AMENDED IN ASSEMBLY MARCH 16, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 2260

Introduced by Committee on Public Employees, Retirement and Social Security (Hernandez (Chair), Furutani (Vice Chair), Beall, and Torrico)

February 18, 2010

An act to amend Sections 22126, 22212.5, *22303*, 22380, 22713, 22803, 22901, *22955*, 23801, 23851, 24002, 24005, 24018, 24102, 24105, 24119, 24214.5, *24216*, 24300.1, 24309, 24607, and 27406 ~~of~~ *of, and to add Section 22307.6 to,* the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2260, as amended, Committee on Public Employees, Retirement and Social Security. State teachers' retirement: administration: benefits.

The State Teachers' Retirement Law, which is administered by the Teachers' Retirement Board, prescribes a comprehensive system of rights and benefits for its members, including disability benefits, retirement, death benefits, and absences under the Family Medical Leave Act.

This *bill would authorize the Teachers' Retirement Board, by resolution, to direct the Controller to transfer all or a portion of the assets of the Teachers' Retirement Program Development Fund for expenditure for the programs authorized to receive moneys from that fund, if the board finds that the transfer would facilitate the administration of those programs. This* bill would *also* make clarifying changes to those provisions of law, including changes that would identify employees ~~whom~~ *who are* subject to conflict of interest provisions, provide that a cancellation or change in a retirement option may not be made on the effective date of a member's retirement, clarify that applications for disability retirement are required to be submitted on properly executed forms, and conform those provisions with applicable provisions of federal law.

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

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

SECTION 1. Section 22126 of the Education Code is amended to read:

22126. "Disability" or "disabled" means any medically determinable physical or mental impairment that is permanent or that can be expected to last continuously for at least 12 months, measured from the onset of the disability, but no earlier than the day following the last day ~~ofactual~~ *of actual* performance of service that prevents a member from performing the member's usual duties for the member's employer, the member's usual duties for the member's employer with reasonable modifications, or the duties of a comparable level position for which the member is qualified or can become qualified within a reasonable period of time by education, training, or experience. Any impairment from a willful self-inflicted injury shall not constitute a disability.

SEC. 2. Section 22212.5 of the Education Code is amended to read:

22212.5. (a) Except as otherwise provided in subdivision (d), this section shall apply to the following positions in the system: chief executive officer, system actuary, general counsel, chief investment officer, and other investment officers and portfolio managers whose positions are designated managerial pursuant to Section 18801.1 of the Government Code.

(b) Notwithstanding Sections 19816, 19825, 19826, 19829, and 19832 of the Government Code, the board shall fix the compensation for the positions specified in subdivision (a). In so doing, the board shall be guided by the principles contained in Sections 19826 and 19829 of the Government Code, consistent with its fiduciary responsibility to its members to recruit and retain highly qualified and effective employees for these positions.

(c) When a position specified in subdivision (a) is filled through a general civil service appointment, it shall be filled from an eligible list based on an examination that was held on an open basis, and tenure in those positions shall be subject to the provisions of Article 2 (commencing with Section 19590) of Chapter 7 of Part 2 of Division 5 of Title 2 of the Government Code. In addition to the causes for action specified in that article, the board may take action under the article for causes related to its fiduciary responsibility to its members, including the employee's failure to meet specified performance objectives.

(d) An individual who held a position designated in subdivision (a), or was a member of the ~~board, a~~ *board, a* chief of staff, a deputy chief executive officer, chief financial officer, or was in an equivalent senior management position, shall not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person, except the state, by making any formal or informal appearance before or by making any oral or written communication to the board, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

SEC. 3. 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 *or benefits counselors* 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 *or a benefits counselor* designated by the board pursuant to this subdivision during the office's regular business hours *or any benefits counseling activity* 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 *or benefits counselor*.

SEC. 4. Section 22307.6 is added to the Education Code, to read:

22307.6. The board may, by resolution, direct the Controller to transfer all or a portion of the assets in the Teachers' Retirement Program Development Fund, established pursuant to Section 22307.5, into the designated fund or account that is authorized to expend funds for the same program for which the assets in the Teachers' Retirement Program Development Fund were credited, if the board finds that the transfer of the assets of the Teachers' Retirement Program Development Fund into the designated fund or account would facilitate the efficient administration of the program for which the fund or account was established.

~~SEC. 3.~~

SEC. 5. Section 22380 of the Education Code is amended to read:

22380. (a) The board shall establish a building account for the transfer of money appropriated for that purpose from the retirement fund for the construction or remodeling of buildings and improvements thereon, maintenance, repair, and improvement thereof.

(b) The board may contract with the Department of General Services for the purchase of insurance against loss of, or damage to, the property or the loss of use or occupancy of the building, liability insurance, and other insurance that is customarily carried on state office buildings. Premiums for this insurance shall be paid from the building account.

(c) The land, building, equipment, and improvements thereon, shall constitute an investment of the system and shall be carried on the books thereof in accordance with generally accepted accounting principles.

