

**ASSEMBLY BILL**

**No. 2462**

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**Introduced by Assembly Member Mullin**

February 23, 2006

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An act to amend Sections 22950, 24950, 24952, 24975, and 44041 of, and to add Section 22307.5 to, the Education Code, relating to state teachers' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2462, as introduced, Mullin. State teacher's retirement.

(1) The State Teacher's Retirement Law prescribes the rights and benefits of the members of the Defined Benefit Program of the State Teachers' Retirement Plan. The law requires participating employers to contribute a specified percentage of creditable compensation of members of the program to the system, and these contributions are deposited in the Teachers' Retirement Fund, as specified. Existing law creates the Teachers' Health Benefits Fund, a continuously appropriated trust fund, for the purpose of developing health care benefit programs, which is funded by employer contributions, as specified.

This bill would create the Teachers' Retirement Program Development Fund, to be continuously appropriated, to pay any costs determined by the board to be related to the development of programs authorized by statute that the board determines directly or indirectly enhance the financial security of members, participants, or beneficiaries of the State Teachers' Retirement Plan, upon a specified resolution by the Teachers' Retirement Board. The Teachers' Retirement Program Development Fund would be funded by employer contributions in an amount to be determined by the board. The bill would require an amount equal to these employer contributions

together with interest, as specified, to be deposited in the Teachers’ Retirement Fund from moneys generated from the programs receiving development funds pursuant to these provisions, on terms and conditions established by the board.

(2) The State Teacher’s Retirement Law requires that an annuity contract and custodial account, as described in Section 403(b) of the Internal Revenue Code, be offered to specified employees who perform creditable service subject to coverage by the Defined Benefit Program of the State Teachers’ Retirement Plan. The annuity contract and custodial account may be administered by a qualified third-party administrator. The law permits deferred compensation plans, as described in Section 457 of the Internal Revenue Code, to be offered to participating employers for the employers to establish and offer to their employees, and these plans may also be administered by a third-party administrator. Existing law requires the governing board of a school district when drawing orders for salary payments to make, without charge, certain reductions connected participation in various programs, including deferred compensation plans.

This bill would revise the deferred compensation plans and annuity and custodial account programs described above to require that the employee enter into a contract with the system or a third party administrator to provide compliance and custodial services, to specify that the State Teachers’ Retirement System may provide employers services to ensure compliance with federal law, and to provide for cost recovery, as specified.

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

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

- 1 SECTION 1. Section 22307.5 is added to the Government
- 2 Code, to read:
- 3 22307.5. (a) There is in the State Treasury a trust fund to be
- 4 known as the Teachers’ Retirement Program Development Fund.
- 5 There shall be deposited directly in that fund, and not transferred
- 6 from the Teachers’ Retirement Fund, that portion of employer
- 7 contributions determined by the board as necessary to fund the
- 8 expenditures authorized by this section.
- 9 (b) Notwithstanding Section 13340 of the Government Code,
- 10 moneys in the Teachers’ Retirement Program Development Fund

1 are continuously appropriated without regard to fiscal years to  
2 pay any costs determined by the board to be related to the  
3 development of programs authorized by statute that the board  
4 determines directly or indirectly enhance the financial security of  
5 members, participants, or beneficiaries of the State Teachers'  
6 Retirement Plan, if the board determines, by resolution, the  
7 proposed program to have a reasonable expectation to generate  
8 sufficient revenue to carry out the ongoing responsibilities of the  
9 programs under development and permit the subsequent deposit  
10 of funds, pursuant subdivision (e), into the Teachers' Retirement  
11 Fund.

12 (c) The board may authorize the transfer and disbursement of  
13 funds from the Teachers' Retirement Program Development  
14 Fund for the purpose of carrying into effect this section upon the  
15 signature of either or both of its chairperson and vice chairperson  
16 or the chief executive officer or any employee of the system  
17 designated by the chief executive officer.

18 (d) Disbursements of money from the Teachers' Retirement  
19 Program Development Fund of whatever nature shall be made  
20 upon claims duly audited in the manner prescribed for the  
21 disbursement of other public funds.

22 (e) An amount equal to employer contributions deposited in  
23 the Teachers' Retirement Program Development Fund pursuant  
24 to subdivision (a), together with interest calculated based on the  
25 actuarially assumed rate of investment return for the Defined  
26 Benefit Program for the period beginning with the deposit of  
27 employer contributions Teachers' Retirement Program  
28 Development Fund and ending with the transfer to the Teachers'  
29 Retirement Fund, on terms and conditions established by the  
30 board pursuant to subdivision (b), shall be deposited in the  
31 Teachers' Retirement Fund, from funds generated from the  
32 programs receiving development funds pursuant to this section.

