

Senate Bill No. 1466

CHAPTER 655

An act to amend Sections 22007.5, 22105.5, 22115.2, 22123, 22123.5, 22134, 22134.5, 22303, 22309, 22655, 22657, 22660, 22664, 22703, 22801, 22823, 22826, 23004, 23300, 23805, 23855, 24201, 24202.5, 24203.6, 24205, 24209, 24209.3, 24211, 24214, 24221, 24300, 24300.6, 24301, 24302, 24303, 24305, 24305.3, 24305.5, 24306, 24306.7, 24307, 24309, 24402, 24703, 24704, 24705, 24976, 25009, 25011, 25012, 25015, 25016, 25018, 25021, 25024, 26000.5, 26002.5, 26113, 26116, 26137, 26214, 26301, 26400, 26401, 26807, 26811, 26906, 26910, 27004, 27405, 27408, 27410, 27411, and 44922 of, and to add Sections 24300.1, 24300.2, 24312.1, 25011.1, 25011.5, 25018.1, 25018.2, 26807.5, 26807.6, 26906.5, and 26906.6 to, the Education Code, and to amend Section 22009.1 of the Government Code, relating to state teachers' retirement, and making an appropriation therefor.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1466, Committee on Public Employment and Retirement. State Teachers' Retirement System: benefits.

(1) The State Teachers' Retirement Law permits a member or participant of the Defined Benefit Plan, the Defined Benefit Supplement Program, and the Cash Balance Benefit Program, to elect from among several forms of retirement benefit and annuity payments. That law prohibits the member, if he or she elects a joint and survivor annuity and retires, from changing his or her beneficiary unless the beneficiary is the spouse or domestic partner of the member or participant and a judgment of dissolution, legal separation, or nullity is entered. That law further permits the member or participant, after that judgment is entered, to elect a new annuity beneficiary and, if that new beneficiary predeceases the member or participant, the member or participant may further change his or her beneficiary. That law further prohibits a member of the Defined Benefit Supplement Program from further changing his or her beneficiary if the member elects a modified retirement allowance with a "pop-up" feature, as specified. Existing law establishes the Teachers' Deferred Compensation Fund, a continuously appropriated fund, as a repository for funds received by the Teachers' Retirement System pursuant to administering funds received in administering specified deferred compensation plans. Existing law requires the Teachers' Retirement Board to establish a vendor registration process for the purposes of providing information about tax-deferred retirement investment products.

This bill would delete that restriction for the member of the Defined Benefit Supplement Program who elects a modified retirement allowance with a “pop-up” feature and permit that member, if he or she is otherwise eligible, to change his or her beneficiary.

This bill would further revise and recast those provisions of the Defined Benefit Plan, the Defined Benefit Supplement Program, and the Cash Balance Benefit Program for a member or participant who retires on or after January 1, 2007, who elects a joint and survivor annuity, subject to specified restrictions.

This bill would prohibit a member from designating a beneficiary who is a specified number of years younger than the member.

This bill would further permit a retired member or participant to elect a new benefit, subject to specified restrictions. This bill would require a member or participant who elects a new benefit to declare under penalty of perjury that his or her beneficiary is not afflicted with a known terminal illness. By creating a new crime, this bill would impose a state-mandated local program.

This bill would provide that premium and fee revenues and compensation deferrals from specified annuity and custodial accounts and from the vendor registration process described above, be deposited into trust accounts in the Teachers’ Deferred Compensation Fund. By depositing additional fee revenues into a continuously appropriated fund, this bill would make an appropriation.

(2) Under that law, the Cash Balance Benefit Program provides a retirement plan for persons who perform creditable service, as defined. Existing law permits a person who performs trustee service for an employer, if that employer elects to provide benefits under the Cash Balance Benefit Program, to elect to participate in that program for his or her trustee service.

This bill would additionally define creditable service under the Cash Balance Benefit Program as trustee service for an employer.

(3) That law requires an employer to report all other information required by the retirement system to provide benefits under the Cash Balance Benefit Program.

This bill would clarify that an employer shall retain a copy of and mail the original election form of an employee participating in that program to the retirement system.

(4) That law requires a county superintendent of schools or an employing agency, and permits a school district or community college district to submit a monthly report that includes information the board of the State Teachers’ Retirement System requires to administer that retirement system. That law also requires an employer to report contributions paid on behalf of each participant in the Cash Balance Benefit Program.

This bill would require an employer, a county superintendent of schools, an employing agency, and a school district or community college district to submit that monthly report or contribution report electronically in an

encrypted format that ensures the security of the transmitted member data. The bill would also permit a penalty to be assessed for reports that are submitted late or in an unacceptable form.

(5) That law permits a member who has retired to reinstate from retirement and earn additional service credit. That law requires the State Teachers' Retirement System to calculate the member's benefit based on the retirement allowance the member was receiving prior to retirement and the service credit and compensation earnable by the member after he or she reinstated from retirement for purpose of calculating his or her subsequent retirement benefit.

This bill would prohibit a member who was employed by a community college prior to July 1, 1996, who reinstates from retirement from using the compensation earnable he or she earned prior to July 1, 1996, for purposes of calculating his or her subsequent retirement benefit.

(6) That law requires the board of the State Teachers' Retirement System to issue an annual statement to members of the Defined Benefit Program and the Defined Benefit Supplement Program. That law requires the board of the State Teachers' Retirement System to issue a statement to each participant of the Cash Balance Benefit Program.

This bill would permit the board to issue that statement to the member or participant by secured access through the Web site of the State Teachers' Retirement System, as specified.

(7) That law permits a member of the Defined Benefit Plan to elect to purchase additional service credit, nonqualified service credit, and out-of-state service credit if specified contributions are paid to the State Teachers' Retirement System.

This bill would, if a member fails to make a payment within 120 days of the due date, require the board of the State Teachers' Retirement System to cancel the election to purchase that additional service credit, nonqualified service credit, and out-of-state service credit, as specified.

(8) The bill would also make various technical and clarifying changes to the Teachers' Retirement Law.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

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

SECTION 1. Section 22007.5 of the Education Code is amended to read:

22007.5. Except as excluded by subdivision (d) of Sections 22661 and 23812, subdivision (c) of Section 24300.1, and subdivision (d) of Sections 25011.1, 25018.1, and 26807.5, a person who is the registered domestic

partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a “spouse,” as defined in Section 22171.

SEC. 2. Section 22105.5 of the Education Code is amended to read:

22105.5. “Annuity beneficiary” means the person or persons designated by a member pursuant to Section 25011, 25011.1, 25018, or 25018.1 to receive an annuity under the Defined Benefit Supplement Program upon the member’s death.

SEC. 3. Section 22115.2 of the Education Code is amended to read:

22115.2. “Concurrent membership” means membership in the Defined Benefit Program by an individual who is credited with service that is not used as a basis for benefits under any other public retirement system and is also a member of the California Public Employees’ Retirement System, the Legislators’ Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco Employees’ Retirement System. A member with concurrent membership shall have the right to the following:

(a) Have final compensation determined pursuant to subdivision (c) of Section 22134 or subdivision (c) of Section 22134.5.

(b) Redeposit accumulated retirement contributions pursuant to Section 23201.

(c) Apply for retirement pursuant to paragraph (2) of subdivision (a) of Section 24201.

SEC. 4. Section 22123 of the Education Code is amended to read:

22123. (a) “Dependent child” or “dependent children” under the disability allowance and family allowance programs means a member’s unmarried offspring or stepchild who is under 22 years of age and who is financially dependent upon the member on the effective date of the member’s disability allowance or the date of the member’s death.

(b) “Offspring” shall include the member’s child who is born within the 10-month period commencing on the earlier of the member’s disability allowance effective date or the date of the member’s death.

(c) “Offspring” shall include a child adopted by the member.

(d) “Dependent child” shall not include the member’s offspring or stepchild who is adopted by a person other than the member’s spouse.

(e) “Dependent child” under the family allowance program shall not include:

(1) The member’s offspring or stepchild who was financially dependent on the member on the date of the member’s death if a disability allowance was payable to the member prior to his or her death and the disability allowance did not include an amount payable for that offspring or stepchild.

(2) A stepchild or adopted child acquired subsequent to the death of the member.

(f) “Financially dependent” for purposes of this section means that at least one-half of the child’s support was being provided by the member on the member’s disability allowance effective date or the date of the member’s death. The system may require that income tax records or other data be submitted to substantiate the child’s financial dependence. In the absence of substantiating documentation, the system may determine that the child was not dependent on the effective date of the member’s disability allowance or the date of the member’s death.

(g) “Member” as used in this section shall have the same meaning specified in Section 23800.

SEC. 5. Section 22123.5 of the Education Code is amended to read:

22123.5. (a) “Dependent child” or “dependent children” under the disability retirement and survivor benefit allowance programs means a member’s offspring or stepchild who is under 21 years of age and who is financially dependent upon the member on the effective date of the member’s disability retirement or the date of the member’s death.

(b) “Offspring” shall include the member’s child who is born within the 10-month period commencing on the earlier of the member’s disability retirement effective date or the date of the member’s death.

(c) “Offspring” shall include a child adopted by the member.

(d) “Dependent child” shall not include the member’s offspring or stepchild who is adopted by a person other than the member’s spouse.

(e) “Dependent child” under the survivor benefit allowance program shall not include a stepchild or adopted child acquired subsequent to the death of the member.

(f) “Financially dependent” for purposes of this section means that at least one-half of the child’s support was being provided by the member on the member’s disability retirement effective date or the date of the member’s death. The system may require that income tax records or other data be submitted to substantiate the child’s financial dependence. In the absence of substantiating documentation, the system may determine that the child was not dependent on the effective date of the member’s disability retirement or the date of the member’s death.

(g) “Member” as used in this section shall have the same meaning specified in Section 23850.

SEC. 6. Section 22134 of the Education Code is amended to read:

22134. (a) “Final compensation” means the highest average annual compensation earnable by a member during any period of three consecutive school years while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in any other retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of any other system, provided that both of the following exist:

(1) Service under any other system was not performed during the same pay period with service under the Defined Benefit Program.

(2) Retirement under the Defined Benefit Program is concurrent with the member's retirement under any other system.

(d) The compensation earnable for the first position in which California service was credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Section 23805.

(e) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(f) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children's portions of survivor benefit allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

(g) The amendment of former Section 22127 made by Chapter 782 of the Statutes of 1982 does not constitute a change in, but is declaratory of, the existing law.

SEC. 7. Section 22134.5 of the Education Code is amended to read:

22134.5. (a) Notwithstanding Section 22134, "final compensation" means the highest average annual compensation earnable by a member during any period of 12 consecutive months while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of 12 consecutive months, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in any other retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of any other system, provided that both of the following exist:

(1) Service under any other system was not performed during the same pay period with service under the Defined Benefit Program.

(2) Retirement under the Defined Benefit Program is concurrent with the member's retirement under any other system.

(d) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be

adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(e) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children's portions of survivor benefit allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

(f) This section shall apply to the following:

(1) A member who has 25 or more years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22714.5.

(C) Section 22715.

(D) Section 22717, except as provided in subdivision (b) of Section 22121.

(E) Section 22826.

(2) A nonmember spouse, if the member had 25 or more years of credited service, as calculated in paragraph (1), on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

SEC. 7.5. Section 22303 of the Education Code is amended to read:

22303. (a) Due to an increase in the demand for retirement counseling services, the system, notwithstanding any other provision of law, may contract with a county superintendent or other employer to provide retirement counseling. Retired public employees may be employed on a part-time basis for that purpose, unless and until the study required by subdivision (b) of Section 7 of Chapter 1532 of the Statutes of 1985 recommends against the employment of retired public employees for these purposes. This authorization is subject to the availability of funds appropriated for that purpose in the annual Budget Act.

(b) The board may, by resolution, designate one or more official contracted offices that provide retirement counseling pursuant to subdivision (a) to receive documents submitted pursuant to this part, Part 13.5 (commencing with Section 25900) or Part 14 (commencing with Section 26000). Notwithstanding any other provision of law, any document received by an official contracted office designated by the board pursuant to this subdivision during the office's regular business hours shall be deemed to have been received by the system's headquarters office, as established pursuant to Section 22375, on the date received by the designated official contracted office.

SEC. 8. Section 22309 of the Education Code is amended to read:

22309. (a) The board shall issue to each active and inactive member, no less frequently than annually after the close of the school year, a statement of the member's individual Defined Benefit Program and Defined Benefit Supplement accounts, provided the employer or member has informed the system of the member's current United States Postal

Service mailing address. If the member indicates that he or she prefers to receive that annual statement through the Web site of the system, the board may, in lieu of mailing, issue the annual statement by secured access through the Web site of the system.

