

AMENDED IN ASSEMBLY AUGUST 25, 2003

AMENDED IN ASSEMBLY JULY 24, 2003

AMENDED IN SENATE MAY 8, 2003

SENATE BILL

No. 627

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

February 21, 2003

An act to amend Sections 22109.5, 22138.5, 22146, 22203.5, 22213, 22503, 22663, 22713, 22714, 22801, 22801.5, 22820, 22823, 22826, 22905, 23203, 23300, 24002, 24012, 24111, 24214, 24216.6, 24221, 24300, 24606, 24615, 24616, 24617, 24975, 25000.9, 25018.5, 25100, 25101, and 25940 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 627, as amended, Committee on Public Employment and Retirement. State teachers' retirement.

(1) The Teachers' Retirement Law prescribes the rights and benefits of members of the State Teachers' Retirement Plan.

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

(2) Existing law requires each collective bargaining agreement that applies to part-time instructors to specify the number of hours of creditable service that equal "full-time" for the purpose of calculating benefits under the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would also make that requirement applicable to collective bargaining agreements that apply to instructors in adult education programs.

(3) Existing law authorizes substitute teachers who perform creditable service, as defined, to elect membership in the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would extend this membership election to any substitute employee.

(4) Existing law permits a nonmember spouse to purchase additional service credit by paying the contributions and interest in one lump-sum payment or through monthly installment payments, not to exceed 60 installments.

This bill would instead permit payment in 120 monthly installments.

(5) The Teachers' Retirement Law authorizes the governing board of a school or community college district to establish regulations that allow a member of the Defined Benefit Program to reduce his or her workload without reducing his or her accrual of retirement benefits, provided that, among other things, the member did not have a break in service during the 5 years preceding the reduction in workload.

This bill would specify that an unpaid absence from the performance of creditable service for personal reasons does not constitute a break in service for that purpose and would make other technical changes.

(6) Existing law permits a member of the State Teachers' Retirement Plan, other than a retired member, to purchase out-of-state service credit that is equivalent to the number of years of service credited to the member, not to exceed 10 years.

This bill would eliminate the limitation on the number of years of out-of-state service credit a member may purchase, and would specify the timeframe for payment.

(7) Under the Defined Benefit Supplement Program, member and employer contributions are credited to the account of a member on July 1 of each year following a specified determination by the system.

This bill would instead require that specified contributions be credited to the account of a member upon receipt by the system.

(8) Existing law authorizes a member of the Defined Benefit Program of the State Teachers' Retirement Plan to redeposit previously refunded contributions in certain circumstances.

This bill would specify a procedure for the payment of contributions in regard to the redeposit of refunded accumulated retirement contributions, as specified.



(9) The Teachers' Retirement Law authorizes a member who retires during a specified period and who has reached 60 years of age to elect to receive a lump-sum payment and actuarially reduce monthly allowance in lieu of the monthly allowance that would otherwise be payable.

This bill would make that election available, at the time the member applies for service retirement, to a member who retires during a specified period and who has reached the age of 60 years and 3 months or who has 30 years of service and has reached 60 years of age.

(10) *Existing law authorizes members of the Defined Benefit Program and the Defined Benefit Supplement Program of the State Teachers' Retirement Plan, prior to retirement, to elect various alternative joint and survivor options providing actuarially modified retirement allowances.*

This bill would allow a member who is a party to an action for legal separation or dissolution of marriage and who is required by court order to designate a spouse or former spouse as an option beneficiary to designate that person as a sole option beneficiary, as specified.

(11) Existing law provides that an overpayment made to a member under the Defined Benefit Program or the Defined Benefit Supplement Program of the State Teachers' Retirement Plan shall be deducted from any subsequent benefits payable under either of those programs.

This bill would also make that provision applicable to overpayments under the Cash Balance Benefit Program of the State Teachers' Retirement Plan.

~~(11)~~

(12) Existing law requires the Teachers' Retirement Board to establish a vendor registration process with respect to tax-deferred retirement investment products and defines "vendor" for this purpose.

This bill would include nonbank custodians, as defined, within that definition of vendor.

~~(12)~~

(13) The Medicare Premium Payment Program provides for the payment of premiums associated with Medicare Part A for specified retired members of the State Teachers' Retirement Plan.

This bill would extend the payment of premiums to any person receiving a disability allowance, as specified.

~~(13)~~

(14) This bill would also make other related and conforming changes.



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 22109.5 of the Education Code is
2 amended to read:
3 22109.5. "Break in service," for purposes of determining a
4 member's final compensation, means:
5 (a) With respect to service of a member employed as a full-time
6 employee and service performed by a member employed as a
7 part-time employee, any period of time covering a pay period
8 during which a member is on an unpaid leave of absence or a pay
9 period in which a member has not performed any creditable
10 service.
11 (b) For a member who has been employed in a substitute
12 position:
13 (1) And has a change in assignment during a school year to a
14 full-time or part-time position, a break in service is determined on
15 the same basis as for the full-time or part-time employment during
16 the same school year.
17 (2) For less than 50 percent of their teaching career for which
18 service is credited, a break in service is determined on the same
19 basis as full-time employment.
20 (3) For more than 50 percent of their teaching career for which
21 service is credited, a break in service is any period of time within
22 a school year for which compensation is not paid and service is not
23 credited.
24 (c) If a member commenced performing service at the
25 beginning of a school term, July and August of the school year are
26 not a break in service; however, if the member commenced
27 performing service after the school term begins, the previous July
28 and August are a break in service.
29 (d) Earnable salaries for a full pay period, but not beyond the
30 effective date of retirement, shall be used in determining final
31 compensation when the member performed service within that pay
32 period.
33 SEC. 2. Section 22138.5 of the Education Code is amended
34 to read:



1 22138.5. (a) “Full time” means the days or hours of
2 creditable service the employer requires to be performed by a class
3 of employees in a school year in order to earn the compensation
4 earnable as defined in Section 22115 and specified under the terms
5 of a collective bargaining agreement or employment agreement.
6 For the purpose of crediting service under this part, “full time”
7 may not be less than the minimum standards specified in this
8 section. Each collective bargaining agreement or employment
9 agreement that applies to a member subject to the minimum
10 standard specified in paragraph (5) or (6) of subdivision (c) shall
11 specify the number of hours of creditable service that equal “full
12 time” pursuant to this section, and shall make specific reference
13 to this section.

14 (b) The minimum standard for full time in kindergarten
15 through grade 12 shall be:

16 (1) One hundred seventy-five days per year or 1,050 hours per
17 year, except as provided in paragraphs (2) and (3).

18 (2) (A) One hundred ninety days per year or 1,520 hours per
19 year for all principals and program managers, including advisers,
20 coordinators, consultants, and developers or planners of curricula,
21 instructional materials, or programs, and for administrators,
22 except as provided in subparagraph (B).

23 (B) Two hundred fifteen days per year or 1,720 hours per year
24 including school and legal holidays pursuant to the policy adopted
25 by the employer’s governing board for administrators at a county
26 office of education.

27 (3) One thousand fifty hours per year for teachers in adult
28 education programs.

29 (c) The minimum standard for full time in community colleges
30 shall be:

31 (1) One hundred seventy-five days per year or 1,050 hours per
32 year, except as provided in paragraphs (2), (3), (4), (5), and (6).
33 Full time shall include time for duties the employer requires to be
34 performed as part of the full-time assignment for a particular class
35 of employees.

36 (2) One hundred ninety days per year or 1,520 hours per year
37 for all program managers and for administrators, except as
38 provided in paragraph (3).

39 (3) Two hundred fifteen days per year or 1,720 hours per year
40 including school and legal holidays pursuant to the policy adopted



1 by the employer’s governing board for administrators at a district
2 office.

3 (4) One hundred seventy-five days per year or 1,050 hours per
4 year for all counselors and librarians.

5 (5) Five hundred twenty-five instructional hours per school
6 year for all instructors employed on a part-time basis, except
7 instructors specified in paragraph (6). If an instructor receives
8 compensation for office hours pursuant to Article 10
9 (commencing with Section 87880) of Chapter 3 of Part 51, then
10 the minimum standard established herein shall be increased
11 appropriately by the number of office hours required annually for
12 the class of employees.