33 SEC. 2. Section 22950 of the Education Code is amended to  
34 read:

35 22950. (a) Employers shall contribute monthly to the system  
36 8 percent of the creditable compensation upon which members'  
37 contributions under this part are based.

38 (b) From the contributions required under subdivision (a),  
39 there shall be deposited in the Teachers' Retirement Fund an  
40 amount, determined by the board, that is not less than the

1 amount, determined in an actuarial valuation of the Defined  
 2 Benefit Program pursuant to Section 22311.5, necessary to  
 3 finance the liabilities associated with the benefits of the Defined  
 4 Benefit Program over the funding period adopted by the board,  
 5 after taking into account the contributions made pursuant to  
 6 Sections 22901, 22951, and 22955.

7 (c) The amount of contributions required under subdivision (a)  
 8 that is not deposited in the Teachers' Retirement Fund pursuant  
 9 to subdivision (b) shall be deposited directly into the Teachers'  
 10 Health Benefits Fund, as established in Section 25930, and shall  
 11 not be deposited into or transferred from the Teachers'  
 12 Retirement Fund.

13 (d) *The amount of contributions that is not deposited in the*  
 14 *Teachers' Retirement Fund, pursuant to subdivision (b), or into*  
 15 *the Teachers' Health Benefits Fund, pursuant to subdivision (c),*  
 16 *shall be deposited directly into the Teachers' Retirement*  
 17 *Program Development Fund, as established in Section 22307.5,*  
 18 *and shall not be deposited into or transferred from the Teachers'*  
 19 *Retirement Fund.*

20 SEC. 3. Section 24950 of the Education Code is amended to  
 21 read:

22 24950. An annuity contract and custodial account as  
 23 described in Section 403(b) of the Internal Revenue Code of  
 24 1986 shall be offered to all employees of any state agency who  
 25 are members of the plan under this part or any employee of a  
 26 local public agency or political subdivision of this state that  
 27 employs persons to perform creditable service subject to  
 28 coverage by the plan under this part. The following criteria shall  
 29 apply to that annuity contract and custodial account:

30 (a) The annuity contract and custodial account shall be offered  
 31 for at least five years.

32 (b) The annuity contract and custodial account may be  
 33 administered by a qualified third-party administrator that shall,  
 34 under agreement with the system, provide *compliance*, custodial,  
 35 investment, recordkeeping, or administrative services, or any  
 36 combination thereof. The third-party administrator may not  
 37 provide investment options other than pursuant to a shareholders'  
 38 services agreement between the third-party administrator and the  
 39 investment manager.

1 (c) The investment options offered shall be determined by the  
2 board consistent with those annuity contract and custodial  
3 accounts described in Section 403(b) of the Internal Revenue  
4 Code of 1986.

5 (d) The system's investment staff shall make  
6 recommendations to the board as to the appropriate investment  
7 options. At a minimum, the board shall offer at least three  
8 investment options. The board shall have sole responsibility for  
9 the selection of service providers.

10 (e) All contributions made in accordance with the provisions  
11 of Section 403(b) of the Internal Revenue Code of 1986 and this  
12 section shall be remitted directly to the administrator and held by  
13 the administrator in a custodial account on behalf of the  
14 employee. Any investment gains or losses shall be credited to  
15 those accounts. The forms of payment and disbursement  
16 procedure shall be consistent with those generally offered by  
17 similar annuity contracts and custodial accounts and applicable  
18 federal and state statutes governing those contracts and accounts.

19 (f) Any employer, other than the state, may elect to make  
20 contributions to the employee's annuity contract and custodial  
21 account on behalf of the employee. The employer shall take  
22 whatever action is necessary to implement this section, including  
23 the adoption of an annuity contract and custodial account, or  
24 provide the appropriate authorization in accordance with the  
25 provision of Section 403(b) of the Internal Revenue Code of  
26 1986. Employer contributions made under this section are  
27 excluded from the definition of creditable compensation as  
28 provided in Section 22119.2.

29 (g) The design and administration of the annuity contract and  
30 custodial account shall comply with the applicable provisions of  
31 the Internal Revenue Code of 1986 and the Revenue and  
32 Taxation Code. Section 770.3 of the Insurance Code shall not be  
33 applicable.