(b) The board shall periodically make a good faith effort to locate inactive members to provide these members with information concerning any benefit for which they may be eligible.

SEC. 9. Section 22655 of the Education Code is amended to read:

22655. (a) Upon the legal separation or dissolution of marriage of a retired member, the court may include in the judgment or court order a determination of the community property rights of the parties in the retired member's retirement allowance and, if applicable, retirement benefit under this part consistent with this section. Upon election under subparagraph (B) of paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonmember spouse a community property share in the retirement allowance or retirement benefit, or both, of a retired member shall be consistent with this section.

(b) If the court does not award the entire retirement allowance or retirement benefit under this part to the retired member and the retired member is receiving a retirement allowance that has not been modified pursuant to Section 24300 or 24300.1, a single life annuity pursuant to Section 25011 or 25018, or a member only annuity described in paragraph (1) of subdivision (a) of Sections 25011.1 and 25018.1, the court shall require only that the system pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance or retirement benefit, or both, under this part.

(c) If the court does not award the entire retirement allowance or retirement benefit under this part to the retired member and the retired member is receiving an allowance that has been actuarially modified pursuant to Section 24300 or 24300.1, or a joint and survivor annuity pursuant to Section 25011, 25011.1, 25018, or 25018.1, the court shall order only one of the following:

(1) The retired member shall maintain the retirement allowance or joint and survivor annuity, or both, under this part without change.

(2) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and elect a new joint and survivor option or designate a new beneficiary or both, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance payable to the retired member, the option beneficiary, or both.

(3) The retired member shall cancel the joint and survivor annuity under which the retirement benefit is being paid pursuant to Section 24305.3, and elect a new joint and survivor annuity or designate a new annuity beneficiary or both, based on the actuarial equivalent of the member's canceled annuity, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the

retirement benefit payable to the retired member, the annuity beneficiary, or both.

(4) The retired member shall take the action specified in both paragraphs (2) and (3).

(5) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and elect an unmodified retirement allowance and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance under this part.

(6) The retired member shall cancel, pursuant to Section 24305.3, the joint and survivor annuity under which the retirement benefit is being paid, and elect a single life annuity, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement benefit payable to the retired member.

(7) The retired member shall take the action specified in both paragraphs (5) and (6).

(d) If the option beneficiary or annuity beneficiary or both under this part, other than the nonmember spouse, predeceases the retired member, the court shall order the retired member to designate a new option beneficiary pursuant to Section 24306, or a new annuity beneficiary pursuant to Section 24305.3 and shall order the system to pay the nonmember spouse, by separate warrant, his or her share of the community property interest in the retirement allowance or retirement benefit payable to the retired member or the new option beneficiary or annuity beneficiary or each of them.

(e) The right of the nonmember spouse to receive his or her community property share of the retired member's retirement allowance or retirement benefit or both under this section shall terminate upon the death of the nonmember spouse. However, the nonmember spouse may designate a beneficiary under the Defined Benefit Program and a payee under the Defined Benefit Supplement Program to receive his or her community property share of the retired member's accumulated retirement contributions and accumulated Defined Benefit Supplement account balance under this part in the event that there are remaining accumulated retirement contributions and a balance of credits in the member's Defined Benefit Supplement account to be paid upon the death of the nonmember spouse.

SEC. 10. Section 22657 of the Education Code is amended to read:

22657. (a) The following provisions shall apply to a nonmember spouse as if he or she were a member under this part: Sections 22107, 22306, 22906, and 23802, subdivisions (a) and (b) of Section 24600, and Sections 24601, 24602, 24603, 24605, 24606, 24607, 24608, 24611, 24612, 24613, 24616, 24617, 25009, 25010, 25011, 25011.1, 25013, 25020, 25021, and 25022.

(b) Notwithstanding subdivision (a), this section shall not be construed to establish any right for the nonmember spouse under this part that is not

explicitly established in Sections 22650 to 22655, inclusive, and Sections 22658 to 22665, inclusive.

SEC. 11. Section 22660 of the Education Code is amended to read:

22660. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to designate, pursuant to Sections 23300 to 23304, inclusive, a beneficiary or beneficiaries to receive the accumulated retirement contributions under the Defined Benefit Program and to designate a payee to receive the accumulated Defined Benefit Supplement account balance under the Defined Benefit Supplement Program remaining in the separate account of the nonmember spouse on his or her date of death, and any accrued allowance or accrued benefit under the Defined Benefit Supplement Program that is attributable to the separate account of the nonmember spouse and that is unpaid on the date of the death of the nonmember spouse.

(b) This section shall not be construed to provide the nonmember spouse with any right to elect to modify a retirement allowance under Section 24300 or 24300.1, or to elect a joint and survivor annuity under the Defined Benefit Supplement Program.

SEC. 12. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance and, if applicable, a retirement benefit under this part.

(a) The nonmember spouse shall be eligible to retire for service under this part if the following conditions are satisfied:

(1) The member had at least five years of credited service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated retirement contributions. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, out-of-state service, and permissive service credit that the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least 2 ½ years of credited service in his or her separate account.

(3) The nonmember spouse has attained 55 years of age or more.

(b) A service retirement allowance of a nonmember spouse under this part shall become effective upon a date designated by the nonmember spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonmember spouse has filed an application for service retirement on a properly executed form provided by the system, that is executed no earlier than six months before the effective date of the retirement allowance.

(3) The effective date is no earlier than the first day of the month that the application is received at the system's headquarters office as described in Section 22375, and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

(c) (1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

(2) If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age under this part and normal retirement age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the nonmember spouse would have reached normal retirement age.

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

Age at Retirement	Percentage
60 1/4	2.033
60 1/2	2.067
60 3/4.....	2.10
61	2.133
61 1/4.....	2.167
61 1/2.....	2.20
61 3/4.....	2.233
62	2.267
62 1/4.....	2.30
62 1/2.....	2.333
62 3/4.....	2.367
63 and over	2.40

(4) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse on the last day of the month that the retirement allowance begins to accrue shall be used.

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22134, 22134.5, 22135, or 22136, whichever is applicable, and shall be based on the member's compensation earnable up to the date the parties separated, as established in the judgment or court order pursuant to Section 22652. The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) Upon service retirement under this part, the nonmember spouse shall receive a retirement benefit based on an amount equal to the balance of credits in the nonmember spouse's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(1) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the nonmember spouse on the

application for a retirement benefit. A retirement benefit paid as an annuity under this chapter shall be subject to Sections 22660, 25011, and 25011.1.

(2) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the nonmember spouse or the nonmember spouse's beneficiary under the Defined Benefit Supplement Program.

(e) If the member is or was receiving a disability allowance under this part with an effective date before or on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse shall not be eligible to retire until after the disability allowance of the member terminates. If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the portion for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the portion for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Section 24213.

(f) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases

and other benefit maintenance provisions under this part, including, but not limited to, Sections 24411, 24412, and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

SEC. 13. Section 22703 of the Education Code is amended to read:

22703. (a) Service shall be credited to the Defined Benefit Program, except as provided in subdivision (b).

(b) A member's creditable service that exceeds 1.000 in a school year shall not be credited to the Defined Benefit Program. Commencing July 1, 2002, contributions by the employer and the member that are deposited in the Teachers' Retirement Fund for creditable compensation paid to the member for service that exceeds 1.000 in a school year, exclusive of contributions pursuant to Section 22951, shall be credited to the Defined Benefit Supplement Program.

(c) In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits that the member would have received for that service under the provisions of this part as they existed on June 30, 1956. This subdivision shall not apply to service that is credited in the San Francisco Employees' Retirement System.

(d) The amendments to this section made during the second year of the 1999–2000 Regular Session 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 the amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2003.

SEC. 14. 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.

(h) If the payment described in subdivision (a) is not received at the system's headquarters office, as described in Section 22375, within 120 days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for additional service based on the payments that were made or the member may request a return of his or her payments.

(i) If the election to purchase additional service credit is canceled as described in subdivision (h), the member may, prior to the effective date of his or her retirement, elect to purchase additional service credit pursuant to this section.

SEC. 15. 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.

(e) If the payment described in subdivision (a) is not received at the system's headquarters office, as described in Section 22375, within 120 days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for out-of-state service based on the payments that were made or the member may request a return of his or her payments.

(f) If the election to purchase out-of-state service is canceled as described in subdivision (e), the member may, prior to the effective date of his or her retirement, elect to purchase out-of-state service pursuant to this section.

SEC. 16. 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.

(e) If the payment described in subdivision (a) is not received at the system's headquarters office, as described in Section 22375, within 120 days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for nonqualified service based on the payments that were made or the member may request a return of his or her payments.

(f) If the election to purchase nonqualified service is canceled as described in subdivision (e), the member may, prior to the effective date of his or her retirement, elect to purchase nonqualified service pursuant to this section.

SEC. 17. Section 23004 of the Education Code is amended to read:

23004. The county superintendent of schools or employing agency shall, or a school district or community college district may, with approval of the board, submit a report monthly to the system containing information as the board may require in the administration of the plan. That monthly report shall be submitted electronically in an encrypted format provided by the system that ensures the security of the transmitted member data.

SEC. 18. 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 or 24300.1, 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 and executed by the member.

(c) A beneficiary designation shall not be valid unless it is received in the system's headquarters office, as established pursuant to Section 22375, 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 is not 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. 19. Section 23805 of the Education Code is amended to read:

23805. A family allowance is payable in the amount and to the specified persons in the following order of priority:

(a) To the deceased member's surviving spouse who has financial responsibility for at least one dependent child, an amount equal to 40 percent of the member's final compensation or the disabled member's projected final compensation plus 10 percent of the member's final compensation or the disabled member's projected final compensation for each child, up to a maximum allowance of 90 percent.

(b) If there is no surviving spouse or upon the death of the surviving spouse, to each dependent child, an amount equal to 10 percent of the deceased member's final compensation or the disabled member's projected final compensation, up to a maximum allowance of 50 percent. If there are more than five dependent children, they shall share equally in the maximum allowance of 50 percent.

(c) To the surviving spouse at 60 years of age or over if there is no dependent child, a monthly allowance equal to the amount that would have been payable to the spouse as beneficiary under Option 3 pursuant to Section 24300 that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, computed on the member's projected final compensation and projected service to normal retirement age. The allowance payable under this subdivision shall be increased by application of the benefit improvement factor for time that elapses between the date the member would have attained normal retirement age and the date the family allowance under this subdivision begins to accrue. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of service credit for unused sick leave credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) If there is no surviving spouse or dependent child, to the dependent parent, 60 years of age or over, a monthly allowance equal to the amount that would have been payable to the dependent parent as beneficiary under Option 3 pursuant to Section 24300 that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, computed on the member's projected final compensation and projected service to normal retirement age. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of service credit for unused sick leave and the calculation of that service credit shall be determined pursuant to Section 22717. If there are two dependent parents, only one family allowance shall be payable under this subdivision and that allowance shall be computed on the assumption that the younger parent is the option beneficiary and the allowance shall be divided equally for as long as there are two dependent parents. Thereafter, the full allowance shall be payable to the surviving dependent parent.

(e) The surviving spouse or dependent parent may elect to begin receiving the family allowance payable under subdivision (c) or (d) immediately upon the later of the death of the member or when there is no

dependent child, or to defer receipt of the allowance to the date the surviving spouse or dependent parent attains 60 years of age. If allowance payments commence prior to the date the surviving spouse or dependent parent attains 60 years of age, the allowance payable shall be actuarially reduced.

(f) If there is no dependent child, a surviving spouse or dependent parent or parents may elect, prior to receipt of the first payment under subdivision (c) or (d), to receive the member's accumulated retirement contributions in a lump sum subject to a reduction for any disability allowance or family allowance payments previously made.

(g) (1) The allowance calculated under this section shall not include either of the following:

(A) The increase in the percentage of final compensation pursuant to Section 24203.5.

(B) The increase in the monthly allowance pursuant to Section 24203.6.

(2) This subdivision does not constitute a change in, but is declaratory of, the existing law.

SEC. 20. Section 23855 of the Education Code is amended to read:

23855. (a) The survivor benefit allowance is a monthly allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, if the member had retired and elected Option 3 pursuant to Section 24300, naming the spouse as the option beneficiary.