13 (6) Eight hundred seventy-five instructional hours per school
14 year for all instructors employed in adult education programs. If
15 an instructor receives compensation for office hours pursuant to
16 Article 10 (commencing with Section 87880) of Chapter 3 of Part
17 51, then the minimum standard established herein shall be
18 increased appropriately by the number of office hours required
19 annually for the class of employees.

20 (d) The board shall have final authority to determine full time
21 for purposes of crediting service under this part if full time is not
22 otherwise specified herein.

23 SEC. 3. Section 22146 of the Education Code is amended to
24 read:

25 22146. “Member” means any person, unless excluded under
26 other provisions of this part, who has performed creditable service
27 as defined in Section 22119.5 and has earned creditable
28 compensation for that service and has not received a refund for that
29 service and, as a result, is subject to the Defined Benefit Program.
30 A member’s rights and obligations under this part with respect to
31 the Defined Benefit Program shall be determined by the
32 applicability of subdivision (a), (b), (c), or (d), and subject to any
33 applicable exceptions under other provisions of this part.

34 (a) An active member is a member who is not retired or
35 disabled and who earns creditable compensation during the school
36 year.

37 (b) An inactive member is a member who is not retired or
38 disabled and who has not earned creditable compensation during
39 the current or preceding school year .



1 (c) A disabled member is a member to whom a disability
2 allowance is payable under Chapter 25 (commencing with Section
3 24001).

4 (d) A retired member is a member who has terminated
5 employment and has retired for service under the provisions of
6 Chapter 27 (commencing with Section 24201), or has retired for
7 disability under the provisions of Chapter 26 (commencing with
8 Section 24100) or retired for service or disability under the
9 provisions of Chapter 21 (commencing with Section 23400), and
10 to whom a retirement allowance is therefore payable.

11 SEC. 4. Section 22203.5 of the Education Code is amended
12 to read:

13 22203.5. (a) All investment transaction decisions made
14 during a closed session, pursuant to paragraph (16) of subdivision
15 (c) of Section 11126 of the Government Code, shall be by rollcall
16 vote entered into the minutes of that meeting.

17 (b) The board, within 12 months of the close of an investment
18 transaction or the transfer of system assets for an investment
19 transaction, whichever occurs first, shall disclose and report the
20 investment at a public meeting.

21 SEC. 5. Section 22213 of the Education Code is amended to
22 read:

23 22213. The board shall regulate the duties of employers,
24 employing agencies, and other public authorities, imposed upon
25 them by this part, and shall require reports from employers,
26 employing agencies, and other public authorities, as it deems
27 advisable in connection with the performance of its duties.

28 SEC. 6. Section 22503 of the Education Code is amended to
29 read:

30 22503. (a) Any person employed to perform creditable
31 service as a substitute employee who is not already a member of
32 the Defined Benefit Program is a member as of the first day of the
33 pay period following the pay period in which the person performed
34 100 or more complete days of creditable service during the school
35 year in one school district, community college district, or county
36 superintendent's office, unless excluded from membership
37 pursuant to Section 22601.

38 (b) This section does not apply to persons who are employed by
39 employers who provide benefits for their employees under Part 14
40 (commencing with Section 26000).



1 (c) This section is deemed to have become operative on July 1,
2 1996.

3 SEC. 7. Section 22663 of the Education Code is amended to
4 read:

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

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

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

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

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

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

36 (2) The contributions shall be based on the member's
37 compensation earnable in the most recent school year during
38 which the member was employed, preceding the date of separation
39 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.

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. 8. Section 22713 of the Education Code is amended to
17 read:

18 22713. (a) Notwithstanding any other provision of this
19 chapter, the governing board of a school district or a community
20 college district or a county superintendent of schools may establish
21 regulations that allow an employee who is a member of the
22 Defined Benefit Program to reduce his or her workload from full
23 time to part time, and receive the service credit the member would
24 have received if the member had been employed on a full-time
25 basis and have his or her retirement allowance, as well as other
26 benefits that the member is entitled to under this part, based, in
27 part, on final compensation determined from the compensation
28 earnable the member would have been entitled to if the member
29 had been employed on a full-time basis.

30 (b) The regulations shall include, but may not be limited to, the
31 following:

32 (1) The option to reduce the member's workload shall be
33 exercised at the request of the member and may be revoked only
34 with the mutual consent of the employer and the member.

35 (2) The member shall have been employed on a full-time basis
36 to perform creditable service subject to coverage under the
37 Defined Benefit Program and have a minimum of 10 years of
38 credited service, including five years of credited service for
39 full-time employment immediately preceding the reduction in
40 workload.



1 (3) The member may not have had a break in service during the
2 five years immediately preceding the reduction in workload. For
3 purposes of this subdivision, sabbaticals, other approved leaves of
4 absence, and unpaid absences from the performance of creditable
5 service for personal reasons ~~does~~ *do* not constitute a break in
6 service. For purposes of this subdivision, the period of time during
7 which a member is retired for service shall constitute a break in
8 service and a member who reinstates from retirement shall be
9 required to be employed on a full-time basis to perform creditable
10 service for at least five school years immediately preceding the
11 reduction in workload.

12 (4) The member shall have reached the age of 55 years prior to
13 the reduction in workload.

14 (5) The reduced workload shall be performed for a period of
15 time, as specified in the regulations, up to and including 10 years.
16 The period of time specified in the regulations may not exceed 10
17 years.

18 (6) The reduced workload shall be equal to at least one-half of
19 the time the employer requires for full time *employment* in
20 accordance with Section 22138.5 pursuant to the member's
21 contract of employment during his or her last school year of
22 full-time employment preceding the reduction in workload.

23 (7) The member shall be paid creditable compensation that is
24 the pro rata share of the creditable compensation the member
25 would have been paid had the member not reduced his or her
26 workload.

27 (c) Prior to the reduction of a member's workload under this
28 section, the employer in conjunction with the administrative staff
29 of the State Teachers' Retirement ~~System~~ *Plan* and the Public
30 Employees' Retirement System, shall verify the member's
31 eligibility for the reduced workload program.

32 (d) For each school year the member's workload is reduced
33 pursuant to this section, the member shall make contributions to
34 the Teachers' Retirement Fund in the amount that the member
35 would have contributed if the member had performed creditable
36 service on a full-time basis and if that service ~~were~~ *was* subject to
37 coverage under the Defined Benefit Program.

38 (e) For each school year the member's workload is reduced
39 pursuant to this section, the employer shall contribute to the
40 Teachers' Retirement Fund at a rate adopted by the board as a plan



1 amendment with respect to the Defined Benefit Program an
2 amount based upon the creditable compensation that would have
3 been paid to the member if the member had performed creditable
4 service on a full-time basis and if that service were subject to
5 coverage under the Defined Benefit Program.

6 (f) The employer shall maintain the necessary records to
7 separately identify each member who participates in the reduced
8 workload program pursuant to this section.

9 SEC. 9. Section 22714 of the Education Code is amended to
10 read:

11 22714. (a) Whenever the governing board of a school district
12 or a community college district or a county office of education, by
13 formal action taken prior to January 1, 1999, determines, pursuant
14 to Section 44929 or 87488, that because of impending curtailment
15 of or changes in the manner of performing services, the best
16 interests of the district or county office of education would be
17 served by encouraging certificated employees or academic
18 employees to retire for service and that the retirement will either
19 result in a net savings to the district or county office of education,
20 result in a reduction of the number of certificated employees or
21 academic employees as a result of declining enrollment, or result
22 in the retention of certificated employees who are credentialed to
23 teach in, or faculty who are qualified to teach in, teacher shortage
24 disciplines, including, but not limited to, mathematics and science,
25 an additional two years of service credit shall be granted under this
26 part to a member of the Defined Benefit Program if all of the
27 following conditions exist:

28 (1) The member is credited with five or more years of service
29 credit and retires for service under the provisions of Chapter 27
30 (commencing with Section 24201) during a period of not more
31 than 120 days or less than 60 days, commencing no sooner than the
32 effective date of the formal action of the employer that shall
33 specify the period.