34 (h) *The system may provide participating employers*  
35 *additional service to ensure their compliance with Section 403(b)*  
36 *of the Internal Revenue Code of 1986.*

37 SEC. 4. Section 24952 of the Education Code is amended to  
38 read:

39 24952. (a) Any annuity contract and custodial account  
40 advertised, promoted, or offered through one or more third-party

1 service providers, shall provide for recovery *from the employees*  
2 *who participate* of all costs and expenses of its own  
3 administration, including, but not limited to, advertising,  
4 promotion, legal, accounting, *compliance*, recordkeeping, and  
5 investment costs and expenses.

6 (b) Any annuity contract and custodial account administered  
7 by the system shall provide for the recovery of all costs and  
8 expenses of its administration.

9 (c) The system may promote and advertise an annuity contract  
10 and custodial account administered directly by the system or by a  
11 third-party administrator.

12 SEC. 5. Section 24975 of the Education Code is amended to  
13 read:

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

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

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

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

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

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

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

39 (6) In administering the deferred compensation plan on behalf  
40 of the employer, the board shall have the same investment

1 authority and discretion and be subject to the same fiduciary  
2 standards pursuant to Chapter 4 (commencing with Section  
3 22250), with respect to amounts deferred under the deferred  
4 compensation plan as applied by the system with respect to the  
5 Teachers' Retirement Fund.

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

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

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

20 SEC. 6. Section 44041 of the Education Code is amended to  
21 read:

22 44041. (a) The governing board of each school district when  
23 drawing an order for the salary payment due to employees of the  
24 district shall, *with or* without charge, reduce the order by the  
25 amount which it has been requested in a revocable written  
26 authorization by the employee to deduct for any or all of the  
27 ~~following purposes: participating in~~ *listed in this section. The*  
28 *governing board shall determine the cost of performing the*  
29 *requested deduction and may collect that cost from the*  
30 *organization, entity, or employee requesting or authorizing the*  
31 *deduction. The requirements of this section apply to the*  
32 *following:*

33 (1) *Participating in* a deferred compensation program offered  
34 by the school district which provides for investments in corporate  
35 stocks, bonds, securities, mutual funds, or annuities, except as  
36 prohibited by the Constitution, ~~or paying.~~

37 (2) *Paying* premiums on any policy or certificate of group life  
38 insurance for the benefit of the employee or for group disability  
39 insurance, or legal expense insurance, or any of them, for the  
40 benefit of the employee or his dependents issued by an admitted

1 insurer on a form of policy or certificate approved by the  
2 Insurance Commissioner, ~~or paying.~~

3 (3) *Paying* rates, dues, fees, or other periodic charges on any  
4 hospital service contract for the benefit of the employee, or his  
5 dependents, issued by a nonprofit hospital service corporation on  
6 a form approved by the Insurance Commissioner pursuant to the  
7 provisions of Chapter 11A (commencing with Section 11491) of  
8 Part 2 of Division 2 of the Insurance Code, ~~or paying.~~

9 (4) *Paying* periodic charges on any medical and hospital  
10 service agreement or contract for the benefit of the employee, or  
11 his dependents, issued by a nonprofit corporation subject to Part  
12 2 (commencing with Section 5110) of, Part 3 (commencing with  
13 Section 7110) of, or Part 11 (commencing with Section 10810)  
14 of, Division 2 of Title 1 of the Corporations Code, ~~or paying.~~

15 (5) *Paying* periodic charges on any legal services contract for  
16 the benefit of the employee, or his dependents issued by a  
17 nonprofit corporation subject to Part 3 (commencing with  
18 Section 7110) of, or Part 11 (commencing with Section 10810)  
19 of, Division 2 of Title 1 of the Corporations Code. ~~The~~

20 (b) *The* governing board of the district shall, beginning with  
21 the month designated by the employee and each month thereafter  
22 until authorization for the deduction is revoked, draw its order  
23 upon the funds of the district in favor of the insurer which has  
24 issued the policies or certificates or in favor of the nonprofit  
25 hospital service corporation which has issued hospital service  
26 contracts, or in favor of the nonprofit corporation which has  
27 issued medical and hospital service or legal service agreements  
28 or contracts, for an amount equal to the total of the respective  
29 deductions therefor made during the month. The governing board  
30 may require that the employee submit his authorization for the  
31 deduction up to one month in advance of the effective date of  
32 coverage.

33 (c) “Group insurance” as used in this section shall mean only a  
34 bona fide group program of life or disability or life and disability  
35 insurance where a master contract is held by the school district or  
36 an employee organization but it shall, nevertheless, include  
37 annuity programs authorized by Section 403(b) of the Internal  
38 Revenue Code when approved by the governing board.

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