~~SEC. 4.~~

SEC. 6. Section 22713 of the Education Code is amended to read:

22713. (a) Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and have his or her retirement allowance, as well as other benefits that the member is entitled to under this part, based, in part, on final compensation determined from the compensation earnable the member would have been entitled to if the member had been employed on a full-time basis, and as further specified in Sections 44922, 87483, and 89516.

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

(1) The option to reduce the member's workload shall be exercised at the request of the member and may be revoked only with the mutual consent of the employer and the member. The agreement to reduce a member's workload shall be in effect at the beginning of the school year.

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

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

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

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

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

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

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

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

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

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

(g) A member who retires or otherwise separates from service prior to the end of the school year shall be in violation of this section and the member's service credit for that period of the contract shall be computed in accordance with Section 22701.

(h) A member performing service in accordance with this section may not terminate his or her agreement pursuant to paragraph (1) of subdivision (b) if the employer has a formalized agreement to pick up member contributions pursuant to Section 22903. A member may terminate the agreement only if the employee takes one of the following actions:

(1) Terminates service.

(2) Retires from service under the Defined Benefit Program.

(3) Continues to perform service pursuant to this section under a new arrangement to perform creditable service for at least one-half of the time the employer requires for full-time employment in accordance with Section 22138.5.

(4) Returns to full-time employment.

~~SEC. 5.~~

SEC. 7. Section 22803 of the Education Code is amended to read:

22803. (a) A member, other than a retired member, may request to purchase service credit for any of the following:

(1) Service performed in a teaching position in the University of California or California State University that is not covered by another public retirement system.

(2) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(3) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

(4) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(5) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering the job corps and returned to employment to perform creditable service subject to coverage under the Defined Benefit Program within six months following the date of termination of service in the job corps.

(6) Time served, not to exceed two years, in a teaching position as a member of the Peace Corps if the member was employed to perform creditable service subject to coverage under the Defined

Benefit Program within one year prior to entering the Peace Corps and returned to employment to perform creditable service subject to coverage under the Defined Benefit Program within six months following the date of termination of service in the Peace Corps.

(7) Time spent on a sabbatical leave, approved by an employer in this state after meeting the requirements of Section 44969.

(8) Time spent on an approved leave, approved by an employer in this state, to participate in any program under the federal Mutual Educational and Cultural Exchange Program.

(9) Time spent on leave approved by an employer in this state as maternity or paternity leave, not to exceed 24 consecutive months, regardless of whether or not the leave was taken before or after the addition of this subdivision.

(10) Time spent on an employer-approved leave based on the guidelines for the Family and Medical Leave Act or the California Family Rights Act, or both, up to a total of 12 workweeks in any 12-month period.

(11) Time spent employed by the Board of Governors of the California Community Colleges in a position subject to coverage by the Public Employees' Retirement System between July 1, 1991, and December 31, 1997, provided the member has elected to return to coverage under the State Teachers' Retirement System pursuant to Section 20309 of the Government Code.

(b) In no event shall the member receive credit for service or time described in paragraphs (1) to (11), inclusive, of subdivision (a) if the member has received or is eligible to receive credit for the same service or time in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system.

~~SEC. 6.~~

SEC. 8. Section 22901 of the Education Code is amended to read:

22901. (a) Each member of the Defined Benefit Program shall contribute to the retirement fund an amount equivalent to 8 percent of the member's creditable compensation.

(b) Notwithstanding Section 22905, any member contributions for service performed during the 2010–11 school year with a service period ending after December 31, 2010, shall be credited pursuant to subdivision (a).

SEC. 9. Section 22955 of the Education Code is amended to read:

22955. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 2003, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.017 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5, and shall be divided into four equal payments. The payments shall be made on, or the following business day after, July 1, October 1, December 15, and April 15 of each fiscal year.

(b) Notwithstanding Section 13340 of the Government Code, commencing October 1, 2003, a continuous appropriation, in addition to the appropriation made by subdivision (a), is hereby annually made from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 0.524 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5, and shall be ~~divided into four equal quarterly payments~~ *made on, or the following business day after, July 1, October 1, December 15, and April 15 of each fiscal year*. The percentage shall be adjusted to reflect the contribution required to fund the normal cost deficit or the unfunded obligation as determined by the board based upon a recommendation from its actuary. If a rate increase is required, the adjustment may be for no more than 0.25 percent per year and in no case may the transfer made pursuant to this subdivision exceed 1.505 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based. At any time when there is neither an unfunded obligation nor a normal cost deficit, the percentage shall be reduced to zero.

The funds transferred pursuant to this subdivision shall first be applied to eliminating on or before June 30, 2027, the unfunded actuarial liability of the fund identified in the actuarial valuation as of June 30, 1997.