34 (2) The employer transfers to the retirement fund an amount
35 determined by the Teachers' Retirement Board to equal the
36 actuarial equivalent of the difference between the allowance the
37 member receives after receipt of service credit pursuant to this
38 section and the amount the member would have received without
39 the service credit and an amount determined by the Teachers'
40 Retirement Board to equal the actuarial equivalent of the



1 difference between the purchasing power protection supplemental
2 payment the member receives after receipt of service credit
3 pursuant to this section and the amount the member would have
4 received without the service credit. The payment for purchasing
5 power shall be deposited in the Supplemental Benefit Maintenance
6 Account established by Section 22400 and shall be subject to
7 Section 24415. The transfer to the retirement fund shall be made
8 in a manner, and time period not to exceed four years, that is
9 acceptable to the Teachers' Retirement Board. The employer shall
10 transfer the required amount for all eligible employees who retire
11 pursuant to this section.

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

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

18 (b) (1) The school district shall demonstrate and certify to the
19 county superintendent that the formal action taken would result in
20 any of the following:

21 (A) A net savings to the district.

22 (B) A reduction of the number of certificated employees as a
23 result of declining enrollment, as computed pursuant to Section
24 42238.5.

25 (C) The retention of certificated employees who are
26 credentialed to teach in teacher shortage disciplines.

27 (2) The county superintendent shall certify to the Teachers'
28 Retirement Board that a result specified in paragraph (1) can be
29 demonstrated. The certification shall include, but not be limited to,
30 the information specified in subdivision (b) of Section 14502. A
31 district that qualifies under subparagraph (B) of paragraph (1)
32 shall also certify that it qualifies as a declining enrollment district
33 as computed pursuant to Section 42238.5.

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 any of the following:

40 (A) A net savings to the county office of education.



1 (B) A reduction of the number of certificated employees as a
2 result of declining enrollment.

3 (C) The retention of certificated employees who are
4 credentialed to teach in teacher shortage disciplines.

5 (2) The Superintendent of Public Instruction shall certify to the
6 Teachers' Retirement Board that a result specified in paragraph (1)
7 can be demonstrated. The certification shall include, but not be
8 limited to, the information specified in subdivision (b) of Section
9 14502.

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

13 (d) (1) The community college district shall demonstrate and
14 certify to the chancellor's office that the formal action taken would
15 result in any of the following:

16 (A) A net savings to the district.

17 (B) A reduction in the number of academic employees as a
18 result of declining enrollment, as computed pursuant to
19 subdivision (c) of Section 84701.

20 (C) The retention of faculty who are qualified to teach in
21 teacher shortage disciplines.

22 (2) The chancellor shall certify to the Teachers' Retirement
23 Board that a result specified in paragraph (1) can be demonstrated.
24 The certification shall include, but not be limited to, the
25 information specified in subdivision (c) of Section 84040.5. A
26 community college district that qualifies under subparagraph (B)
27 of paragraph (1) of subdivision (b) of this section shall also certify
28 that it qualifies as a declining enrollment district as computed
29 pursuant to subdivision (c) of Section 84701.

30 (3) The chancellor may request reimbursement from the
31 community college for all administrative costs that result from the
32 certification.

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

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

38 (g) Any member of the Defined Benefit Program who retires
39 under this part for service under the provisions of Chapter 27
40 (commencing with Section 24201) with service credit granted



1 under this section and who subsequently reinstates shall forfeit the
2 service credit granted under this section.

3 (h) 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. 10. Section 22801 of the Education Code is amended to
10 read:

11 22801. (a) A member who elects to receive additional service
12 credit as provided in this chapter shall pay, prior to retirement, all
13 contributions with respect to that service at the contribution rate
14 for additional service credit, adopted by the board as a plan
15 amendment, in effect at the time of election. If the system is unable
16 to inform the member or beneficiary of the amount required to
17 purchase additional service credit prior to the effective date of the
18 applicable allowance, the member or beneficiary may make the
19 required payment within 30 working days after the date of mailing
20 of the statement of contributions and interest required or the
21 effective date of the appropriate allowance, whichever is later. The
22 payment shall be paid in full before a member or beneficiary
23 receives any adjustment in the appropriate allowance due because
24 of that payment. Contributions shall be made in a lump sum, or in
25 not more than 120 monthly installments, not to exceed ten years.
26 No installment, except the final installment, shall be less than
27 twenty-five dollars (\$25).

28 (b) If the member is employed to perform creditable service
29 subject to coverage by the Defined Benefit Program at the time of
30 the election, the contributions shall be based upon the
31 compensation earnable in the current school year or either of the
32 two immediately preceding school years, whichever is highest.

33 (c) If the member is not employed to perform creditable service
34 subject to coverage by the Defined Benefit Program at the time of
35 the election, the contributions shall be based upon the
36 compensation earnable in the last school year of credited service
37 or either of the two immediately preceding school years,
38 whichever is highest.



1 (d) The employer may pay the amount required as employer
2 contributions for additional service credited under paragraphs (2),
3 (6), (7), (8), and (9) of subdivision (a) of Section 22803.

4 (e) The Public Employees' Retirement System shall transfer
5 the actuarial present value of the assets of a person who makes an
6 election pursuant to paragraph (10) of subdivision (a) of Section
7 22803.

8 (f) Regular interest shall be charged on all contributions from
9 the end of the school year on which the contributions were based
10 to the date of payment.

11 (g) Regular interest shall be charged on the monthly unpaid
12 balance if the member pays in installments. Regular interest may
13 not be charged or be payable for the period of a delay caused by
14 the system's inability or failure to determine and inform the
15 member or beneficiary of the amount of contributions and interest
16 that is payable. The period of delay shall commence on the 20th
17 day following the day on which the member or beneficiary who
18 wishes to make payment evidences in writing to the system that he
19 or she is ready, willing, and able to make payment to the system.
20 The period of delay shall cease on the first day of the month
21 following the mailing of notification of contributions and interest
22 payable.

23 SEC. 11. Section 22801.5 of the Education Code is amended
24 to read:

25 22801.5. (a) A member who elects pursuant to Section
26 22508.6 to have his or her state service subject to coverage by the
27 Defined Benefit Program shall receive additional service credit for
28 the time spent subject to coverage by the Public Employees'
29 Retirement System between July 1, 1991, and the effective date of
30 the election.

31 (b) A member described in subdivision (a) shall pay all
32 contributions with respect to his or her state service as a member
33 of the Public Employees' Retirement System at the contribution
34 rate for additional service credit, adopted by the board as a plan
35 amendment, in effect at the time of the election. Contributions
36 shall be made in a lump sum or in not more than 120 monthly
37 installments, not to exceed ten years. Payment shall be made or
38 shall commence within 120 days after the date of the election. No
39 installment, except the final installment, shall be less than
40 twenty-five dollars (\$25). The member may not be credited with



1 any service pursuant to this section until the contributions have
2 been paid in full.

3 (c) If the member is employed to perform creditable service at
4 the time of the election, the contributions shall be based upon the
5 compensation earnable in the current school year or either of the
6 two immediately preceding school years, whichever is highest.

7 (d) If the member is not employed to perform creditable service
8 at the time of the election, the contributions shall be based upon the
9 compensation earnable in the last school year of credited service
10 or either of the two immediately preceding school years,
11 whichever is highest.

12 (e) The total amount of contributions due from the member
13 under subdivision (b) shall be reduced by the amount received
14 from the Public Employees' Retirement System pursuant to
15 Section 20309.5 of the Government Code. Under no
16 circumstances may the assets received from the Public
17 Employees' Retirement System, pursuant to that section, be
18 allocated or awarded to individual members or their spouses or
19 beneficiaries.

20 SEC. 12. Section 22820 of the Education Code is amended to
21 read:

22 22820. (a) A member, other than a retired member, may elect
23 to purchase out-of-state service credited in a public retirement
24 system for service covering public education in another state or
25 territory of the United States or by the United States for its citizens.
26 The member may not receive credit for this service if the member
27 has credit or is eligible to receive credit for the same service in the
28 Cash Balance Benefit Program under Part 14 (commencing with
29 Section 26000) or another public retirement system, excluding
30 social security.