(b) The allowance payable under this subdivision shall be based on the member's actual service credit and final compensation as of the date of his or her death, the retirement factor at 60 years of age, and the member's and spouse's ages as of the date the member would have attained 60 years of age. If the member's death occurs after he or she attains 60 years of age, his or her actual final compensation, the retirement factor at 60 years of age, and the member's and spouse's ages as of the date of the member's death shall be used in the allowance calculation.

(c) The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of unused sick leave service credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) (1) The allowance calculation shall not include either of the following:

(A) The increase in the percentage of final compensation pursuant to Section 24203.5.

(B) The increase in the monthly allowance pursuant to Section 24203.6.

(2) This subdivision does not constitute a change in, but is declaratory of, the existing law.

(e) The surviving spouse may elect to begin receiving the survivor benefit allowance immediately as of the date of the member's death or to defer receipt of the allowance to the date the member would have attained 60 years of age. If allowance payments to the surviving spouse commence

prior to the date the member would have attained 60 years of age, the allowance payable shall be actuarially reduced.

(f) If the spouse elects, pursuant to Section 23852, to receive the survivor benefit allowance, an additional 10 percent of final compensation shall be payable for each dependent child who is under 21 years of age, up to a maximum of 50 percent of final compensation. The child's portion shall begin to accrue on the day following the member's date of death and shall be payable even if the spouse elects to postpone receipt of the spouse's survivor benefit allowance until the date the member would have attained 60 years of age.

SEC. 21. Section 24201 of the Education Code is amended to read:

24201. (a) A member may retire for service under this part upon written application for retirement to the board on a properly executed form provided by the system, under paragraph (1) or (2) as follows:

(1) The member has attained 55 years of age or more and has at least five years of credited service, at least one year of which has been performed subsequent to the most recent refund of accumulated retirement contributions. The five years of credited service may include out-of-state service purchased pursuant to Section 22820. The number of years of credited service performed in California shall not be less than the number of years necessary to determine final compensation pursuant to Section 22134 or 22135, whichever is applicable to the member.

(2) The member is credited with service that is not used as a basis for benefits under any other public retirement system, excluding the federal social security system, if the member has attained 55 years of age or older and retires concurrently under one or more of the retirement systems with which the member has concurrent membership as defined in Section 22115.2.

(b) Application for retirement under paragraph (2) of subdivision (a) may be made even if the member has not earned five years of credited service.

SEC. 22. Section 24202.5 of the Education Code is amended to read:

24202.5. (a) A member who retires for service on or after January 1, 1999, shall receive a retirement allowance consisting of all of the following:

(1) An annual allowance payable in monthly installments, upon retirement equal to the percentage of the final compensation set forth opposite the member's age at retirement in the following table multiplied by each year of credited service:

Age at Retirement	Percentage
60.....	2.00
60 1/4	2.033
60 1/2	2.067
60 3/4.....	2.10
61	2.133
61 1/4.....	2.167

Age at Retirement	Percentage
61 $\frac{1}{2}$	2.20
61 $\frac{3}{4}$	2.233
62	2.267
62 $\frac{1}{4}$	2.30
62 $\frac{1}{2}$	2.333
62 $\frac{3}{4}$	2.367
63 and over	2.40

If the member’s retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the member’s allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the member’s accumulated annuity deposit contributions at the time of retirement.

(3) An annuity based on the balance of credits in the member’s Defined Benefit Supplement account, pursuant to Section 25012, if elected by the member pursuant to Section 25011 or 25011.1.

(b) In computing the amounts described in paragraph (1) of subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to accrue or the later date as described in Section 24204 shall be used.

SEC. 23. Section 24203.6 of the Education Code is amended to read:

24203.6. (a) In addition to the amount otherwise payable pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209, 24209.3, 24210, 24211, and 24212, a member shall receive an increase in the monthly allowance, prior to any modification pursuant to Sections 24300, 24300.1, and 24309, in the amount identified in subdivision (b), if the member meets all of the following criteria:

(1) The member retires for service on or after January 1, 2001.

(2) Prior to January 1, 2011, the member has 30 or more years of credited service, including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652, but excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22714.5.

(C) Section 22715.

(D) Section 22717, except as provided in subdivision (b) of Section 22121.

(E) Section 22717.5.

(F) Section 22826.

(3) The member is receiving an allowance subject to Section 24203.5.

(b) The amount of the increase in the monthly allowance shall be based on the member’s years of credited service at the time of retirement as follows:

30 years of credited service.....	\$200
31 years of credited service.....	\$300
32 or more years of credited service.....	\$400

(c) This section also applies to a nonmember spouse, if all of the following conditions are satisfied:

(1) The member is eligible for the allowance increase pursuant to subdivisions (a) and (b) upon his or her retirement for service.

(2) On the date the parties separated, as established in the judgment or court order pursuant to Section 22652, the member had at least 30 years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22714.5.

(C) Section 22715.

(D) Section 22717, except as provided in subdivision (b) of Section 22121.

(E) Section 22717.5.

(F) Section 22826.

(3) The service credit of the member was divided into separate accounts in the name of the member and the nonmember spouse by a court pursuant to Section 22652. The amount identified in the schedule in subdivision (b) and payable pursuant to this section, that is based on the service credited during the marriage, shall be divided and paid to the member and the nonmember spouse proportionately according to the respective percentages of the member's service credit that were allocated to the member and the nonmember spouse in the court's order.

(d) The allowance increase provided under this section is not subject to Sections 24415 and 24417, but is subject to Section 22140.

SEC. 24. Section 24205 of the Education Code is amended to read:

24205. Any member retiring prior to 60 years of age, and who has attained 55 years of age, may elect to receive one-half of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age.

(a) The retirement allowance shall be based on service credit and final compensation as of the date of retirement for service and shall be calculated with the factor for normal retirement age.

(b) If the member elects a joint and survivor option under Section 24300 or 24300.1, the actuarial reduction shall be based on the member's and beneficiary's ages as of the effective date of the early retirement. If the member elected a preretirement option under Section 24307, the actuarial reduction shall be based on the member's and beneficiary's ages as determined by provisions of that section.

(c) One-half of the retirement allowance as of 60 years of age shall be paid for a period of time equal to twice the elapsed time between the effective date of retirement and the date of the retired member's 60th birthday.

(d) The full retirement allowance as calculated under subdivision (a) or (b) shall begin to accrue as of the first of the month following the reduction period as specified in subdivision (c). The full retirement allowance shall not begin to accrue prior to this time under any circumstances, including, but not limited to, divorce or death of the named beneficiary.

(e) The annual improvement factor provided for in Sections 22140 and 22141 shall be based upon the retirement allowance as calculated under subdivision (a) or (b). The improvement factor shall begin to accrue on September 1 following the retired member's 60th birthday. These increases shall be accumulated and shall become payable when the full retirement allowance for normal retirement age first becomes payable.

(f) Any ad hoc benefit increase with an effective date prior to the retired member's 60th birthday shall not affect any allowance payable under this section. Only those ad hoc improvements with effective dates on or after the retired member's 60th birthday shall be accrued and accumulated and shall first become payable when the full retirement allowance for normal retirement age becomes payable.

(g) The cancellation of an option election in accordance with Section 24305 shall not cancel the election under this section. Upon cancellation of the joint and survivor option, one-half of the retired member's retirement allowance as calculated under subdivision (a) shall become payable for the balance of the reduction period specified in subdivision (c).

(h) If a retired member who has elected a joint and survivor option dies during the period when the reduced allowance is payable, the beneficiary shall receive one-half of the allowance payable to the beneficiary until the date when the retired member would have received the full retirement allowance for normal retirement age. At that time, the beneficiary's allowance shall be increased to the full amount payable to the beneficiary plus the appropriate annual improvement factor increases and ad hoc increases.

SEC. 25. Section 24209 of the Education Code is amended to read:

24209. (a) Upon retirement for service following reinstatement, the member shall receive a service retirement allowance equal to the sum of both of the following:

(1) An amount equal to the monthly allowance the member was receiving immediately preceding reinstatement, exclusive of any amounts payable pursuant to Section 22714, 22714.5, or 22715, increased by the improvement factor that would have been applied to the allowance if the member had not reinstated.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24203, 24203.5, or 24206 on service credited subsequent to the most recent reinstatement, the member's age at retirement, and final compensation.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, the amounts identified in paragraphs

(1), for members who initially retired on or after January 1, 1999, and (2) of subdivision (a) shall be calculated pursuant to Section 24203.5.

(c) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, upon retirement for service following reinstatement, a member who retired pursuant to Section 24213, and received the terminated disability allowance for the prior retirement, shall receive a service retirement allowance equal to the sum of the following:

(1) An amount based on the service credit accrued prior to the effective date of the disability allowance, the member's age at the prior retirement increased by the factor provided in Section 24203.5, and projected final compensation.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24203.5, or 24206 on service credited subsequent to the reinstatement, the member's age at retirement, and final compensation.

(d) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (e) of Section 22115.

SEC. 26. Section 24209.3 of the Education Code is amended to read:

24209.3. (a) Notwithstanding subdivision (a) of Section 24209 and subdivision (d) of Section 24204, and exclusive of any amounts payable during the prior retirement for service pursuant to Section 22714, 22714.5, or 22715:

(1) A member who retired, other than pursuant to Section 24210, 24211, 24212, or 24213, and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service performed prior to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation.

(2) A member who retired pursuant to Section 24210 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on service credit accrued prior to the effective date of the disability retirement, using the member's age at the subsequent service retirement, from which age

shall be deducted the total time during which the member was retired for service, and indexed final compensation to the effective date of the initial service retirement.

(B) An amount calculated pursuant to this chapter based on the service credit accrued after termination of the disability retirement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(C) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation.

(3) A member who retired pursuant to Section 24211 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) The greater of (i) the disability allowance the member was receiving immediately prior to termination of that allowance, excluding the children's portion, or (ii) an amount calculated pursuant to this chapter based on service credit accrued prior to the effective date of the disability allowance, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount equal to either of the following:

(i) For a member who was receiving a benefit pursuant to subdivision (a) of Section 24211, the member's credited service at the time of the retirement pursuant to Section 24211, excluding service credited pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200).

(ii) For a member who was receiving a benefit pursuant to subdivision (b) of Section 24211, the member's projected service, excluding service credited pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200).

(C) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation using compensation earnable or projected final compensation or a combination of both.

(D) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) or, for credited service performed during the most recent reinstatement, Section

22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(4) A member who retired pursuant to Section 24212 or 24213 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on the member's projected service credit, excluding service credited pursuant to Section 22717, 22717.5, or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation, using compensation earnable or projected final compensation or a combination of both.

(C) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) or, for credited service performed during the most recent reinstatement, Section 22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than the number of years required to be eligible for an increased allowance pursuant to this chapter or Section 22134.5, the amounts identified in this section shall be calculated pursuant to the section authorizing the increased benefit.

(c) For members receiving an allowance pursuant to Section 24410.5 or 24410.6, the amount payable pursuant to this section shall not be less than the amount payable to the member as of the effective date of reinstatement.

(d) The amount payable pursuant to this section shall not be less than the amount that would be payable to the member pursuant to Section 24209.

(e) For purposes of determining an allowance increase pursuant to Sections 24415 and 24417, the calendar year of retirement shall be the year of the subsequent retirement if the final compensation used to calculate the allowance pursuant to this section is higher than the final compensation used to calculate the allowance for the prior retirement.

(f) The allowance paid pursuant to this section to a member receiving a lump-sum payment pursuant to Section 24221 shall be actuarially reduced to reflect that lump-sum payment.

(g) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (e) of Section 22115.

SEC. 27. Section 24211 of the Education Code is amended to read:

24211. When a member who has been granted a disability allowance under this part after June 30, 1972, returns to employment subject to coverage under the Defined Benefit Program and performs:

(a) Less than three years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance which is the sum of the allowance calculated on service credit accrued after the termination date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable and projected final compensation, plus the greater of either of the following:

(1) A service retirement allowance calculated on service credit accrued as of the effective date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), to the termination date of the disability allowance.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(b) Three or more years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance that is the greater of the following:

(1) A service retirement allowance calculated on all actual and projected service excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(c) The allowance shall be increased by an amount based on any service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5

or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(d) If the total amount of credited service, other than projected service or service that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, the amounts identified in subdivisions (a) and (b) shall be calculated pursuant to Sections 24203.5 and 24203.6.

(e) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (e) of Section 22115.

SEC. 28. Section 24214 of the Education Code, as amended by Section 24 of Chapter 351 of the Statutes of 2005, 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. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor, 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) (1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work after the date of retirement and, for a period of at least 12 consecutive months, has not performed 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. For the purpose of this paragraph, the period of 12 consecutive months begins from the effective date of the member's most recent retirement.

