

## Senate Bill No. 627

### CHAPTER 859

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.

[Approved by Governor October 11, 2003. Filed  
with Secretary of State October 12, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 627, 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, on July 1, 2004, 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.

(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.

(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.

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

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

SECTION 1. Section 22109.5 of the Education Code is amended to read:

22109.5. "Break in service," for purposes of determining a member's final compensation, means:

(a) With respect to service of a member employed as a full-time employee and service performed by a member employed as a part-time employee, any period of time covering a pay period during which a member is on an unpaid leave of absence or a pay period in which a member has not performed any creditable service.

(b) For a member who has been employed in a substitute position:

(1) And has a change in assignment during a school year to a full-time or part-time position, a break in service is determined on the same basis as for the full-time or part-time employment during the same school year.

(2) For less than 50 percent of their teaching career for which service is credited, a break in service is determined on the same basis as full-time employment.

(3) For more than 50 percent of their teaching career for which service is credited, a break in service is any period of time within a school year for which compensation is not paid and service is not credited.

(c) If a member commenced performing service at the beginning of a school term, July and August of the school year are not a break in service; however, if the member commenced performing service after



the school term begins, the previous July and August are a break in service.

(d) Earnable salaries for a full pay period, but not beyond the effective date of retirement, shall be used in determining final compensation when the member performed service within that pay period.

SEC. 2. Section 22138.5 of the Education Code is amended to read:

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

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

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

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

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

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

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

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

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



(3) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a district office.

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

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

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

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

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

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

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

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

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

(d) A retired member is a member who has terminated employment and has retired for service under the provisions of Chapter 27 (commencing with Section 24201), or has retired for disability under the provisions of Chapter 26 (commencing with Section 24100) or retired



for service or disability under the provisions of Chapter 21 (commencing with Section 23400), and to whom a retirement allowance is therefore payable.

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

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

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

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

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

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

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

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

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

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

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

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

(b) The nonmember spouse shall inform the system in writing of his or her intent to purchase additional service credit within 180 days after the date the judgment or court order addressing the right of the nonmember spouse to purchase additional service credit is entered. The nonmember spouse shall elect to purchase additional service credit on



a form provided by the system within 30 days after the system mails an election form and billing.

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

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

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

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

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

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

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

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

22713. (a) Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and have his or her retirement allowance,



as well as other benefits that the member is entitled to under this part, based, in part, on final compensation determined from the compensation earnable the member would have been entitled to if the member had been employed on a full-time basis.

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

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

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

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

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

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

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

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

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



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

(e) For each school year the member's workload is reduced pursuant to this section, the employer shall contribute to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member if the member had performed creditable service on a full-time basis and if that service was subject to coverage under the Defined Benefit Program.

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

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

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

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

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



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

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

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

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

(A) A net savings to the district.

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

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

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

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

(c) (1) The county office of education shall demonstrate and certify to the Superintendent of Public Instruction that the formal action taken would result in any of the following:

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

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

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



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

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

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

(A) A net savings to the district.

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

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

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

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

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

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

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

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

SEC. 10. Section 22801 of the Education Code is amended to read:



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

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

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

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

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

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

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



following the mailing of notification of contributions and interest payable.

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

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

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

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

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

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

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

22820. (a) A member, other than a retired member, may elect to purchase out-of-state service credited in a public retirement system for service covering public education in another state or territory of the United States or by the United States for its citizens. The member may not receive credit for this service if the member has credit or is eligible to receive credit for the same service in the Cash Balance Benefit



Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security.

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

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

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

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

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

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

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

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

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

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

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

(c) Contributions for out-of-state service credit shall be made in a lump sum, or in not more than 120 monthly installments, not to exceed



ten years. No installment, except the final installment, shall be less than twenty-five dollars (\$25).

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

(b) If the system is unable to inform the member or beneficiary of the amount required to purchase additional service credit prior to the effective date of the applicable allowance, the member or beneficiary may make the required payment within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later. The payment shall be paid in full before a member or beneficiary receives any adjustment in the appropriate allowance due because of that payment.

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

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

23300. (a) A member of the Defined Benefit Program may designate a beneficiary to receive benefits payable under this part upon



the member's death. A beneficiary designation may not be made in derogation of a community property interest of a nonmember spouse, as defined by Section 25000.9, with respect to service or contributions credited under this part, unless the nonmember spouse has previously obtained an alternative order pursuant to Section 2610 of the Family Code.