31 (b) The amount of out-of-state service for which a member may
32 purchase credit may not exceed the number of years of service
33 credited to the member in the out-of-state retirement system.

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

36 (1) Paying an amount equal to the amount refunded from the
37 other public retirement system and receiving service credit under
38 the Defined Benefit Program pursuant to subdivision (a) of
39 Section 22823.



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

4 (3) Paying an amount equal to the amount refunded from the
5 other public retirement system and an additional amount in
6 accordance with subdivision (a) of Section 22823 for the service
7 credited in the other public retirement system.

8 (d) Compensation for out-of-state service may not be used in
9 determining the highest average annual compensation earnable
10 when calculating final compensation.

11 (e) The service credit purchased under this section may not be
12 used to meet the eligibility requirements for benefits provided
13 under Sections 24001 and 24101.

14 SEC. 13. Section 22823 of the Education Code is amended to
15 read:

16 22823. (a) A member who elects to receive credit for
17 out-of-state service as provided in this chapter shall pay, prior to
18 retirement, all contributions with respect to that service at the
19 contribution rate for additional service credit adopted by the board
20 as a plan amendment, in effect at the time of election.

21 (b) (1) Any payment that a member may make to the system
22 to obtain credit for out-of-state service pursuant to this chapter
23 shall be paid in full prior to the effective date of a family, survivor,
24 disability, or retirement allowance.

25 (2) If the system is unable to inform the member or beneficiary
26 of the amount required to purchase out-of-state service prior to the
27 effective date of the applicable allowance, the member or
28 beneficiary may make payment in full within 30 working days
29 after the date of mailing of the statement of contributions and
30 interest required or the effective date of the appropriate allowance,
31 whichever is later. The payment shall be paid in full before a
32 member or beneficiary may receive any adjustment in the
33 appropriate allowance due because of that payment.

34 (c) Contributions for out-of-state service credit shall be made
35 in a lump sum, or in not more than 120 monthly installments, not
36 to exceed ten years. No installment, except the final installment,
37 shall be less than twenty-five dollars (\$25).

38 (d) Regular interest shall be charged on the monthly unpaid
39 balance if the member makes installment payments.



1 SEC. 14. Section 22826 of the Education Code is amended to
2 read:

3 22826. (a) A member may elect to receive up to five years of
4 credit for nonqualified service provided the member is vested in
5 the Defined Benefit Program as provided in Section 22156.

6 (b) A member who elects to receive credit for nonqualified
7 service as provided in this chapter shall contribute to the retirement
8 fund the actuarial cost of the service, including interest as
9 appropriate, as determined by the board based on the most recent
10 valuation of the plan with respect to the Defined Benefit Program.

11 (1) Payment that a member may make to the system to obtain
12 credit for nonqualified service shall be paid in full prior to the
13 effective date of a family, survivor, disability, or retirement
14 allowance.

15 (2) If the system is unable to inform the member of the amount
16 required to purchase nonqualified service prior to the effective
17 date of the applicable allowance, the member may make payment
18 in full within 30 working days after the date of mailing of the
19 statement of contributions and interest required or the effective
20 date of the appropriate allowance, whichever is later.

21 (c) Contributions for nonqualified service credit shall be made
22 in a lump sum or in not more than 120 monthly installments, not
23 to exceed ten years. No installment, except the final installment,
24 shall be less than twenty-five dollars (\$25).

25 (d) Regular interest shall be charged on the monthly unpaid
26 balance if the member makes installment payments.

27 SEC. 15. Section 22905 of the Education Code, as amended
28 by Section 8 of Chapter 375 of the Statutes of 2002, is amended
29 to read:

30 22905. (a) Member contributions pursuant to Section 22901,
31 employer contributions pursuant to Section 22903 or 22904, and
32 member contributions made by an employer pursuant to Section
33 22909 shall be credited to the member’s individual account under
34 the Defined Benefit Program or the Defined Benefit Supplement
35 Program, whichever is applicable pursuant to the provisions of this
36 part.

37 (b) Member and employer contributions on a member’s
38 compensation under the following circumstances shall be credited
39 to the member’s Defined Benefit Supplement account:



1 (1) Compensation for creditable service that exceeds one year
2 in a school year.

3 (2) Compensation that is consistent with subdivision (b) of
4 Section 22119.2.

5 (3) Compensation that is payable for a specified number of
6 times as limited by law, a collective bargaining agreement, or an
7 employment agreement.

8 (c) A member may not make voluntary pretax or posttax
9 contributions under the Defined Benefit Supplement Program,
10 except as provided in subdivision (d), nor may a member redeposit
11 amounts previously distributed based on the balance in the
12 member's Defined Benefit Supplement account.

13 (d) Member and employer contributions pursuant to paragraph
14 (1) of subdivision (b) under the Defined Benefit Supplement
15 Program shall be credited to the accounts of members as of July
16 1 each year following a determination by the system under the
17 provisions of this part that those contributions should be credited
18 to the Defined Benefit Supplement Program. Any other
19 contributions under the Defined Benefit Supplement Program
20 pursuant to paragraph (2) or (3) of subdivision (b), shall be
21 credited to the individual account of the member upon receipt by
22 the system. Contributions to a member's Defined Benefit
23 Supplement account shall be identified separately from the
24 member's contributions credited under the Defined Benefit
25 Program.

26 (e) The provisions of this section shall become operative on
27 July 1, 2002, if the revenue limit cost-of-living adjustment
28 computed by the Superintendent of Public Instruction for the
29 2001–02 fiscal year is equal to or greater than 3.5 percent.
30 Otherwise this section shall become operative on July 1, 2003.

31 SEC. 16. Section 23203 of the Education Code is amended to
32 read:

33 23203. (a) A member who elects to redeposit refunded
34 accumulated retirement contributions shall pay, prior to
35 retirement, all contributions and interest as determined under
36 Section 23200.

37 (b) If the system is unable to inform the member or beneficiary
38 of the amount required to purchase additional service credit prior
39 to the effective date of the applicable allowance, the member or
40 beneficiary may make the required payment within 30 working



1 days after the date of mailing of the statement of contributions and
2 interest required or the effective date of the appropriate allowance,
3 whichever is later. The payment shall be paid in full before a
4 member or beneficiary receives any adjustment in the appropriate
5 allowance due because of that payment.

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

11 SEC. 17. Section 23300 of the Education Code is amended to
12 read:

13 23300. (a) A member of the Defined Benefit Program may
14 designate a beneficiary to receive benefits payable under this part
15 upon the member's death. A beneficiary designation may not be
16 made in derogation of a community property interest of a
17 nonmember spouse, as defined by Section 25000.9, with respect
18 to service or contributions credited under this part, unless the
19 nonmember spouse has previously obtained an alternative order
20 pursuant to Section 2610 of the Family Code.

21 (b) A member's beneficiary designation for benefits payable
22 under the Defined Benefit Program, including a designation made
23 pursuant to Section 24300, shall also apply to benefits payable
24 under the Defined Benefit Supplement Program. A beneficiary
25 designation shall be in writing on a form prescribed by the system,
26 executed by the member, and witnessed by two witnesses who are
27 not designated as a beneficiary for benefits payable under either
28 the Defined Benefit Program or the Defined Benefit Supplement
29 Program.

30 (c) A beneficiary designation may not be valid unless it is
31 received in the office of the system in Sacramento prior to the
32 member's death.

33 (d) A member may change or revoke a beneficiary designation
34 at any time by making a new designation pursuant to this section.

35 (e) This section may not be applicable to the designation of an
36 option beneficiary or an annuity beneficiary under this part.

37 (f) An option beneficiary may designate a death beneficiary
38 who would, upon the death of the option beneficiary, be entitled
39 to receive the option beneficiary's accrued monthly allowance.



1 SEC. 18. Section 24002 of the Education Code is amended to
2 read:

3 24002. The board may authorize payment of a disability
4 allowance to any member who is qualified upon application under
5 this part by the member, the member's guardian or conservator, or
6 the member's employer, if the application is made during any one
7 of the following periods:

8 (a) While the member is employed or on a compensated leave
9 of absence.

10 (b) While the member is physically or mentally incapacitated
11 for performance of service and the incapacity has been continuous
12 from the last day of actual performance of service for which
13 compensation is payable to the member.