(2) 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) adjusted by the percentage change 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, and if that compensation is not exempt from that limitation under subdivision (e) or any other provisions of law, 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 shall 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 amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

(i) This section shall be repealed on January 1, 2008, unless later enacted legislation extends or deletes that date.

SEC. 29. Section 24214 of the Education Code, as amended by Section 23 of Chapter 912 of the Statutes of 2004, 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. The employer shall maintain accurate records of the earnings of the retired member and report those

earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor, 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) adjusted by the percentage change 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. 30. Section 24221 of the Education Code is amended to read:

24221. (a) A member who retires for service prior to January 1, 2011, 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 unmodified 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 amount by which (A) the monthly unmodified allowance payable to the member pursuant to this chapter exceeds (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 unmodified 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 unmodified allowance, pursuant to this chapter, that shall be actuarially reduced to reflect the lump-sum amount paid under subdivision (b). The actuarial reduced unmodified allowance may be modified pursuant to Section 24300 or 24300.1.

(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 retirement 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) An election pursuant to subdivision (a) may have no net actuarial impact to the Defined Benefit Program. The board shall adopt present value factors to establish a corresponding actuarially reduced monthly allowance, that results in no net actuarial impact to the Defined Benefit Program. 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. 31. 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 or beneficiaries, 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 designation of the new option beneficiary under this subdivision is subject to an actuarial modification of the unmodified retirement allowance and shall not result in any additional liability to the fund. The new option beneficiary shall not be an existing option beneficiary.

(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 designation of the new option beneficiary under this subdivision is subject to an actuarial modification of the unmodified retirement allowance and shall not result in any additional liability to the fund. The new option beneficiary shall not be an existing option beneficiary.

(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 elect 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 within this option, the aggregate of which shall equal 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 elected for the spouse or former spouse and the percentage of his or her unmodified allowance to be modified by the option, consistent with the court order. The percentage of the member's unmodified allowance that is not modified by 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, shall equal 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 election 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.

(g) Except as described in subdivision (d) of Section 24300.1, on or after January 1, 2007, a member may not make a new election for an option or joint and survivor annuity described in subdivision (a).

(h) Any member with a retirement effective on or after January 1, 2007, shall elect an option from the options described in Section 24300.1. Any member making a new option election under the provisions of Section 24300.6, 24305.5, or 24306 shall elect an option from the options described in Section 24300.1 if the effective date of the new option election is on or after January 1, 2007.

SEC. 32. Section 24300.1 is added to the Education Code, to read:

24300.1. (a) A member may, prior to the effective date of his or her 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 or beneficiaries, as follows:

(1) One hundred percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the member's death, 100 percent of the modified allowance shall continue to be paid to the option beneficiary.

(2) Seventy-five percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the member's death, 75 percent of the modified allowance shall continue to be paid to the option beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the benefits of the member under this part, the member may not designate an option beneficiary under this option who is more than exactly 19 years younger than the member.

(3) Fifty percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the death of the member, 50 percent of the modified allowance shall continue to be paid to the option beneficiary.

(4) Compound option. The member may designate multiple option beneficiaries or one or multiple option beneficiaries with a designated percentage to remain unmodified. The member shall elect an option as described in paragraph (1), (2), or (3) for each designated option beneficiary that would provide an actuarially modified retirement allowance payable throughout the lives of the member and the member's option beneficiaries or beneficiaries.

(A) The modified retirement allowance shall be paid to the member as long as the member and at least one option beneficiary is living. Upon the member's death, an allowance shall be paid to each surviving option beneficiary in accordance with the option elected respective to that option beneficiary. If an option beneficiary predeceases the member, the member's allowance shall be adjusted in accordance with the option elected for the deceased option beneficiary.

(B) The member shall specify the percent of the unmodified allowance that will be modified by the election of each option described in paragraph (1), (2), or (3) of this subdivision. The percent of the unmodified allowance that is not modified by an option, if any, shall be payable to the member. The sum of the percentages specified for the option beneficiary or beneficiaries and the member's remaining unmodified allowance, if any, shall equal 100 percent.

(C) The member's election of the Compound Option is subject to all of the following:

(i) Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part, the member may not designate an option beneficiary under the 100 percent beneficiary option within this compound option who is more than exactly 10 years younger than the member.

(ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part, the member may not designate an option beneficiary under the 75 percent beneficiary option within this compound option who is more than exactly 19 years younger than the member.

(b) If an option beneficiary designated pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) predeceases the member, the retirement allowance shall be paid to the member without modification for the option. If the option beneficiary predeceases the member, the member may designate a new option beneficiary. The effective date of the new designation shall be six months following the date of notification is received by the board, provided both the member and the designated option beneficiary are then living. Notification shall be on a properly executed form provided by the system. The designation of the new option beneficiary pursuant to this subdivision is subject to an actuarial modification of the unmodified retirement allowance and may not result in additional liability to the fund. The new option beneficiary cannot be an existing option beneficiary.

(c) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse described in paragraphs (2) and (4) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(d) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the option that is required by the judgment or court order. Nothing in this part shall permit the member to change the option to the detriment of the community property interest of the nonmember spouse.

(e) The board may 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 the members, participants, and their beneficiaries, including, but not limited to, providing economic security for beneficiaries and reducing the complexity of the options and annuities. 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 the board 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 to this subdivision.

SEC. 33. Section 24300.2 is added to the Education Code, to read:

24300.2. (a) A member who retired and elected an option pursuant to Section 24300 may elect to change options, subject to all of the following:

(1) A member who elected Option 2 may elect to change to the 100 percent beneficiary option described in paragraph (1) or the 75 percent beneficiary option described in paragraph (2) of subdivision (a) of Section 24300.1.

(2) A member who elected Option 3, Option 4, or Option 5 may elect to change to the 75 percent beneficiary option described in paragraph (2) or the 50 percent beneficiary option described in paragraph (3) of subdivision (a) of Section 24300.1.

(3) A member who elected Option 6 or Option 7 may elect to change to the 75 percent beneficiary option described in paragraph (2) of subdivision (a) of Section 24300.1.

(4) A member who elected Option 8 may elect to have any designated percentage of their unmodified allowance changed in accordance with paragraph (1), (2), or (3).

(5) The election by a member under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(6) The member designates the same beneficiary that was designated under the prior option elected by the member, if the option and beneficiary designation were effective on or before December 31, 2006.

(7) The member and the option beneficiary are not afflicted with a known terminal illness and the member declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, he or she and the option beneficiary are not afflicted with a known terminal illness.

(8) The option beneficiary has not predeceased the member as of the effective date of the change in the option by the member.

(b) The change in the option by the member shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the

system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a member's election document, the system shall mail an acknowledgment notice to the member that sets forth the new option elected by the member.

(d) If the member and the option beneficiary are alive and not afflicted with a known terminal illness, a member may cancel the election to change options and elect to receive the benefit according to the preexisting option election. After cancellation, the member may elect to make a one-time change from the preexisting option to any other option provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the member on or before June 1, 2007, or prior to the end of the election period, provided that the member and the option beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a member to cancel the election to change options and elect to receive the benefit according to the preexisting option election. After cancellation, the member may elect to make a one-time change from the preexisting option to any other option provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 days following the date of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(f) If the member elects to change his or her option as described in subdivision (a), the retirement allowance of the member shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) The member shall not change options in derogation of a spouse's or former spouse's community property rights as specified in a court order.

SEC. 34. Section 24300.6 of the Education Code is amended to read:

24300.6. (a) Any retired member who was unmarried and not in a registered domestic partnership on the effective date of retirement who did not elect an option pursuant to Section 24300 or 24300.1, and who thereafter marries or registers in a domestic partnership, may, after the effective date of the member's retirement under this part, elect an option described in paragraph (1), (2), or (3) of subdivision (a) of Section

24300.1, naming his or her new spouse or registered domestic partner as the option beneficiary, subject to all of the following:

(1) The retired member shall have been married or registered in a domestic partnership for at least one year prior to making the election of the option.

(2) The retired member shall notify the board, in writing on a properly executed form provided by the system, of the election of the option and the designation of the member's new spouse or registered domestic partner as the option beneficiary.

(3) The election of an option under this section is subject to approval by the board. A retired member may not elect a joint and survivor option that would result in any additional liability to the retirement fund. A retired member may not elect the compound option described in paragraph (4) of subdivision (a) of Section 24300.1.

(4) The election shall be effective six months after the date the notification is received by the board, provided that both the retired member and the retired member's designated spouse or registered domestic partner are then living. If the effective date of the new option election is on or after January 1, 2007, at the time of the new election the retired member shall elect an option from the options described in Section 24300.1.

(b) The election of the option and designation of the option beneficiary under this section shall result in an actuarial modification of the member's retirement allowance that shall be payable through the life of the member and the member's new spouse or registered domestic partner. Modification of the member's retirement allowance pursuant to this section shall be based on the ages of the retired member and the retired member's new spouse or registered domestic partner as of the effective date of the election.

SEC. 35. Section 24301 of the Education Code is amended to read:

24301. (a) A member who has filed an application under this part for a disability retirement pursuant to Chapter 26 (commencing with Section 24100) may elect, as provided in Section 24300 or 24300.1 to receive an actuarially modified disability retirement allowance. After receipt of a disability retirement application from a member, the board shall mail an acknowledgment notice to the member. A 30-day period shall commence with the mailing of the acknowledgment, during which time the member may change the option election made on the disability retirement application.

(b) The option shall become effective on the effective date of the disability retirement allowance. The modification of the disability retirement allowance under the option elected shall be based on the ages of the retired member and the designated option beneficiary as of the effective date of the disability retirement. The modification shall be applicable only to the disability retirement allowance payable pursuant to subdivision (a) of Section 24106.

(c) The elected option may not be revoked or changed after the later of the effective date of the disability retirement allowance or 30 days after the mailing of the acknowledgment notice pursuant to this section.

(d) If a member dies prior to electing an unmodified allowance or an option, the death benefits shall be payable under Chapter 23 (commencing with Section 23850), regardless of whether the disability retirement application is or would have been approved.

SEC. 36. Section 24302 of the Education Code is amended to read:

24302. Upon termination of a service retirement allowance pursuant to Section 24208, any option elected pursuant to Section 24300 or 24300.1 and in effect at the time of reinstatement shall be considered to be a preretirement election of an option elected as of the effective date of that retirement and shall be subject to the same provisions as an option elected under Section 24307.

SEC. 37. Section 24303 of the Education Code is amended to read:

24303. Termination of the service retirement allowance pursuant to Section 24208 shall not cancel an option elected under the provisions of Section 24300, 24300.1, or 24307. The option elected shall remain in effect, unchanged, and shall be reapplied to the allowance payable upon the subsequent service retirement. The effective date of the option shall be considered the effective date of the terminated service retirement allowance as described in Section 24302.

SEC. 38. Section 24305 of the Education Code is amended to read:

24305. (a) An option elected under Section 24300 or 24300.1 may be canceled by a retired member if the option beneficiary is the retired member's spouse or former spouse and a final decree of dissolution of marriage or a judgment of nullity has been entered or an order of separate maintenance has been made on or after January 1, 1978, by a court of competent jurisdiction. A retired member may cancel the option before or after issuance of the first retirement allowance payment.

(b) The retired member shall notify the board in writing of cancellation of the option. Notification shall not be earlier than the effective date of the decree, judgment, or order and shall include a certified copy of the final decree of dissolution, or judgment of nullity, or an order of separate maintenance, and any property settlement agreement.

(c) Upon notification to the board, the retired member may elect (1) to receive the unmodified retirement allowance from the date of receipt of the notification; or (2) a new joint and survivor option under Section 24300.1 and may designate one or multiple new option beneficiaries. Modification of the retirement allowance because of the newly elected option or newly designated beneficiary or beneficiaries shall be based on the ages of the retired member and the new option beneficiary or beneficiaries as of the effective date of the new option. The election of a new joint and survivor option or the designation of a new option beneficiary or beneficiaries shall be consistent with the final decree of dissolution, judgment of nullity, order of separate maintenance, or property settlement agreement, and shall not result in any additional liability to the Teachers' Retirement Fund. The

effective date of the change shall be the date notification is received by the board.

SEC. 39. Section 24305.3 of the Education Code, as added by Section 39 of Chapter 1021 of the Statutes of 2000, is amended to read:

24305.3. (a) A member who is receiving a joint and survivor annuity under the Defined Benefit Supplement Program may change the annuity or the annuity beneficiary elected pursuant to Section 25011, 25011.1, 25018, or 25018.1, provided all of the following conditions are met:

(1) The annuity beneficiary is the member's spouse or former spouse.