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

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

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

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

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

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

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

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

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

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

(d) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if



the application was not made under subdivision (b) and was not made more than four months after the last day of actual performance of service for which compensation is payable to the member.

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

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

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

24012. (a) A member who is receiving a disability allowance pursuant to this chapter who is determined by the board to have a mental, physical, or vocational rehabilitation potential that could be expected to restore the member's ability to perform service in the member's former position of employment or a comparable level position shall participate in an appropriate rehabilitation program approved by the board. The board shall pay all reasonable costs of the approved program. Willful failure to initiate and continue participation in the rehabilitation program shall cause the disability allowance to be terminated. In determining whether a member has good cause for failure to participate in the program, the board shall take into account whether the participation would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened, as determined by the member's treating physician and substantiated by medical evidence.

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

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

24111. (a) A member who is receiving a disability retirement allowance under this part pursuant to this chapter who is determined by the board to have a mental, physical, or vocational rehabilitation potential that could be expected to restore the member's ability to perform service in the member's former position of employment or in a comparable level position shall participate in an appropriate rehabilitation program approved by the board. The board shall pay all reasonable costs of the approved program. Willful failure to initiate and continue participation in the rehabilitation program shall cause the disability retirement allowance under this part to be terminated. In determining whether a member has good cause for failure to participate in the program, the board shall take into account whether the



participation would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened as determined by the member's treating physician and substantiated by medical evidence.

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

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

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

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

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

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

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

(f) The limitation that shall apply to the compensation for performance of the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor, shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) multiplied by the



percentage increase in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

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

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

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

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

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

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

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

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.



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

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

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

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

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

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

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

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

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

(d) A member may not apply a lump-sum payment made pursuant to this section for the purposes of redepositing previously refunded retirement contributions pursuant to Chapter 19 (commencing with Section 23200) or purchasing service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820) or Chapter 14.5 (commencing with Section 22850). The Legislature hereby finds and declares that if a member who elects to



receive a partial lump-sum payment also elects to redeposit previously refunded contributions or purchase service credit as a result of the receipt of the lump-sum payment, the Defined Benefit Program may experience a net actuarial impact.

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

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

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

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

(2) Option 3. The modified retirement allowance shall be paid to the retired member. Upon the retired member's death, an allowance equal to one-half of the modified amount that the retired member was receiving shall be paid to the option beneficiary.

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

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

(5) Option 6. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to the modified amount that the retired member was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retired member, the retirement allowance without modification for the option shall be payable to the retired member. If the option beneficiary predeceases the retired member, the retired member may designate a new option beneficiary. The effective date of the new



designation shall be six months following the date notification is received by the board, so long as both the retired member and the designated option beneficiary are then living. Notification shall be on a properly executed form for the new designation. The selection of the new option beneficiary under this subdivision is subject to an actuarial modification of the unmodified retirement allowance. A retired member may not designate any new option beneficiary that would result in any additional liability to the fund.

(6) Option 7. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to one-half of the modified amount the retired member was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retired member, the retirement allowance without modification for the option shall be payable to the retired member. If the option beneficiary predeceases the retired member, the retired member may designate a new option beneficiary. The effective date of the new designation shall be six months following the date notification is received by the board, provided both the retired member and the designated option beneficiary are then living. Notification shall be on a properly executed form for the new designation. The selection of the new option beneficiary under this subdivision is subject to an actuarial modification of the unmodified retirement allowance. A retired member may not designate any new option beneficiary that would result in any additional liability to the fund.

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

(B) The modified retirement allowance shall be paid to the retired member as long as the retired member and at least one of the option beneficiaries are living. Upon the retired member's death, an allowance shall be paid to each surviving option beneficiary in accordance with the option elected respective to that beneficiary. However, if one or more of the option beneficiaries predeceases the retired member, the retired member's allowance shall be adjusted in accordance with the option elected for the deceased beneficiary. The member shall determine the percentage of the unmodified allowance that will be modified by the election of Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7 under this option, the aggregate of which may not exceed 100 percent



of the member's unmodified allowance. The election of this option is subject to approval by the board.

(C) 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 may designate his or her spouse or former spouse as a sole option beneficiary under subparagraphs (A) and (B). The member shall specify the option selected for the spouse or former spouse and the percentage of his or her unmodified allowance to be modified under the option, consistent with the court order. The percentage of the member's unmodified allowance that is not modified under the option shall remain an unmodified allowance payable to the member. The aggregate of the percentages specified for the option beneficiary and the member's remaining unmodified allowance, if any, may not exceed 100 percent.