14 (c) While the member is on a leave of absence without
15 compensation, granted for reason other than mental or physical
16 incapacity for performance of service, and within four months
17 after the last day of actual performance of service for which
18 compensation is payable to the member, or within 12 months of
19 that date if the member is on an employer-approved leave to study
20 at an approved college or university.

21 (d) Within four months after the termination of the member's
22 employment subject to coverage under the Defined Benefit
23 Program, if the application was not made under subdivision (b)
24 and was not made more than four months after the last day of actual
25 performance of service for which compensation is payable to the
26 member.

27 (e) A member with a dependent child, who becomes disabled
28 prior to normal retirement age, and whose sick leave will extend
29 beyond normal retirement age, may be awarded a disability
30 allowance with an effective date after normal retirement age, if the
31 application is filed prior to attaining normal retirement age.

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

37 SEC. 19. Section 24012 of the Education Code is amended to
38 read:

39 24012. (a) A member who is receiving a disability allowance
40 pursuant to this chapter who is determined by the board to have a



1 mental, physical, or vocational rehabilitation potential that could
2 be expected to restore the member’s ability to perform service in
3 the member’s former position of employment or a comparable
4 level position shall participate in an appropriate rehabilitation
5 program approved by the board. The board shall pay all reasonable
6 costs of the approved program. Willful failure to initiate and
7 continue participation in the rehabilitation program shall cause the
8 disability allowance to be terminated. In determining whether a
9 member has good cause for failure to participate in the program,
10 the board shall take into account whether the participation would
11 abridge the member’s right to the free exercise of religion or
12 whether the member’s physical or mental condition has worsened,
13 as determined by the member’s treating physician and
14 substantiated by medical evidence.

15 (b) Any cost for the approved rehabilitation program
16 prescribed by the board shall be paid directly by the system from
17 the fund.

18 SEC. 20. Section 24111 of the Education Code is amended to
19 read:

20 24111. (a) A member who is receiving a disability retirement
21 allowance under this part pursuant to this chapter who is
22 determined by the board to have a mental, physical, or vocational
23 rehabilitation potential that could be expected to restore the
24 member’s ability to perform service in the member’s former
25 position of employment or in a comparable level position shall
26 participate in an appropriate rehabilitation program approved by
27 the board. The board shall pay all reasonable costs of the approved
28 program. Willful failure to initiate and continue participation in
29 the rehabilitation program shall cause the disability retirement
30 allowance under this part to be terminated. In determining whether
31 a member has good cause for failure to participate in the program,
32 the board shall take into account whether the participation would
33 abridge the member’s right to the free exercise of religion or
34 whether the member’s physical or mental condition has worsened
35 as determined by the member’s treating physician and
36 substantiated by medical evidence.

37 (b) Any cost for the approved rehabilitation program
38 prescribed by the board shall be paid directly by the system from
39 the fund.



1 SEC. 21. Section 24214 of the Education Code, as amended
2 by Section 3 of Chapter 903 of the Statutes of 2002, is amended
3 to read:

4 24214. (a) A member retired for service under this part may
5 perform the activities identified in paragraphs (1) to (9), inclusive,
6 of subdivision (a), or subdivision (b), of Section 22119.5 as an
7 employee of an employer, as an employee of a third party, or as an
8 independent contractor within the California public school
9 system, but the member may not make contributions ‘to the
10 retirement fund or accrue service credit based on compensation
11 earned from that service.

12 (b) The rate of pay for service performed by a member retired
13 for service under this part as an employee of the employer may not
14 be less than the minimum, nor exceed that paid by the employer
15 to other employees performing comparable duties.

16 (c) A member retired for service under this part may not be
17 required to reinstate for performing the activities identified in
18 paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision
19 (b), of Section 22119.5, as an employee of an employer, as an
20 employee of a third party, or as an independent contractor within
21 the California public school system.

22 (d) A member retired for service under this part may earn
23 compensation for performing activities identified in paragraphs
24 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of
25 Section 22119.5 in any one school year up to the limitation
26 specified in subdivision (f) as an employee of an employer, as an
27 employee of a third party, or an independent contractor, within the
28 California public school system, without a reduction in his or her
29 retirement allowance.

30 (e) The postretirement compensation limitation provisions set
31 forth in this section are not applicable to compensation earned for
32 the performance of the activities described in subdivision (a) for
33 which the employer is not eligible to receive state apportionment
34 or to compensation that is not creditable pursuant to Section
35 22119.2.

36 (f) The limitation that shall apply to the compensation for
37 performance of the activities identified in paragraphs (1) to (9),
38 inclusive, of subdivision (a), or subdivision (b), of Section
39 22119.5 by a member retired for service under this part either as
40 an employee of an employer, an employee of a third party, or as an



1 independent contractor, shall, in any one school year, be an amount
2 calculated by the board each July 1 equal to twenty-two thousand
3 dollars (\$22,000) multiplied by the percentage increase in the
4 average compensation earnable of active members of the Defined
5 Benefit Program, as determined by the system, from the 1998–99
6 fiscal year to the fiscal year ending in the previous calendar year.

7 (g) If a member retired for service under this part earns
8 compensation for performing activities identified in paragraphs
9 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of
10 Section 22119.5 in excess of the limitation specified in subdivision
11 (f), as an employee of an employer, as an employee of a third party,
12 or as an independent contractor, within the California public
13 school system, the member's retirement allowance shall be
14 reduced by the amount of the excess compensation. The amount
15 of the reduction may be equal to the monthly allowance payable
16 but may not exceed the amount of the annual allowance payable
17 under this part for the fiscal year in which the excess compensation
18 was earned.

19 (h) The language of this section derived from the amendments
20 to the section of this number added by Chapter 394 of the Statutes
21 of 1995, enacted during the 1995–96 Regular Session, is deemed
22 to have become operative on July 1, 1996.

23 (i) This section shall become operative on January 1, 2008.

24 SEC. 22. Section 24216.6 of the Education Code is amended
25 to read:

26 24216.6. (a) The compensation earned by a member who
27 retired for service under this part shall be exempt from
28 subdivisions (d), (f), and (g) of Section 24214, if all of the
29 following conditions are met:

30 (1) The member retired for service with an effective date on or
31 before July 1, 2000.

32 (2) The member retired for service is employed by a school
33 district to provide direct remedial instruction to pupils in grades 2
34 to 12, inclusive. "Remedial instruction" means the programs
35 specified in Sections 37252 and 37252.2.

36 (3) All members retired for service whose employment with a
37 school district meets the conditions specified in this section shall
38 be treated as a distinct class of temporary employees within the
39 existing bargaining unit whose service may not be included in
40 computing the service required as a prerequisite to attainment of



1 or eligibility for classification as a permanent employee of a school
2 district. The compensation for service performed by this class of
3 employees shall be established in accordance with subdivision (b)
4 of Section 24214 and agreed to in the collective bargaining
5 agreement between the employing school district and the
6 exclusive representative for the existing bargaining unit within
7 which these temporary employees of the school district are treated
8 as a distinct class.

9 (4) The employing school district submits documentation
10 required by the system to substantiate the eligibility of the
11 temporary employment of a member retired for service for the
12 exemption under this subdivision.

13 (b) A school district that employs a member retired for service
14 pursuant to this section shall maintain accurate records of the
15 retired member's compensation earned and shall report that
16 compensation monthly to the system regardless of the method of
17 payment or the source of funds from which the compensation is
18 paid.

19 (c) This section does not apply to the compensation earned for
20 creditable service performed by a member retired for service for
21 a county office of education or a community college district.

22 SEC. 23. Section 24221 of the Education Code is amended to
23 read:

24 24221. (a) A member who retires for service on or after
25 January 1, 2004, and prior to January 1, 2011, and who has reached
26 either the age of 60 years and three months within the month he or
27 she retires or the age of 60 years if he or she has at least 30 years
28 of credited service may elect, on a form prescribed by the system,
29 to receive a lump-sum payment and an actuarially reduced
30 monthly allowance pursuant to this section in lieu of the monthly
31 allowance that would otherwise be payable to the member
32 pursuant to this chapter. The election under this section shall be
33 made at the time the member files his or her application for service
34 retirement allowance as provided in Section 24204.