(2) A final decree of dissolution of marriage is granted, or a judgment of nullity is entered, or an order of separate maintenance is made by a court of competent jurisdiction with respect to the member and the spouse or former spouse on or after the beginning of the initial plan year designated by the board pursuant to Section 22156.05.

(3) The change is consistent with the final decree of dissolution, judgment of nullity, or order of separate maintenance.

(b) A member may change the annuity pursuant to subdivision (a) before or after the first annuity payment is issued.

(c) The member shall notify the system in writing of the change in the annuity. The notification shall not be earlier than the effective date of the final decree of dissolution, judgment of nullity, or order of separate maintenance and shall include a certified copy of the final decree of dissolution, judgment of nullity, or order of separate maintenance, and any property settlement agreement.

(d) A change in the annuity or annuity beneficiary or both shall become effective on the date the notification of change is received by the system. The annuity amount payable to the member upon the change elected by the member shall be determined as of the effective date of the change and shall be the actuarial equivalent of the lump sum that would otherwise be payable to the member as of the date of the change. If the member elects a joint and survivor annuity, the amount payable under the annuity shall be modified consistent with the annuity elected by the member.

SEC. 40. Section 24305.5 of the Education Code is amended to read:

24305.5. (a) An option elected under Section 24300 or 24300.1 may be canceled by a retired member if the option beneficiary is not the retired member's spouse or former spouse. A retired member may cancel the option before or after issuance of the first retirement allowance payment and shall designate his or her spouse as the new option beneficiary and the same or a different joint and survivor option described in Section 24300.1.

(b) The retired member shall notify the board, in writing on a properly executed form provided by the system, of the designation of the new option beneficiary. Notification shall include a certified copy of the marriage certificate and a properly executed form for the change.

(c) The effective date of the new election shall be six months following the date notification is received by the board, provided both the retired member and the new designated option beneficiary are then living. If the effective date of the new option election is on or after January 1, 2007, at

the time of the new election the retired member shall elect an option from the options described in Section 24300.1.

(d) The election of the option and designation of the option beneficiaries under this section and Section 24300.1 shall be subject to an actuarial modification of the retirement allowance. In no event may a retired member elect a joint and survivor option that would result in any additional liability to the fund. A retired member may not elect the compound option described in paragraph (4) of subdivision (a) of Section 24300.1. Modification of the retirement allowance because of the new option beneficiary and the new option shall be based on the ages of the retired member and the new option beneficiary as of the effective date of the new election.

SEC. 41. Section 24306 of the Education Code is amended to read:

24306. (a) (1) If an option beneficiary designated in the election of an Option 2, Option 3, Option 4, or Option 5 as described in Section 24300 predeceases the retired member, the retired member may elect a new joint and survivor option described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 24300.1 and designate one or multiple new option beneficiaries.

(2) If an option beneficiary designated in the election of Option 2, Option 3, Option 4, or Option 5 within Option 8, predeceases the member, the member may elect a new joint and survivor option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1 and designate a new option beneficiary for the portion of the retirement allowance that was modified for the prior option beneficiary. The member may not elect the compound option described in paragraph (4) of subdivision (a) of Section 24300.1.

(3) The effective date of the change 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 include proof of death of the predeceased beneficiary and a properly executed form provided by the system. If the effective date of the new option election is on or after January 1, 2007, at the time of the new election the retired member shall elect an option from the options described in Section 24300.1.

(4) The election of the new joint and survivor option under this subdivision and Section 24300.1 is subject to an actuarial modification of the retirement allowance. In no event may a retired member elect a joint and survivor option that would result in any additional liability to the fund.

(b) If an option beneficiary designated in the election of an Option 6 or Option 7 or in the election of Option 6 or Option 7 within Option 8, pursuant to Section 24300 predeceases the retired member, that portion of the retirement allowance attributable to Option 6 or Option 7 without modification for the option shall be payable to the retired member upon notification to the board and shall commence to accrue to the retired member as of the day following the date of the death of the option

beneficiary. Notification to the board shall include proof of death of the beneficiary.

(c) If an option beneficiary designated in the election of an option pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) of Section 24300.1 predeceases the member, that portion of the retirement allowance attributable to the option without modification for the option shall be payable to the member upon notification to the board and shall commence to accrue to the retired member as of the day following the date of the death of the option beneficiary. Notification to the board shall include proof of death of the beneficiary.

SEC. 42. Section 24306.7 of the Education Code is amended to read:

24306.7. (a) Any member who retired for service under Option 4 or Option 5 with an effective date prior to January 1, 1991, may elect to change Option 4 to Option 6 or Option 5 to Option 7 if all of the following conditions are met:

(1) The election is made during the three-month period commencing January 1, 1999, and ending March 31, 1999.

(2) The same beneficiary under Option 4 or Option 5 is named as beneficiary under Option 6 or Option 7.

(3) The change in options is consistent with Sections 22453 and 24305.

(4) The option beneficiary is not afflicted with any known terminal illness.

(5) The option beneficiary has not predeceased the retired member as of the effective date of the change in option.

(6) The election to change the option under this section is received at the system's headquarters office as described in Section 22375 at least 30 days prior to the death of the option beneficiary.

(b) Failure to satisfy all of the conditions in subdivision (a) shall render the change of election invalid.

(c) The change in options under this section shall be effective on the date the election is signed, provided all the conditions set forth in subdivision (a) are satisfied and the election is received at the system's headquarters office, as established pursuant to Section 22375, within 30 days after the date of the signature.

(d) The election of a new joint and survivor option under this section is subject to a further modification of the modified retirement allowance. In no event may a retired member elect a joint and survivor option that would result in any additional liability to the fund.

SEC. 43. Section 24307 of the Education Code is amended to read:

24307. (a) A member who qualifies to apply for retirement under Section 24201 or 24203 may make a preretirement election of an option, as provided in Section 24300.1 without right of revocation or change after the effective date of retirement, except as provided in this part. The preretirement election of an option shall become effective as of the date of the member's signature on a properly executed form prescribed by the system, subject to the following requirements:

(1) The form includes the signature of the member's spouse or registered domestic partner, if applicable, the signature is dated, and the date of the signature is within 30 days of the member's signature.

(2) The date the form is received at the system's headquarters office, as established pursuant to Section 22375, is within 30 days of the date of the member's signature and within 30 days of the date of the spouse or registered domestic partner's signature, if applicable.

(b) A member who makes a preretirement election of an Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7 pursuant to Section 24300, or an election as described in paragraph (1), (2), or (3) of Section 24300.1 may subsequently make a preretirement election of the compound option described in paragraph (4) of subdivision (a) of Section 24300.1. The member may retain the same option and the same option beneficiary as named in the prior preretirement election for a designated percentage within the compound option.

(c) Upon the member's death prior to the effective date of retirement, the beneficiary who was designated under the option elected and who survives shall receive an allowance calculated under the option, under the assumption that the member retired for service pursuant to Chapter 27 (commencing with Section 24201) on the date of death. The payment of the allowance to the option beneficiary shall be in lieu of the family allowance provided in Section 23804, the payment provided in paragraph (1) of subdivision (a) of Section 23802, the survivor benefit allowance provided in Section 23854, and the payment provided in subdivisions (a) and (b) of Section 23852, except that if the beneficiary dies before all of the member's accumulated retirement contributions are paid, the balance, if any, shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the death payment provided in Sections 23801 and 23851 shall be paid to the beneficiary in a lump sum.

(d) If the member subsequently retires for service, and the elected option has not been canceled pursuant to Section 24309, a modified service retirement allowance computed under Section 24300 or 24300.1 and the option elected shall be paid.

(e) The amount of the service retirement allowance prior to applying the option factor shall be calculated as of the earlier of the member's age at death before retirement or age on the last day of the month in which the member requested service retirement be effective. The modification of the service retirement allowance by the option elected shall be based on the ages of the member and the beneficiary designated under the option, as of the date the election was signed.

(f) A member who terminates the service retirement allowance pursuant to Section 24208 shall not be eligible to file a preretirement election of an option until one calendar year elapses from the date the allowance is terminated.

(g) The system shall inform members who are qualified to make a preretirement election of an option, through the annual statements of account, that the election of an option can be made.

SEC. 44. Section 24309 of the Education Code is amended to read:

24309. (a) A member may cancel the election of an option made pursuant to Section 24307, providing cancellation is on a properly executed form provided by the system and received by the board on or before the day preceding the effective date of retirement under this part or during the period between termination of the retirement allowance pursuant to Section 24208 or 24117 and the effective date of the subsequent retirement under this part. Regardless of how the member elects to receive his or her retirement allowance, that allowance shall be reduced by an amount determined by the board to be the actuarial equivalent of the coverage the member received as a result of the preretirement election and that does not result in any adverse funding to the plan.

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the day following the date of death and the member's subsequent retirement allowance under this part shall be subject to the allowance reduction prescribed in this section.

(c) If the option elected pursuant to Section 24307 is Option 8 as described in paragraph (7) of subdivision (a) of Section 24300 or the compound option as described in paragraph (4) of subdivision (a) of Section 24300.1, a member may cancel the designation of an option beneficiary. If the member cancels the designation of the option beneficiary or the option beneficiary predeceases the member prior to the member's retirement, the member may elect to receive that portion of the retirement allowance without modification for the option or elect one or multiple new or existing option beneficiaries as described in Section 24307.

SEC. 45. Section 24312.1 is added to the Education Code, to read:

24312.1. (a) A member who has a preretirement election of an option in effect on December 31, 2006, pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300 may change his or her preretirement election to an option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1 without the allowance reduction described in Sections 24309 and 24310, provided the change is made on or after January 1, 2007, and prior to July 1, 2007.

(b) A member who has a preretirement election of Option 8 as described in Section 24300 in effect on December 31, 2006, and in that Option 8 election has an option pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300, may change any of the options under paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300 to an option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1 without the allowance reduction described in Sections

24309 and 24310, if change is made on or after January 1, 2007, and prior to July 1, 2007. A member may not change the portion of the unmodified benefit that would be modified pursuant to that prior option.

(c) The election to change the option by a member as described in this section shall be subject to all of the following:

(1) The member may not change the option beneficiary that was designated in the prior preretirement option election.

(2) The change in options under this section shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and received at the system's headquarters office, as described in Section 22375, within 30 days of the date of the signature.

(d) If the member elects to change options as described in this section, the age of the member and the option beneficiary on the effective date of the prior preretirement option election shall be the age used to calculate the member's benefit at the time of retirement.

SEC. 46. Section 24402 of the Education Code is amended to read:

24402. (a) Service retirement allowances, disability allowances, disability retirement allowances, family allowances, and survivor benefit allowances payable pursuant to this part shall be increased by application of the benefit improvement factor.

(b) Allowances payable to beneficiaries on account of options elected under Section 24300, 24300.1, 24301, or 24307 shall be increased by application of the improvement factor. This factor shall be applicable on the same date when it would have been applied to the allowance of the deceased person.

(c) The benefit improvement factor shall not be applied to an annuity that is the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of a service or disability retirement.

SEC. 47. Section 24703 of the Education Code is amended to read:

24703. Persons who select to be covered only by the Defined Benefit Program and already have credit for classified or other noncertificated service in the San Francisco system shall not have that credit transferred to the Defined Benefit Program.

SEC. 48. Section 24704 of the Education Code is amended to read:

24704. The San Francisco Employees' Retirement System shall provide concurrent retirement benefits for classified and other noncertificated service in the San Francisco system according to the provisions applicable to miscellaneous employees of the time of the concurrent retirement for:

(a) Members of that system who transfer to the Defined Benefit Program after June 30, 1972.

(b) Persons who were members of both the San Francisco system and the Defined Benefit Program on June 30, 1972.

(c) A person who could have qualified under subdivision (b) if he or she had not taken a refund from either the San Francisco system or the

Defined Benefit Program, but not both, provided the person qualifies for and redeposits prior to retirement.

SEC. 49. Section 24705 of the Education Code is amended to read:

24705. Notwithstanding the provisions in Section 24201, a member of the San Francisco system may retire concurrently and receive credit for service performed in other states of the United States, its territories and possessions, and in Canada.

SEC. 49.5. Section 24976 of the Education Code is amended to read:

24976. (a) (1) The Teachers' Deferred Compensation Fund is hereby established to serve as the repository of funds received by the system pursuant to this chapter, Chapter 36 (commencing with Section 24950) or Chapter 39 (commencing with Section 25100).