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

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

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



(e) Any member or participant who retired and elected an option or a joint and survivor annuity, or who filed a preretirement election of an option prior to the effective date of the plan amendment made pursuant to subdivision (d), may elect to change to a different option or joint and survivor annuity, as modified by the board as a plan amendment pursuant to subdivision (d), if the member or participant meets all the criteria established by the board to prevent a change in an option or joint and survivor annuity from having an adverse actuarial impact on the retirement fund, including, but not limited to, the effective date of a new designation or limitations on any changes if a member or participant, as the case may be, or beneficiary, or both, is currently not living or afflicted with a known terminal illness. The member or participant shall designate the change during the six-month period that begins with the effective date of the plan amendment, on a form prescribed by the system. Any member changing an option election pursuant to this subdivision is not subject to the allowance reduction prescribed in Section 24309 or 24310 as a result of the election. If a member or participant elects to change his or her option or joint and survivor annuity under this subdivision, the member or participant shall retain the same option beneficiary or beneficiaries as named in the prior designation.

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

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

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

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

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

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

24615. (a) If the board determines that contributions are due the system under this part from a retired member, disabled member, or a



person who has died, and the person is unable to pay the amount due, the board may withhold all or part of subsequent payments due the retired member, disabled member, or survivor, until the amounts withheld equal the contributions due plus regular interest to the date of payment. Total contributions plus regular interest due shall be recovered by the system within 18 months.

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

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

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

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

24617. (a) To recover an amount overpaid under this part, the corrected monthly allowance payable under the Defined Benefit Program or benefit payable under the Defined Benefit Supplement Program or the Cash Balance Benefit Program may be reduced by no more than 5 percent if the overpayment was due to error by the system, the county superintendent of schools, a school district, or a community college district, and by no more than 15 percent if the error was due to inaccurate information or nonsubmission of information by the recipient of the allowance or benefit.

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



SEC. 29. Section 24975 of the Education Code is amended to read:  
24975. (a) The board may develop one or more deferred compensation plans under Section 457 of the Internal Revenue Code that an employer may choose to establish and offer to its employees who are members or participants of the plan under this part or Part 14 (commencing with Section 26000) or any employee of a local public agency or political subdivision of this state that employs persons to perform creditable service subject to coverage by the plan under this part.

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

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

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

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

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

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

(6) In administering the deferred compensation plan on behalf of the employer, the board shall have the same investment authority and discretion and be subject to the same fiduciary standards pursuant to Chapter 4 (commencing with Section 22250), with respect to amounts deferred under the deferred compensation plan as applied by the system with respect to the Teachers' Retirement Fund.

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

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

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



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

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

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

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

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

25018.5. When a disabled member returns to work in his or her former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former Defined Benefit Supplement disability benefit under this chapter shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day of service for which compensation is payable to the member provided the member complies with the provisions of Section 24003 or 24103, as applicable.

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

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

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

(c) For the purposes of this chapter, “vendor” means a public retirement system, broker-dealer, registered investment company,



nonbank custodian, or life insurance company qualified to do business in California that provides 403(b) products. “Vendor” does not include individual registered representatives, brokers, financial planners, or agents. “Nonbank custodian” means a fund custodian, other than a bank, that meets the criteria of a trustee specified in Section 408(a)(2) of the Internal Revenue Code.

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

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

(a) Prospective vendors shall be registered with the board based upon a complete response to the disclosures required by this subdivision. This information shall be included in the impartial investment information bank established pursuant to Section 25104. The prospective vendors shall provide the following information:

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

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

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

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

(5) A discussion of the ability, experience, and commitment of the vendor to provide retirement counseling and education services, including, but not limited to, access to group meetings and individual counseling by various means, including telephone and



telecommunications devices for the deaf (TDD), Internet, and face-to-face consultations by registered representatives.

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

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

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

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

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

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

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

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

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

25940. (a) Effective July 1, 2001, the system shall pay to the federal Centers for Medicare and Medicaid Services or a successor agency the



premiums associated with Medicare Part A for retired or disabled members described in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

SEC. 35. The changes made to Section 22820 of the Education Code by this act shall become operative on July 1, 2004.

SEC. 36. Any section of any act enacted by the Legislature during the 2003 calendar year that takes effect on or before the effective date of this act, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.