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

38 (1) The actuarial present value of the difference between (A)
39 the monthly allowance payable to the member pursuant to this
40 chapter, and (B) an amount equal to 2 percent of the member's final



1 compensation multiplied by the number of years of credited
2 service and divided by 12.

3 (2) Fifteen percent of the actuarial present value of the monthly
4 allowance payable to the member under this chapter.

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

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

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

28 SEC. 24. Section 24300 of the Education Code is amended to
29 read:

30 24300. (a) A member may, prior to the effective date of the
31 member's retirement, elect an option pursuant to this part that
32 would provide an actuarially modified retirement allowance
33 payable throughout the life of the member and the member's
34 option beneficiary, as follows:

35 (1) Option 2. The modified retirement allowance shall be
36 paid to the retired member. Upon the retired member's death, an
37 allowance equal to the modified amount that the retired member
38 was receiving shall be paid to the option beneficiary.

39 (2) Option 3. The modified retirement allowance shall be
40 paid to the retired member. Upon the retired member's death, an



1 allowance equal to one-half of the modified amount that the retired
2 member was receiving shall be paid to the option beneficiary.

3 (3) Option 4. The modified retirement allowance shall be
4 paid to the retired member as long as both the retired member and
5 the option beneficiary are living. Upon the death of either the
6 retired member or the option beneficiary, an allowance equal to
7 two-thirds of the modified amount that the retired member was
8 receiving shall be paid to the surviving retired member or the
9 surviving option beneficiary.

10 (4) Option 5. The modified retirement allowance shall be
11 paid to the retired member as long as both the retired member and
12 the option beneficiary are living. Upon the death of either the
13 retired member or the option beneficiary, an allowance equal to
14 one-half of the modified amount that the retired member was
15 receiving shall be paid to the surviving retired member or
16 surviving option beneficiary.

17 (5) Option 6. The modified retirement allowance shall be
18 paid to the retired member and upon the retired member's death,
19 an allowance equal to the modified amount that the retired member
20 was receiving shall be paid to the option beneficiary. However, if
21 the option beneficiary predeceases the retired member, the
22 retirement allowance without modification for the option shall be
23 payable to the retired member. If the option beneficiary
24 predeceases the retired member, the retired member may designate
25 a new option beneficiary. The effective date of the new designation
26 shall be six months following the date notification is received by
27 the board, so long as both the retired member and the designated
28 option beneficiary are then living. Notification shall be on a
29 properly executed form for the new designation. The selection of
30 the new option beneficiary under this subdivision is subject to an
31 actuarial modification of the unmodified retirement allowance. A
32 retired member may not designate any new option beneficiary that
33 would result in any additional liability to the fund.

34 (6) Option 7. The modified retirement allowance shall be
35 paid to the retired member and upon the retired member's death,
36 an allowance equal to one-half of the modified amount the retired
37 member was receiving shall be paid to the option beneficiary.
38 However, if the option beneficiary predeceases the retired
39 member, the retirement allowance without modification for the
40 option shall be payable to the retired member. If the option



1 beneficiary predeceases the retired member, the retired member
2 may designate a new option beneficiary. The effective date of the
3 new designation shall be six months following the date notification
4 is received by the board, provided both the retired member and the
5 designated option beneficiary are then living. Notification shall be
6 on a properly executed form for the new designation. The selection
7 of the new option beneficiary under this subdivision is subject to
8 an actuarial modification of the unmodified retirement allowance.
9 A retired member may not designate any new option beneficiary
10 that would result in any additional liability to the fund.

11 (7) Option 8. (A) Any member, prior to the effective date of
12 the member's retirement, may designate multiple option
13 beneficiaries. The member who has designated more than one
14 option beneficiary shall select an option that the member is
15 authorized to elect subject to subdivision (e) for each beneficiary
16 designated that would provide an actuarially modified retirement
17 allowance payable throughout the lives of the member and the
18 member's option beneficiaries.

19 (B) The modified retirement allowance shall be paid to the
20 retired member as long as the retired member and at least one of
21 the option beneficiaries are living. Upon the retired member's
22 death, an allowance shall be paid to each surviving option
23 beneficiary in accordance with the option elected respective to that
24 beneficiary. However, if one or more of the option beneficiaries
25 predeceases the retired member, the retired member's allowance
26 shall be adjusted in accordance with the option elected for the
27 deceased beneficiary. The member shall determine the percentage
28 of the unmodified allowance that will be modified by the election
29 of Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7
30 under this option, the aggregate of which may not exceed 100
31 percent of the member's unmodified allowance. The election of
32 this option is subject to approval by the board.

33 (C) *A member who is a party to an action for legal separation*
34 *or dissolution of marriage and who is required by court order to*
35 *designate a spouse or former spouse as an option beneficiary may*
36 *designate his or her spouse or former spouse as a sole option*
37 *beneficiary under subparagraphs (A) and (B). The member shall*
38 *specify the option selected for the spouse or former spouse and the*
39 *percentage of his or her unmodified allowance to be modified*
40 *under the option, consistent with the court order. The percentage*



1 *of the member's unmodified allowance that is not modified under*
2 *the option shall remain an unmodified allowance payable to the*
3 *member. The aggregate of the percentages specified for the option*
4 *beneficiary and the member's remaining unmodified allowance, if*
5 *any, may not exceed 100 percent.*

6 (b) For purposes of this section, the member shall designate an
7 option beneficiary on a form prescribed by the system, which shall
8 be duly executed and filed with the system at the time of the
9 member's retirement.

10 (c) A member may revoke or change an election of an option
11 at any time prior to the effective date of the member's retirement
12 under this part. *A revocation or change of an option may not be*
13 *made in derogation of a spouse's or former spouse's community*
14 *property rights as specified in a court order.*

15 (d) On or before July 1, 2004, the board shall evaluate the
16 existing options and annuities provided pursuant to this section,
17 Chapter 38 (commencing with Section 25000) of this part, and Part
18 14 (commencing with Section 26000) and adopt, as a plan
19 amendment, any appropriate changes to the options and annuities
20 based on the needs of members, participants, and their
21 beneficiaries, including, but not limited to, providing economic
22 security for beneficiaries and reducing complexity in the selection
23 of options and annuities by members and participants. The
24 changes to the options and annuities may have no net actuarial
25 impact on the retirement fund, and the board may establish any
26 eligibility criteria it deems necessary to prevent an adverse
27 actuarial impact to the fund. The board shall designate the effective
28 date of the plan amendment, which shall be at least 18 months after
29 the amendment is adopted by the board, and notwithstanding any
30 other provision of this section, the options and annuities available
31 to members and participants eligible to retire pursuant to this part
32 and Part 14 (commencing with Section 26000), after the effective
33 date of the plan amendment made pursuant to this subdivision,
34 shall reflect the changes adopted as a plan amendment pursuant to
35 this subdivision.

36 (e) Any member or participant who retired and elected an
37 option or a joint and survivor annuity, or who filed a preretirement
38 election of an option prior to the effective date of the plan
39 amendment made pursuant to subdivision (d), may elect to change
40 to a different option or joint and survivor annuity, as modified by



1 the board as a plan amendment pursuant to subdivision (d), if the
2 member or participant meets all the criteria established by the
3 board to prevent a change in an option or joint and survivor annuity
4 from having an adverse actuarial impact on the retirement fund,
5 including, but not limited to, the effective date of a new
6 designation or limitations on any changes if a member or
7 participant, as the case may be, or beneficiary, or both, is currently
8 not living or afflicted with a known terminal illness. The member
9 or participant shall designate the change during the six-month
10 period that begins with the effective date of the plan amendment,
11 on a form prescribed by the system. Any member changing an
12 option election pursuant to this subdivision is not subject to the
13 allowance reduction prescribed in Section 24309 or 24310 as a
14 result of the election. If a member or participant elects to change
15 his or her option or joint and survivor annuity under this
16 subdivision, the member or participant shall retain the same option
17 beneficiary or beneficiaries as named in the prior designation.

18 (f) The Legislature reserves the right to modify this section
19 prior to the effective date of the plan amendment made pursuant
20 to subdivision (d) to prevent any actuarial impact to the fund.

