
 31 *the pay period following the change in the participant's basis of*
 32 *employment.*

33 SEC. 7. *This act shall be operative on July 1, 2005.*