(2) Premium and fee revenues received by the system pursuant to Chapter 36 (commencing with Section 24950) shall be deposited into the 403(b) Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of that chapter.

(3) Premium and fee revenues received by the system pursuant to this chapter shall be deposited into the Deferred Compensation Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of this chapter.

(4) Compensation deferrals received by the system pursuant to this chapter shall be deposited into the Deferred Compensation Investment Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of this chapter.

(5) Fee revenues received by the system pursuant to Chapter 39 (commencing with Section 25100) shall be deposited into the 403(b) Vendor Registry Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of that chapter.

(6) Notwithstanding Section 13340 of the Government Code, all moneys in the Teachers' Deferred Compensation Fund shall be continuously appropriated without regard to fiscal year to carry out the purposes of this chapter, Chapter 36 (commencing with Section 24950), and Chapter 39 (commencing with Section 25100).

(b) With respect to deferred compensation plans administered pursuant to this chapter, and notwithstanding any other provision of law, the system may retain a bank or trust company, or a credit union, to serve as custodian of the moneys of the Teachers' Deferred Compensation Fund and to provide for safekeeping, recordkeeping, delivery, securities valuation, or investment performance reporting services, or services in connection with investment of the Teachers' Deferred Compensation Fund.

(c) With respect to deferred compensation plans administered pursuant to this chapter, the Teachers' Deferred Compensation Fund shall consist of the following sources and receipts, and disbursements shall be accounted for as set forth below:

(1) Premiums determined by the system and paid by participating employers and employees for the cost of administering the deferred compensation plan.

(2) Asset management fees as determined by the system assessed against investment earnings of investment option or of other investment funds. These fees shall be disclosed to employees participating in the deferred compensation plan.

(3) Compensation deferrals to be paid in monthly installments by employers sponsoring deferred compensation plans described in Section 24975 for investment by the system. The moneys shall be deposited in the investment corpus account within the Teachers' Deferred Compensation Fund and invested in accordance with the investment options selected by the participating employee.

(4) Disbursements to participating employees shall be paid from a disbursement account within the Teachers' Deferred Compensation Fund in accordance with applicable federal law pertaining to deferred compensation plans.

(5) Income, of whatever nature, earned on the Teachers' Deferred Compensation Fund shall be credited to the appropriate account. The accounts of participating employees of the employer shall be individually posted to reflect amounts of compensation deferred and investment gains and losses. A periodic statement shall be given to each participating employee.

(6) The system shall have exclusive control of the administration and investment of the Teachers' Deferred Compensation Fund.

(7) All of the system's costs of administering the deferred compensation plans pursuant to this chapter shall be recovered from the employees who participate in the plans or assets of the Teachers' Deferred Compensation Fund in a manner acceptable to the board.

SEC. 50. Section 25009 of the Education Code is amended to read:

25009. (a) A member's retirement benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(b) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a retirement benefit. Any retirement benefit paid as an annuity under this chapter shall be subject to Section 25011 or 25011.1.

(c) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

SEC. 51. Section 25011 of the Education Code is amended to read:

25011. (a) A member or nonmember spouse may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the balance of credits in the member's or nonmember spouse's respective Defined Benefit Supplement account on the date the retirement benefit

becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payments have been made from the account.

(b) If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance, if any, of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) A 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the single life annuity with a cash refund feature and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(4) A 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have

been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the single life annuity with a cash refund feature and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(c) If a nonmember spouse elects to receive the retirement benefit as an annuity, the nonmember spouse shall elect the form of payment specified in paragraph (1), (2), or (5) of subdivision (b) and, in those paragraphs, references to a "member" shall apply to the nonmember spouse.

(d) On or after January 1, 2007, a member may not make a new election of a joint and survivor annuity described in subdivision (b), except as provided by subdivision (e) of Section 25011.1.

(e) Any member with a retirement effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 25011.1.

SEC. 52. Section 25011.1 is added to the Education Code, to read:

25011.1. (a) A member may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payments have been made from the account. If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payments:

(1) Member only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the retired member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member,

an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the annuitant reserve shall be returned in a lump-sum payment to the beneficiary of the member.

(2) One hundred percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 100 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(3) Seventy-five percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not elect this annuity if a beneficiary is more than exactly 19 years younger than the member, unless the beneficiary is the member's spouse or former spouse and the election is pursuant to a determination of community property rights. Upon the death of the member, 75 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(4) Fifty percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 50 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member as the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary

predeceases the member and the member designates a new option beneficiary pursuant to Section 24300.1, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(c) If a nonmember spouse elects to receive the retirement benefit as an annuity, the nonmember spouse shall elect the form of payment specified in paragraph (1) or (6) of subdivision (a) and, in those paragraphs, references to a “member” shall apply to the nonmember spouse.

(d) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) or (5) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(e) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the member to change the annuity to the detriment of the community property interest of the nonmember spouse.

SEC. 53. Section 25011.5 is added to the Education Code, to read:

25011.5. (a) A member who retired and elected an annuity pursuant to Section 25011 may elect to change annuities, subject to all of the following:

(1) A member who elected a single life annuity with or without a cash refund feature or elects a period certain annuity may not change his or her annuity.

(2) A member who elected an annuity under paragraph (3) or (4) of subdivision (a) of Section 25011 may elect an annuity under paragraph (3) of subdivision (a) of Section 25011.1.

(3) The election by the member under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The member designates the same beneficiary that was designated under the prior annuity election by the member, if the annuity and annuity designation was effective on December 31, 2006.

(5) The member and the annuity beneficiary are not afflicted with a known terminal illness and the member declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, he or she and the annuity beneficiary are not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the member as of the effective date of the change in the annuity by the member.

(b) The change in the annuity by the member shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a member's election document, the system shall mail an acknowledgment notice to the member that sets forth the new annuity elected by the member.

(d) If the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, a member may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the member on or before June 1, 2007, or prior to the end of the election period, provided that the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a member to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(f) If the member elects to change his or her annuity as described in subdivision (a), the annuity of the member shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) References to a "member" in paragraph (1) of subdivision (a) shall apply to the nonmember spouse.

(h) The member shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

SEC. 54. Section 25012 of the Education Code is amended to read:

25012. (a) An annuity payable under the Defined Benefit Supplement Program shall be determined as a value actuarially equivalent to the

balance of credits in the member's Defined Benefit Supplement account on the date the benefit becomes payable and after any lump-sum payment. If a single life annuity is elected, the annuity shall be calculated using the age of the member on the date the benefit becomes payable. A member may elect a single life annuity only if the member did not elect to receive a modified allowance pursuant to Section 24300 or 24300.1. If a joint and survivor annuity is elected, the annuity shall be calculated using the age of the member and the age of the member's beneficiary on the date the benefit becomes payable. A member may elect a joint and survivor annuity only if the member elected to receive a modified allowance pursuant to Section 24300 or 24300.1.

(b) The beneficiary designation made pursuant to Section 24307 is not applicable to benefits payable under this chapter.

SEC. 55. Section 25015 of the Education Code is amended to read:

25015. (a) If a member elects to receive a benefit payable under the Defined Benefit Supplement Program as a joint and survivor annuity, the designation of the beneficiary made pursuant to Section 24300 or 24300.1 shall apply to the benefit payable under this chapter. The annuity beneficiary designation shall not be changed after the date the benefit becomes payable to the member, except as provided in Section 24305.3, 25011, 25011.1, 25018, or 25018.1, or Chapter 12 (commencing with Section 22650).

(b) If the member designates one or multiple option beneficiaries within Option 8 pursuant to Section 24300 or 24300.1, the percentage of the unmodified allowance attributable to each option beneficiary specified in that designation shall apply to the joint and survivor annuity payable under this chapter. The member shall elect one joint and survivor annuity type and this annuity type shall be applied the same for each beneficiary and each designated percentage of the member only annuity. If any percentage of the allowance was designated to remain unmodified, the member only annuity shall apply for the corresponding percentage of the annuity provided under this chapter. The annuity amount payable to the member during his or her lifetime shall be modified to be payable over the combined lives of the member and the annuity beneficiary or beneficiaries.

(c) If the member predeceases an annuity beneficiary, the annuity beneficiary may designate, on a properly executed form provided by the system, a payee to receive an amount that may be payable in a lump sum pursuant to Section 25023 upon the death of the annuity beneficiary.

SEC. 56. Section 25016 of the Education Code is amended to read:

25016. (a) A member's disability benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable.

(b) A disability benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a

disability benefit. Any retirement benefit paid as an annuity under this chapter shall be subject to Section 25018 or 25018.1.

(c) Upon distribution of the entire disability benefit in a lump-sum payment, no other benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

SEC. 57. Section 25018 of the Education Code is amended to read:

25018. (a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payment has been made from this account.

(b) If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) For a member receiving an allowance pursuant to Chapter 26 (commencing with Section 24100), a 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph shall be subject to an actuarial

modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(4) For a member receiving an allowance pursuant to Chapter 26 (commencing with Section 24100), a 50-percent joint and survivor annuity with a “pop-up” feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member’s annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member’s surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary’s death upon receipt by the system of proof of the annuity beneficiary’s death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member’s Defined Benefit Supplement account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the member, or the life expectancy of the member and the member’s annuity beneficiary. If the member’s death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member’s annuity beneficiary pursuant to Section 25022.

(c) Except as described in subdivision (e) of Section 25018.1, on or after January 1, 2007, a member may not make a new election for an annuity described in subdivision (b).

(d) On or after January 1, 2007, a member may not make a new election of a joint and survivor annuity described in subdivision (b), except as provided by subdivision (e) of Section 25018.1.

(e) Any member with a disability benefit effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 25018.1.

SEC. 58. Section 25018.1 is added to the Education Code, to read:

25018.1. (a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payment has been made from this account. If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

(1) Member only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the annuitant reserve shall be returned in a lump-sum payment to the member's beneficiary.

(2) One hundred percent beneficiary annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 100 percent of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary or beneficiaries.

(3) Seventy-five percent beneficiary annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not elect this annuity if a beneficiary is more than exactly 19 years younger than the member unless the beneficiary is the member's spouse or former spouse and the election is pursuant to a determination of community property rights. Upon the death of the member, 75 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(4) Fifty percent beneficiary annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary or beneficiaries.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of

payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member as the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300.1, the new option beneficiary shall be a new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(c) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) or (5) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(d) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the member to change the annuity to the detriment of the community property interest of the nonmember spouse.

SEC. 59. Section 25018.2 is added to the Education Code, to read:

25018.2. (a) A member who is disabled and elected an annuity pursuant to Section 25018 may elect to change annuities, subject to all of the following:

(1) A member who elected a single life annuity with or without a cash refund feature or elected a period certain annuity may not change his or her annuity.

(2) A member who elected an annuity under paragraph (3) or (4) of subdivision (b) of Section 25018 may elect an annuity under paragraph (3) of subdivision (a) of Section 25018.1.

(3) The election by the member under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The member designates the same annuity beneficiary that was designated under the prior annuity election by the member, if the annuity and the annuity designation were effective on December 31, 2006.

(5) The member and the annuity beneficiary are not afflicted with a known terminal illness and the member declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, he or

she and the annuity beneficiary are not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the member as of the effective date of the change in the annuity by the member.

(b) The change in the annuity by the member shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a member's election document, the system shall mail an acknowledgment notice to the member that sets forth the new annuity elected by the member.

(d) If the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, a member may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the member on or before June 1, 2007, or prior to the end of the election period, provided that the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a member to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(f) If the member elects to change his or her annuity as described in subdivision (a), (d), or (e), the annuity of the member shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) The member shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

SEC. 60. Section 25021 of the Education Code is amended to read:

25021. (a) A beneficiary, other than an entity, may elect to receive the final benefit payable under the Defined Benefit Supplement Program as an annuity payable in monthly installments provided the balance of credits in the member's Defined Benefit Supplement account that is payable to that beneficiary equals at least three thousand five hundred dollars (\$3,500).

(b) A beneficiary who elects to receive an annuity under this section shall elect a period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death. The annuity shall be payable in whole year increments over a period of years specified by the beneficiary, from a minimum of three years to a maximum of 10 years, but not to exceed the life expectancy of the beneficiary. The beneficiary may designate a payee to receive the remaining balance of payments if the beneficiary's death occurs prior to the end of the period certain.

(c) A beneficiary may designate a payee who would, upon the death of the beneficiary, be entitled to receive the beneficiary's accrued annuity allowance.