21 SEC. 25. Section 24606 of the Education Code is amended to
22 read:

23 24606. (a) If any warrant drawn in payment of contributions
24 or accumulated contributions or benefits under this plan remains
25 unclaimed or the legal claimant cannot be found, the board shall
26 redeposit the proceeds of the warrant in the retirement fund, and
27 shall hold the proceeds for the legal claimant without further
28 accumulation of interest. The redeposit does not operate to
29 establish the membership of the claimant in this plan.

30 (b) Subdivision (a) applies to warrants drawn and canceled by
31 the Controller pursuant to Section 17070 of the Government Code,
32 except that, upon notice of cancellation, the proceeds revert to and
33 become a part of the retirement fund, and shall be applied to meet
34 the liabilities of the retirement fund.

35 (c) The board may at any time after reversion of proceeds, as
36 provided above to the retirement fund, and upon receipt of proper
37 information satisfactory to it, return from the retirement fund an
38 amount equal to those proceeds to the credit of the legal claimant.

39 SEC. 26. Section 24615 of the Education Code is amended to
40 read:



1 24615. (a) If the board determines that contributions are due
2 the system under this part from a retired member, disabled
3 member, or a person who has died, and the person is unable to pay
4 the amount due, the board may withhold all or part of subsequent
5 payments due the retired member, disabled member, or survivor,
6 until the amounts withheld equal the contributions due plus regular
7 interest to the date of payment. Total contributions plus regular
8 interest due shall be recovered by the system within 18 months.

9 (b) Any payment of contributions that a member or beneficiary
10 is required by law to make to the system shall be paid upon receipt
11 of written notice from the system. Payment may be made either in
12 a lump sum or installments, as permitted by the system. Payment
13 of contributions due the system not discovered or unpaid, for
14 whatever reason, prior to the time of retirement, disability, or death
15 shall be paid prior to granting an allowance or benefit to the
16 member or beneficiary unless, in the opinion of the board, the
17 making of the payment prior to receipt of an allowance or benefit
18 would impose an undue hardship, in which case payment may be
19 made by the system withholding not more than 18 consecutive
20 monthly installments from payments due from the system. Those
21 installments may not be less than twenty-five dollars (\$25) per
22 month, except for the last installment, which may be less than
23 twenty-five dollars (\$25).

24 SEC. 27. Section 24616 of the Education Code is amended to
25 read:

26 24616. Any overpayment made to or on behalf of any
27 member, former member, or beneficiary, including but not limited
28 to contributions, interest, benefits of any kind, federal or state tax,
29 or insurance premiums, shall be deducted from any subsequent
30 benefit that may be payable under either the Defined Benefit
31 Program, the Defined Benefit Supplement Program, or the Cash
32 Balance Benefit Program. These deductions shall be permitted
33 concurrently with any suit for restitution, and recovery of
34 overpayment by adjustment shall reduce by the amount of the
35 recovery the extent of liability for restitution.

36 SEC. 28. Section 24617 of the Education Code is amended to
37 read:

38 24617. (a) To recover an amount overpaid under this part, the
39 corrected monthly allowance payable under the Defined Benefit
40 Program or benefit payable under the Defined Benefit Supplement



1 Program or the Cash Balance Benefit Program may be reduced by
2 no more than 5 percent if the overpayment was due to error by the
3 system, the county superintendent of schools, a school district, or
4 a community college district, and by no more than 15 percent if the
5 error was due to inaccurate information or nonsubmission of
6 information by the recipient of the allowance or benefit.

7 (b) This section does not apply to the collection of
8 overpayments due to fraud or intentional misrepresentation of
9 facts by the recipient of the allowance or benefit.

10 SEC. 29. Section 24975 of the Education Code is amended to
11 read:

12 24975. (a) The board may develop one or more deferred
13 compensation plans under Section 457 of the Internal Revenue
14 Code that an employer may choose to establish and offer to its
15 employees who are members or participants of the plan under this
16 part or Part 14 (commencing with Section 26000) or any employee
17 of a local public agency or political subdivision of this state that
18 employs persons to perform creditable service subject to coverage
19 by the plan under this part.

20 (b) If an employer adopts a deferred compensation plan
21 described in subdivision (a):

22 (1) The employer shall enter into a written contractual
23 arrangement with the system under which the system, or a
24 third-party administrator acting on behalf of the system, shall
25 provide investment, recordkeeping, and administrative services
26 for the deferred compensation plan.

27 (2) The initial period of the contractual arrangement described
28 in paragraph (1) shall be for a term of five years.

29 (3) The deferred compensation plan shall continue to constitute
30 a separate plan established and maintained by the adopting
31 employer.

32 (4) The system shall be treated as acting on behalf of the
33 employer in administering the deferred compensation plan.

34 (5) The terms and administration of the deferred compensation
35 plan shall be in accordance with the applicable provisions of
36 Section 457 of the Internal Revenue Code.

37 (6) In administering the deferred compensation plan on behalf
38 of the employer, the board shall have the same investment
39 authority and discretion and be subject to the same fiduciary
40 standards pursuant to Chapter 4 (commencing with Section



1 22250), with respect to amounts deferred under the deferred
2 compensation plan as applied by the system with respect to the
3 Teachers' Retirement Fund.

4 (c) If an employer establishes and maintains a deferred
5 compensation plan described in subdivision (a), the deferred
6 compensation plan shall be offered to all of its employees who are
7 eligible to participate pursuant to this section.

8 (d) An employee participating in a deferred compensation plan
9 established by an employer under this section shall enter into a
10 written agreement with the employer for the deferral of
11 compensation prior to the performance of the services to which
12 that compensation relates.

13 (e) If an employer chooses to establish and maintain a deferred
14 compensation plan described in subdivision (a) that is to be
15 administered by the system, the employer shall take all necessary
16 or appropriate action to implement this section in cooperation with
17 the system.

18 SEC. 30. Section 25000.9 of the Education Code is amended
19 to read:

20 25000.9. For purposes of this chapter and Section 23300,
21 "nonmember spouse" means a member's spouse or former spouse
22 who is being or has been awarded a community property interest
23 in the service credit, accumulated retirement contributions,
24 accumulated Defined Benefit Supplement account balance, or
25 benefits of the member under this part. A nonmember spouse may
26 not be considered a member based upon his or her receipt of any
27 of the following being awarded to the nonmember spouse as a
28 result of legal separation or dissolution of marriage:

29 (a) A separate account of service credit and accumulated
30 retirement contributions, a retirement allowance, or an interest in
31 the member's retirement allowance under the Defined Benefit
32 Program.

33 (b) A separate account based on the member's Defined Benefit
34 Supplement account balance, a retirement benefit, or an interest in
35 the member's retirement benefit under the Defined Benefit
36 Supplement Program.

37 SEC. 31. Section 25018.5 of the Education Code is amended
38 to read:

39 25018.5. When a disabled member returns to work in his or
40 her former position of employment or in a comparable level



1 position and within six months of return experiences a recurrence
2 of the original disability, it shall be considered, for the purpose of
3 determining the duration of the disability, that the condition had
4 its onset as of the date the member first became disabled. The
5 former Defined Benefit Supplement disability benefit under this
6 chapter shall again become payable as of the later of the first day
7 of the month in which the recurrence of the disability occurred or
8 the last day of service for which compensation is payable to the
9 member provided the member complies with the provisions of
10 Section 24003 or 24103, as applicable.

11 SEC. 32. Section 25100 of the Education Code is amended to
12 read:

13 25100. (a) The board shall establish a vendor registration
14 process through which information about tax-deferred retirement
15 investment products as described in Section 403(b) of the Internal
16 Revenue Code of 1986 shall be made available for consideration
17 by public employees of all local school districts, community
18 college districts, and county offices of education.

19 (b) For the purposes of this chapter, “403(b) product or 403(b)
20 products” means tax-deferred retirement investment products as
21 described in Section 403(b) of the Internal Revenue Code of 1986.