SEC. 61. Section 25024 of the Education Code is amended to read:

25024. (a) Upon the termination of all employment to perform creditable service subject to coverage under the plan for a reason other than retirement, disability, or death, a member shall be eligible for a termination benefit under the Defined Benefit Supplement Program. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated, unless the member's termination of employment occurred 12 consecutive months or more prior to the date the member signed the application for a Defined Benefit Supplement termination benefit.

(b) A member shall submit an application for a termination benefit on a form prescribed by the system. If a member submits an application for a refund of contributions under the Defined Benefit Program, pursuant to Section 23103, that application shall also be deemed an application for a termination benefit. If a member cancels the application for a refund of contributions under the Defined Benefit Program, the application for the termination benefit shall also be deemed to have been cancelled.

(c) The termination benefit shall be a lump-sum payment that is equal to the balance of credits in the member's Defined Benefit Supplement account.

(d) Upon distribution of the termination benefit, no further benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

(e) A partial distribution of the balance of credits in a member's Defined Benefit Supplement account shall not be made, except as provided in Section 25009, 25015, 25016, or 25022.

SEC. 62. Section 26000.5 of the Education Code is amended to read:

26000.5. An employer whose governing board has elected to provide the benefits of this part for its employees pursuant to Section 26000 shall enter into an agreement with the State Teachers' Retirement System. The agreement shall specify the terms and conditions of the employer's formal action to provide the Cash Balance Benefit Program and shall remain in effect unless or until the employer exercises the right to discontinue the program pursuant to Chapter 17 (commencing with Section 28100).

SEC. 63. Section 26002.5 of the Education Code is amended to read:

26002.5. Except as excluded in Section 26004, subdivision (d) of Section 26807.5, subdivision (d) of Section 26906.5, or Section 27406, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a "spouse," as defined in Section 26140.

SEC. 64. Section 26113 of the Education Code is amended to read:

26113. (a) "Creditable service" means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code or under the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges or under the provisions of an approved charter for the operation of a charter school for which the employer is eligible to receive state apportionment or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training:

(1) The work of teachers, instructors, district interns and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupational programs, child care centers, and prekindergarten programs pursuant to Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of directors, coordinators, and assistant administrators who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.

(4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to school curriculum.

(5) The examination, selection, in-service training, or assignment of teachers, principals or other similar personnel involved in the instructional program.

(6) School activities related to, and an outgrowth of, the instructional and guidance program of the school when performed in addition to other activities described in this section.

(7) The work of nurses, physicians, speech therapists, psychologists, audiometrists, audiologists, and other school health professionals.

(8) Services as a school librarian.

(9) The work of county and district superintendents and other employees who are responsible for the supervision of persons or administration of the duties described in this section.

(10) Trustee service as described in Section 26403.

(b) “Creditable service” also means the work of superintendents of California public schools.

(c) The board shall have final authority for determining creditable service to cover activities not already specified.

SEC. 65. Section 26116 of the Education Code is amended to read:

26116. “Disability benefit” means an amount payable under this part for permanent and total disability that is equal to the sum of the participant’s employee account and employer account as of the disability date and is payable pursuant to Section 26905, 26906, or 26906.5.

SEC. 66. Section 26137 of the Education Code is amended to read:

26137. “Retirement benefit” means an amount payable under this part in the event of the participant’s retirement for service that is equal to the sum of the participant’s employee account and employer account as of the retirement date and that is payable pursuant to Section 26806, 26807, or 26807.5.

SEC. 67. Section 26214 of the Education Code is amended to read:

26214. The board shall issue, after the end of the plan year, to each participant having a balance in his or her employee account or employer account, a statement setting forth the balance as of the close of the plan year and amounts credited for the year, provided that the employer or participant has informed the system of the participant’s current United States Postal Service mailing address. If the participant indicates that he or she prefers to receive that statement through the Web site of the system, the board may, in lieu of mailing, issue the statement by secured access through the Web site of the system. The board shall prescribe the form and content of the account statement.

SEC. 68. Section 26301 of the Education Code is amended to read:

26301. (a) Employers shall report contributions paid on behalf of each participant in each pay period, along with all other information required by the system no later than 10 working days following the last day of the pay period in which the salary was earned, and the report shall be delinquent immediately thereafter. That report shall be submitted electronically in an encrypted format provided by the system that ensures the security of the transmitted participant data.

(b) The board may assess a penalty against the employer for a report submitted late or in an unacceptable form. The penalty shall be based upon the sum of the employee and employer contributions required to be reported under this part at a rate of interest equal to the minimum interest rate, accruing on the balance for the period between the time the report was due and the time an acceptable report is actually filed, or a fee of five hundred dollars (\$500), whichever is greater.

SEC. 69. Section 26400 of the Education Code is amended to read:

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

(b) A person employed on a temporary basis by a community college district, who is not subject to mandatory membership in the Defined Benefit Program pursuant to Section 22502 or 22504 for each position with the same employer, shall become a participant on the later of the first day that creditable service is performed for an employer that provides the Cash Balance Benefit Program or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program.

(c) If the employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect coverage under social security or an alternative retirement plan offered by the employer in addition to the Cash Balance Benefit Program, the employee may elect within 60 calendar days of the latest of the first day that creditable service is performed, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program to be covered by social security or to participate in the alternative retirement plan in lieu of participating in the Cash Balance Benefit Program. An election may not preclude an employee from participating in the Cash Balance Benefit Program at a later date so long as the Cash Balance Benefit Program is provided by the employer and the employee is eligible to participate in the Cash Balance Benefit Program.

(d) If subdivision (c) is applicable, the employer shall inform employees pursuant to subdivision (c) of Section 26300 of their right to make an election and the election shall be made on a properly executed form provided by the system and filed with the employer. The employer shall retain a copy of the employee's signed election form and mail the original election form to the headquarters office of the system as described in Section 22375. The election shall become effective on the later of the first day that creditable service is performed or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program.

(e) If the participant's basis of employment with a school district or county office of education that provides the Cash Balance Benefit Program changes to employment to perform creditable service for 50 percent or more of the full-time position during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service

performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

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

(g) If the governing board of an employer subsequently provides, in addition to the Cash Balance Benefit Program, social security coverage, a participant covered by the Cash Balance Benefit Program who is performing creditable service for that employer may elect to be covered by social security in lieu of the Cash Balance Benefit Program. That participant's election shall be made within 60 calendar days of the date the governing board acted to provide coverage under social security or the effective date of the governing board's action to provide social security coverage, whichever is later. An election under this subdivision may not preclude an employee from participating in the Cash Balance Benefit Program at a later date if the employee is eligible to participate in the Cash Balance Benefit Program and the employer provides the Cash Balance Benefit Program.

(h) If the governing board of an employer provided social security coverage with an effective date prior to January 1, 2007, and the employer offered the Cash Balance Benefit Program as of the effective date of the governing board's action to provide social security coverage, a participant who was performing creditable service for that employer may elect to be covered by social security in lieu of the Cash Balance Benefit Program. The participant's election shall be made on or after March 1, 2008, and on or before May 1, 2008. The election to participate in social security shall be effective on July 1, 2008. An election under this subdivision may not preclude an employee from participating in the Cash Balance Benefit Program at a later date if the employee is eligible to participate in the Cash Balance Benefit Program and the employer provides the Cash Balance Benefit Program.

(i) An election by an employee to terminate his or her participation in the Cash Balance Benefit Program as described in subdivision (g) or (h) shall be made on a properly executed form provided by the system and filed with the employer. The employer shall retain a copy of the employee's signed election form and mail the original election form to the headquarters office of the system, as described in Section 22375.

SEC. 70. Section 26401 of the Education Code is amended to read:

26401. (a) A member of the Defined Benefit Program who is employed to perform creditable service on a part-time basis for less than

50 percent of each full-time position by a school district or county office of education that provides the Cash Balance Benefit Program may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided that the creditable service is not performed for the same employer with whom the member is also subject to mandatory membership in the Defined Benefit Program.

(b) A member of the Defined Benefit Program who is employed pursuant to Section 87474, 87480, 87481, 87482, or 87482.5 by a community college district that provides the Cash Balance Benefit Program may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided that the creditable service is not performed for the same employer with whom the member is also subject to mandatory membership in the Defined Benefit Program.

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

(d) Employers shall make available to employees specified in subdivisions (a) and (b) information and forms provided by the system for making an election regarding participation. The employer shall retain a copy of the employee's signed election form and mail the original signed election form to the headquarters office of the system as described in Section 22375. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

(e) If an election is made pursuant to subdivision (a) and the participant's basis of employment with that employer changes to employment to perform creditable service for 50 percent or more of the full-time position during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage under the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

(f) If an election is made pursuant to subdivision (b) and the participant's basis of employment with the community college district changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Section 22501, 22502, or 22504 during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage under the Defined Benefit Program as of the

first day of the pay period following the change in the participant's basis of employment.

(g) (1) If an employee was excluded from participation in the Cash Balance Benefit Program pursuant to Section 26401.5, as that section read on December 31, 2000, for the same service, the employee may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided all of the following conditions are met:

(A) The employment is pursuant to Section 87474, 87480, 87481, 87482, or 87482.5.

(B) The employer offers the Cash Balance Benefit Program.

(C) The creditable service is not also subject to mandatory membership in the Defined Benefit Program.

(2) Employers shall, on or before May 1, 2007, make available to employees described in this subdivision, information and forms provided by the system for making an election regarding participation. The employee shall submit the form to the employer within a 60-day election period designated by the employer. The employer shall retain a copy of the employee's signed election form and mail the original signed election form to the headquarters office of the system as described in Section 22375. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

SEC. 71. Section 26807 of the Education Code is amended to read:

26807. (a) Upon application for a retirement benefit under this part, the participant may elect to receive the retirement benefit in the form of an annuity, provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars (\$3,500).

(b) If the participant elects to receive the retirement benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment. This benefit shall be payable for the life of the participant. Upon the death of the participant, no other benefit shall be payable to any beneficiary under this part.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment. This benefit shall be payable for the life of the participant and any balance remaining upon the death of the participant shall be payable in a lump sum to the participant's beneficiary.

(3) A 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, the monthly amount that was payable to

the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living. The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(4) A 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, one-half of the monthly amount that was payable to the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living. The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the sum of the balance of the employee account and the employer account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and

the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(c) Except as described in subdivision (e) of Section 26807.5, on or after January 1, 2007, a participant may not make a new election of an annuity described in subdivision (b).

(d) Any participant with a retirement effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 26807.5.

SEC. 72. Section 26807.5 is added to the Education Code, to read:

26807.5. (a) Upon application for a retirement benefit under this part, the participant may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars (\$3,500). If the participant elects to receive the retirement benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) Participant only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment. Upon the death of the participant, an amount equal to the remaining balance of the participant's contributions and interest shall be paid in a lump-sum to the participant's beneficiary.

(2) One hundred percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, 100 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(3) Seventy-five percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the annuity beneficiary is the participant's spouse or former spouse who has been awarded a community property interest in the participant's benefits under this part, the participant may not designate an annuity beneficiary under this annuity who is more than exactly 19 years younger than the participant. Upon the death of the participant, 75 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(4) Fifty percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, 50 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity that is equal to the actuarial equivalent of the balance of credits in the participant's Cash Balance Benefit account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the participant, the annuity shall be paid to the participant as the participant only annuity described in paragraph (1) of subdivision (a) that would have been payable had the participant elected that form of payment at the commencement of the benefit. That participant only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification is received by the board, provided both the participant and the new designated annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The designation of the new annuity beneficiary under this paragraph is subject to an actuarial modification of the participant only annuity and may not result in any additional liability to the fund.

(c) If a nonparticipant spouse elects to receive the retirement benefit as an annuity, the nonparticipant spouse shall elect the form of payment specified in paragraph (1) or (5) of subdivision (a) and, in those paragraphs, references to a "participant" shall apply to the nonparticipant spouse.

(d) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) of subdivision (a) does not include the domestic partner of the participant, pursuant to Section 7 of Title 1 of the United States Code.

(e) If there is a determination of community property rights as described in Chapter 15 (commencing with Section 27400) of this part on or before December 31, 2006, the participant may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the participant to change the annuity to the detriment of the community property interest of the nonparticipant spouse.

SEC. 73. Section 26807.6 is added to the Education Code, to read:

26807.6. (a) A participant who retired and elected an annuity pursuant to Section 26807 may elect to change annuities, subject to all of the following:

(1) A participant who elected a single life annuity with or without a cash refund feature or a period certain annuity may not change his or her annuity.

(2) A participant who elected an annuity under paragraph (3) or (4) of subdivision (b) of Section 26807 may elect an annuity under paragraph (3) of subdivision (a) of Section 26807.5.

(3) The election of the participant under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The participant designates the same annuity beneficiary that was designated under the prior annuity elected by the participant, if the annuity and annuity designation were effective on December 31, 2006.

(5) The annuity beneficiary is not afflicted with a known terminal illness and the participant declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, the annuity beneficiary is not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the participant as of the effective date of the change in the annuity by the participant.

(b) The change in the annuity by the participant shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a participant's election document, the system shall mail an acknowledgment notice to the participant that sets forth the new annuity elected by the participant.

(d) If the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, a participant may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the participant on or before June 1, 2007, or prior to the end of the election period, provided that the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a participant to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the

restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(f) If the participant elects to change his or her annuity as described in subdivision (a) or (d), the participant's annuity shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) References to a "participant" in paragraph (1) of subdivision (a) shall apply to the nonmember spouse.

(h) The participant shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

SEC. 74. Section 26811 of the Education Code is amended to read:

26811. The beneficiary under the joint and survivor annuity elected pursuant to paragraph (3) or (4) of subdivision (b) of Section 26807 or paragraphs (2) to (5), inclusive, of subdivision (a) of Section 26807.5 shall be the person designated by the participant on the application for a retirement benefit under this part, and shall not be changed after the original retirement date unless the beneficiary has predeceased the participant.

SEC. 75. Section 26906 of the Education Code is amended to read:

26906. (a) Upon application for a disability benefit under this part, the participant may elect to receive the disability benefit in the form of an annuity provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars (\$3,500).

(b) If the participant elects to receive the disability benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment. This benefit shall be payable for the life of the participant. Upon the death of the participant, no other benefit shall be payable to any beneficiary under this part.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment. This benefit shall be payable for the life of the participant and any balance remaining upon the death of the participant shall be payable in a lump sum to the participant's beneficiary.

(3) A 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would

be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, the monthly amount that was payable to the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living. The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(4) A 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, one-half of the monthly amount that was payable to the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living. The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the sum of balance of the employee account and the employer account on the date the disability benefit becomes

payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(c) Except as described in subdivision (c) of Section 26906.5, on or after January 1, 2007, a participant may not make a new election of an annuity described in subdivision (b).

SEC. 76. Section 26906.5 is added to the Education Code, to read:

26906.5. (a) Upon application for a disability benefit under this part, the participant may elect to receive the disabled benefit in the form of an annuity provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars (\$3,500). If the participant elects to receive the disability benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) Participant only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment. Upon the death of the participant, an amount equal to the remaining balance of the participant's contributions and interest shall be paid in a lump sum to the participant's beneficiary.

(2) One hundred percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, 100 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(3) Seventy-five percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the annuity beneficiary is the participant's spouse or former spouse who has been awarded a community property interest in the participant's benefits under this part, the participant may not designate an annuity beneficiary under this annuity who is more than exactly 19 years younger than the participant. Upon the death of the participant, 75 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(4) Fifty percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, 50 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity that is equal to the actuarial equivalent of the balance of credits in the participant's Cash Balance Benefit account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the participant, the annuity shall be paid to the participant as the participant only annuity described in paragraph (1) of subdivision (a) that would have been payable had the participant elected that form of payment at the commencement of the benefit. That participant only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification is received by the board, provided both the participant and the new designated annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The designation of the new annuity beneficiary under this paragraph is subject to an actuarial modification of the participant only annuity and may not result in any additional liability to the fund.

(c) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) of subdivision (a) does not include the domestic partner of the participant pursuant to Section 7 of Title 1 of the United States Code.

(d) If there is a determination of community property rights as described in Chapter 15 (commencing with Section 27400) of this part on or before December 31, 2006, the participant may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the participant to change the annuity to the detriment of the community property interest of the nonparticipant spouse.

SEC. 77. Section 26906.6 is added to the Education Code, to read:

26906.6. (a) A participant who is disabled and elected an annuity pursuant to Section 26906 may elect to change annuities, subject to all of the following:

(1) A participant who elected a single life annuity with or without a cash refund feature or a period certain annuity may not change his or her annuity.

(2) A participant who elected an annuity under paragraph (3) or (4) of subdivision (b) of Section 26906 may elect an annuity under paragraph (3) of subdivision (a) of Section 26906.5.

(3) The election by the participant under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The participant designates the same annuity beneficiary that was designated under the prior annuity elected by the participant, if the annuity and the annuity beneficiary designation were effective on December 31, 2006.

(5) The annuity beneficiary is not afflicted with a known terminal illness and the participant declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, the annuity beneficiary is not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the participant as of the effective date of the change in the annuity by the participant.

(b) The change in the annuity by the participant shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a participant's election document, the system shall mail an acknowledgment notice to the participant that sets forth the new annuity elected by the participant.

(d) If the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, a participant may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the participant on or before June 1, 2007, or prior to the end of the election period, provided that the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a participant to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after

the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(f) If the participant elects to change his or her annuity as described in subdivision (a) or (d), the participant's annuity shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) The participant shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

SEC. 78. Section 26910 of the Education Code is amended to read:

26910. The beneficiary under the joint and survivor option elected pursuant to paragraph (3) or paragraph (4) of subdivision (b) of Section 26906 or paragraph (2) or (4) of subdivision (a) of Section 26906.5 shall be the person designated by the participant on the application for a disability benefit and shall not be changed after the original disability date unless the beneficiary predeceases the participant.

SEC. 79. Section 27004 of the Education Code is amended to read:

27004. (a) A beneficiary, other than an entity, may elect to receive the final benefit payable under the Cash Balance Benefit Program as an annuity payable in monthly installments provided that the sum of the employee account and the employer account that is payable to the beneficiary equals at least three thousand five hundred dollars (\$3,500).

(b) A beneficiary who elects to receive an annuity pursuant to this section shall elect a period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the sum of the balance of the employee account and the employer account on the date of the participant's death. The annuity shall be payable in whole year increments over a period of years specified by the beneficiary, from a minimum of three years to a maximum of 10 years. However, the annuity period shall not exceed the life expectancy of the beneficiary. The beneficiary may designate a payee to receive the remaining balance of payments if the beneficiary dies prior to the end of the period certain.

SEC. 80. Section 27405 of the Education Code is amended to read:

27405. Upon the legal separation or dissolution of marriage of a participant, the court may include in the judgment or court order a determination of the community property rights of the parties in the participant's annuity consistent with this section. Upon election under subparagraph (B) of paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonparticipant spouse a community property share in the benefits of a participant receiving an annuity shall be consistent with this section.

(a) If the court does not award the entire annuity to the participant and the participant is receiving an annuity under paragraph (1) or (2) of subdivision (b) of Section 26807 or paragraph (1) of subdivision (a) of Section 26807.5, the court shall require only that the system pay from the plan the nonparticipant spouse, by separate warrant, his or her community property share of the participant's annuity, or the option beneficiary's annuity or both.

(b) The nonparticipant spouse may designate a beneficiary to receive his or her community property share of the participant's annuity.

SEC. 81. Section 27408 of the Education Code is amended to read:

27408. (a) Sections 26107, 26700, 26802, 26806, 27000, 27002, paragraphs (1) of subdivision (b) of Section 26807, and paragraphs (1) and (5) of subdivision (a) of Section 26807.5 shall apply to a nonparticipant spouse as if she or he were a participant.

(b) Notwithstanding subdivision (a), this section shall not be construed to establish any right for the nonparticipant spouse that is not explicitly established in Sections 27400 to 27405, inclusive, and Sections 27409 to 27412, inclusive.

SEC. 82. Section 27410 of the Education Code is amended to read:

27410. (a) The nonparticipant spouse who is awarded separate nominal accounts shall have the right to designate, pursuant to Sections 27100 to 27102, inclusive, a beneficiary or beneficiaries to receive the amounts credited to the separate nominal accounts of the nonparticipant spouse on his or her date of death, and any annuity attributable to the separate nominal accounts which is unpaid on the date of the death of the nonparticipant spouse.

(b) This section shall not be construed to provide the nonparticipant spouse with any right to elect a joint and survivor annuity pursuant to paragraphs (3) and (4) of subdivision (b) of Section 26807 or subdivision (a) of Section 26807.5.

SEC. 83. Section 27411 of the Education Code is amended to read:

27411. The nonparticipant spouse who is awarded a separate nominal account under this part shall have the right to an annuity pursuant to paragraph (1) or (5) of subdivision (a) of Section 26807.5.

(a) The nonparticipant spouse shall be eligible for an annuity if the following conditions are satisfied:

(1) The nonparticipant spouse has at least three thousand five hundred dollars (\$3,500) in his or her separate nominal accounts.

(2) The nonparticipant spouse has attained the age of 55 years or more.

(b) An annuity of a nonparticipant spouse shall become effective upon any date designated by the nonparticipant spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonparticipant spouse has filed an application for an annuity on a properly executed form provided by the system, which is executed no earlier than 90 days before the effective date of the annuity.

SEC. 84. Section 44922 of the Education Code is amended to read:

44922. Notwithstanding any other provision, the governing board of a school district or a county superintendent of schools may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties.

The regulations shall include, but shall not be limited to, the following, if the employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22713 of this code or Section 20815 of the Government Code:

(a) The employee shall have reached the age of 55 prior to reduction in workload.

(b) The employee shall have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in a position requiring certification for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service.

(d) The option of part-time employment shall be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(e) (1) The employee shall be paid a salary that is the pro rata share of the salary he or she would be earning had he or she not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he or she makes the payments that would be required if he or she remained in full-time employment.

(2) The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his or her final year of service in a full-time position.

(g) This option is limited in prekindergarten through grade 12 to certificated employees who do not hold positions with salaries above that of a school principal.

(h) The period of this part-time employment shall include a period of time, as specified in the regulations, which shall be up to and include five years for employees subject to Section 20815 of the Government Code or 10 years for employees subject to Section 22713 of this code.

(i) The period of part-time employment of employees subject to Section 20815 of the Government Code shall not extend beyond the end of the school year during which the employee reaches his or her 70th birthday. This subdivision shall not apply to any employee subject to Section 22713 of this code.

SEC. 85. Section 22009.1 of the Government Code is amended to read: 22009.1. "Retirement system" includes:

(a) A pension, annuity, retirement or similar fund or system established by a public agency and covering only positions of that agency.

(b) The Public Employees' Retirement System with respect only to employees of the state and employees of the University of California in positions covered by that system.

(c) The Public Employees' Retirement System with respect to employees of all school districts in positions covered under each contract entered into by a county superintendent of schools and the system.

(d) The State Teachers' Retirement System with respect to all employees in positions subject to coverage under the Defined Benefit Program of the State Teachers' Retirement Plan except employees of a public agency having any employees in positions covered by that system who are also in positions covered by a local retirement system for the retirement of teachers, or for membership in which public school teachers are eligible, operated by a city, city and county, county or other public agency or combination of public agencies of the state.

(e) The Legislators' Retirement System with respect to all employees in positions covered by that system.

(f) The Judges' Retirement System with respect to all employees in positions covered by that system.

(g) The University of California Retirement Plan only with respect to all employees in positions covered by that system.

(h) The San Francisco Employees' Retirement System with respect to all employees in positions covered by that system.

(i) Any other retirement system with respect only to employees of any two or more of the public agencies having employees in positions covered by that system, as designated by the board and with regard to which the board authorizes conduct of a referendum.

(j) Any retirement system with respect only to employees of a hospital that is an integral part of a city incorporated between January 15, 1898, and July 15, 1898, in positions covered by the system, as designated by the board on request of the city.

(k) Except as otherwise provided in subdivisions (b) to (j), inclusive, any retirement system with respect to employees of each of the public agencies having employees in positions covered by the system.

(l) The State Teachers' Retirement System with respect to all employees of each public agency, as defined by Section 22009.03, in positions covered by the State Teachers' Retirement Plan.

(m) Each division or part of a retirement system, as defined in subdivisions (a), (b), (c), (e), (g), (h), (i), (j), (k), and (l) of this section, that is divided pursuant to this chapter into two parts:

(1) The part composed of the positions of members of the system who desire coverage under the federal system.

(2) The part composed of the positions of members of the system who do not desire coverage under the federal system.

SEC. 86. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs

that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 87. Any section of any act enacted by the Legislature during the 2006 calendar year that takes effect on or before January 1, 2007, 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. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2006 calendar year and takes effect on or before January 1, 2007, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.