22 (c) For the purposes of this chapter, “vendor” means a public
23 retirement system, broker-dealer, registered investment company,
24 nonbank custodian, or life insurance company qualified to do
25 business in California that provides 403(b) products. “Vendor”
26 does not include individual registered representatives, brokers,
27 financial planners, or agents. “Nonbank custodian” means a fund
28 custodian, other than a bank, that meets the criteria of a trustee
29 specified in Section 408(a)(2) of the Internal Revenue Code.

30 SEC. 33. Section 25101 of the Education Code is amended to
31 read:

32 25101. A prospective vendor of 403(b) products that offers
33 those products, or the products of other 403(b) vendors, to local
34 school districts, community college districts, county offices of
35 education and their employees, shall register those products with
36 the board pursuant to this chapter. Registered vendors shall offer
37 only registered 403(b) products as funding vehicles for 403(b)
38 plans.

39 (a) Prospective vendors shall be registered with the board
40 based upon a complete response to the disclosures required by this



1 subdivision. This information shall be included in the impartial
2 investment information bank established pursuant to Section
3 25104. The prospective vendors shall provide the following
4 information:

5 (1) A statement of experience in California and in other states
6 in providing retirement annuities, custodial account mutual fund
7 arrangements, or other retirement products and related financial
8 services under public employer retirement plans.

9 (2) A characterization by the vendor of its offering as either an
10 annuity or custodial account, as defined under Sections 403(b)(1)
11 and 403(b)(7) of the Internal Revenue Code, respectively.

12 (3) A disclosure of all expenses paid directly or indirectly by
13 retirement plan participants, including, but not limited to,
14 penalties for early withdrawals, declining or fixed withdrawal
15 charges, surrender or deposit charges, management fees, and
16 annual fees, supported by documentation as required for
17 prospectus disclosure by the National Association of Securities
18 Dealers and the Securities and Exchange Commission. Vendors
19 shall be required to provide information regarding the impact of
20 product fees upon a hypothetical investment, as described in
21 Section 25104.

22 (4) The types of products, product features, including presence
23 of two tier annuity features, services offered to participants, and
24 information about how to access product prospectuses or other
25 relevant product information.

26 (5) A discussion of the ability, experience, and commitment of
27 the vendor to provide retirement counseling and education
28 services, including, but not limited to, access to group meetings
29 and individual counseling by various means, including telephone
30 and telecommunications devices for the deaf (TDD), Internet, and
31 face-to-face consultations by registered representatives.

32 (6) A statement of the financial strength and stability of the
33 vendor, as may be applicable, by identifying its ratings assigned
34 by nationally recognized rating services that evaluate the financial
35 strength of life insurance, mutual funds, and other similar
36 companies.

37 (7) The location of offices and counselors, or method of
38 distribution, of the vendor relative to serving local school districts,
39 community college districts, and county offices of education and
40 their employees in California.



1 (8) A description of the ability of the vendor to comply with all
2 applicable provisions of federal and state law governing
3 retirement plans, including minimum distribution requirements
4 and contribution limits.

5 (9) To the extent applicable, the demonstrated ability of the
6 vendor to offer an appropriate array of accumulation funding
7 options, including, but not limited to, a diversified mix of value,
8 growth, growth and income, hybrid and index funds or accounts
9 across large, mid, and small capitalization asset classes, both
10 domestic and international. These investment products may
11 include mutual funds, group or individual annuity contracts, fixed
12 or variable annuity contracts, individual retirement annuities,
13 interests in trust and collective trusts, separate accounts, and other
14 financial instruments.

15 (10) A discussion of the range of administrative and customer
16 services provided, including asset allocation, accounting and
17 administration of benefits for individual participants,
18 recordkeeping for individual participants, asset purchase, control,
19 and safekeeping, execution of a participant's instructions as to
20 asset and contribution allocation, calculation of daily net asset
21 values, direct access for participants to their account information,
22 periodic reporting to active participants, not less than quarterly, on
23 their account balances and transactions, and compliance with the
24 standard of care applicable in the provision of investment services
25 and consistent with federal law.

26 (11) Certification by the vendor that the information provided
27 to the board accurately reflects the provisions of the Section 403(b)
28 products they register pursuant to this chapter.

29 (b) Registration may not be conditioned upon the content of the
30 information.

31 (c) Vendors shall supply information and data in the format
32 required by the board.

33 SEC. 34. Section 25940 of the Education Code is amended to
34 read:

35 25940. (a) Effective July 1, 2001, the system shall pay to the
36 federal Centers for Medicare and Medicaid Services or a successor
37 agency the premiums associated with Medicare Part A for retired
38 or disabled members described in this section.



1 (b) This section shall apply only to a retired member of the
2 Defined Benefit Program who meets all of the following
3 requirements:

4 (1) The member retired prior to January 1, 2001, or began
5 receiving a disability allowance prior to January 1, 2001, and has
6 been continually disabled since January 1, 2001.

7 (2) The member is not eligible for Medicare Part A without
8 payment of a premium.

9 (3) The member is at least 65 years of age.

10 (4) The member enrolled in Medicare Parts A and B.

11 (c) The board may extend eligibility for the payments
12 described in this section to members of the Defined Benefit
13 Program who meet the requirements of subdivision (d) and who
14 retire or begin receiving a disability allowance on or after January
15 1, 2001, within a school year specified by the board, if the board
16 finds that the cost of the payments for members who retire or begin
17 receiving a disability allowance during the specified school year
18 may be paid within the anticipated resources available in the fund,
19 as determined by the actuarial valuation of the program established
20 by this chapter. Any extension of eligibility to members who retire
21 or begin receiving a disability allowance on or after January 1,
22 2001, shall be provided equally to any member who meets the
23 requirements of subdivision (d) and retires or begins receiving a
24 disability allowance during the school year specified by the board.

25 (d) (1) Eligibility for the payments described in this section
26 pursuant to subdivision (c) shall be limited to members of the
27 Defined Benefit Program who do either of the following:

28 (A) Retires from an employer that does either of the following:

29 (i) Completed a division pursuant to Section 22156 of the
30 Government Code prior to January 1, 2001.

31 (ii) Completed or is conducting a division pursuant to Section
32 22156 of the Government Code on or after January 1, 2001, and,
33 if the member was less than 58 years of age at the time of the
34 division, the member elected to be covered by Medicare.

35 (B) Began receiving a disability allowance and continuously
36 receives a disability allowance until 65 years of age or older and
37 the member's last employer does any of the following:

38 (i) Completed a division pursuant to Section 22156 of the
39 Government Code prior to January 1, 2001.



1 (ii) Completed or is conducting a division pursuant to Section
2 22156 of the Government Code on or after January 1, 2001, and,
3 if the member was still actively employed and less than 58 years
4 of age at the time of the division, the member elected to be covered
5 by Medicare.

6 (iii) Completed or is conducting a division pursuant to Section
7 22156 of the Government Code on or after January 1, 2001, and,
8 if the member is no longer actively employed, the division was
9 completed prior to the time the member reached normal retirement
10 age.

11 (2) For purposes of paragraph (1), a division occurs during the
12 10-day period during which the member has the opportunity to
13 elect to be covered by Medicare pursuant to Section 22156 of the
14 Government Code.

15 (3) This subdivision does not apply to a member who retires
16 from a district, or is receiving a disability allowance and the
17 member was last employed in a district, that either as of January
18 1, 2001, had no members who were less than 58 years of age and
19 who were hired prior to April 1, 1986, or was created pursuant to
20 a formation or a reorganization on or after April 1, 1986, and prior
21 to January 1, 2001.

22 (e) The amount paid to the federal Centers for Medicare and
23 Medicaid Services or a successor agency pursuant to this section
24 shall include any surcharges applicable to enrollment in Medicare
25 Part A or Part B by members who retired prior to January 1, 2001,
26 and who enrolled in Medicare Parts A and B after the age of 65
27 years and prior to July 1, 2001. If the system pays the Part A
28 premium and Part B surcharges on behalf of a member and that
29 member later becomes eligible for Part A coverage without
30 payment of a premium, the system shall continue to pay any
31 applicable Part B surcharges on behalf of that member. The board
32 may require a member on whose behalf a surcharge would be paid
33 pursuant to this subdivision to authorize the system to deduct the
34 Part B premium from the member's retirement allowance as a
35 condition of having the system pay the Part A premium pursuant
36 to this section.