(c) For the purposes of this section, the term "normal cost deficit" means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22311 and the total of the member contribution rate required under Section 22901 and the employer contribution rate required under Section 22950, and shall exclude (1) the portion for unused sick leave service credit granted pursuant to Section 22717, and (2) the cost of benefit increases that occur after July 1, 1990. The contribution rates prescribed in Section 22901 and Section 22950 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the creditable compensation upon which member contributions under this part are based to determine the dollar amount of the normal cost deficit for the year.

(d) Pursuant to Section 22001 and case law, members are entitled to a financially sound retirement system. It is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.

(e) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in California Teachers' Association v. Cory, 155 Cal.App.3d 494.

(f) Subdivision (b) shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or change in contribution rate under this part that occurs after July 1, 1990.

(g) The provisions of this section shall be construed and implemented to be in conformity with the judicial intent expressed by the court in California Teachers' Association v. Cory, 155 Cal.App.3d 494.

(h) This section shall become operative on July 1, 2003, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2004.

~~SEC. 7.~~

SEC. 10. Section 23801 of the Education Code is amended to read:

23801. (a) A death payment of no less than five thousand dollars ($5,000) shall be paid to the beneficiary upon receipt of proof of death of a member who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While ~~increditable~~ *in* employment for which *creditable* compensation is paid.

(2) While disabled, if the disability had been continuous from the last day for ~~whichcreditable~~ *which creditable* compensation had been paid.

(3) Within four months after termination ~~ofcreditable~~ *of creditable* service or termination of employment, whichever occurs first.

(4) Within four months after termination of a disability allowance if no service was performed after the termination.

(5) Within 12 months of the last day for ~~whichcreditable~~ *which creditable* compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 24208.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt any adjusted amount as a plan amendment.

(d) A beneficiary may waive his or her right to the death payment in accordance with the requirements established by the system.

~~SEC. 8.~~

SEC. 11. Section 23851 of the Education Code is amended to read:

23851. (a) A death payment of not less than twenty thousand dollars ($20,000) shall be paid to the beneficiary, as designated pursuant to Section 23300, upon receipt of proof of death of a member, who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which creditable compensation is paid.

(2) Within four months after termination of creditable service or termination of employment, whichever occurs first.

(3) Within 12 months of the last day for which creditable compensation was paid, if the member was on an approved leave of absence without creditable compensation for reasons other than disability or military service.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of termination of the service retirement allowance pursuant to Section 24208 or during the six calendar months commencing with the effective date of termination of the disability retirement allowance pursuant to Section 24117.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt as a plan amendment with respect to the Defined Benefit Program any adjusted amount.

(d) A designated beneficiary may waive the right to the death payment in accordance with the requirements established by the system.

~~SEC. 9.~~

SEC. 12. Section 24002 of the Education Code is amended to read:

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

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

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

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

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

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

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

~~SEC. 10.~~

SEC. 13. Section 24005 of the Education Code is amended to read:

24005. (a) A disability allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for disability allowance is filed on a properly executed form prescribed by the system.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received by the system's headquarters office, as established pursuant to Section 22375, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability allowance is approved under this part, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of approval of the disability allowance, the member's application for a disability allowance shall be rejected and a disability allowance shall not be payable to the member.

~~SEC. 11.~~

SEC. 14. Section 24018 of the Education Code is amended to read:

24018. When a disabled member returns to work in his or her former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, that can be medically substantiated, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability allowance under this part shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day ~~ofcreditable~~ *of creditable* service for which compensation is payable to the member provided the member complies with the provisions of Section 24003.

~~SEC. 12.~~

SEC. 15. Section 24102 of the Education Code is amended to read:

24102. The board may authorize payment of a disability retirement allowance under this part to any member who is qualified upon application by the member, the member's guardian or conservator, or the member's employer, if the application is submitted on a properly executed form prescribed by the system during any one of the following periods:

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

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

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

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

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

~~SEC. 13.~~

SEC. 16. Section 24105 of the Education Code is amended to read:

24105. (a) A disability retirement allowance under this part shall become effective upon any date designated by the member, provided that all of the following conditions are met:

(1) An application for disability retirement is filed on ~~aproperly~~ *a properly* executed form prescribed by the system.

(2) The effective date is later than the last day ~~ofcreditable~~ *of creditable* service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received at the system's headquarters office, as established pursuant to Section 22375, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If a member's application for disability retirement under this part does not contain an election of either an unmodified allowance or an allowance modified under an option and if the member subsequently submits an election, but not within the 30-day period established pursuant to Section 24301, the board shall set a benefit effective date which is no earlier than the first day of the month in which the subsequent election is received by the system. If the member fails to submit an election pursuant to Section 24301 and within six months of the date the acknowledgment notice is mailed pursuant to Section 24301, the member's application for disability retirement under this part shall be rejected.

(c) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability retirement is approved, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of the approval of disability retirement, the member's application for disability retirement shall be rejected and a disability retirement allowance shall not be payable to the member.

~~SEC. 14.~~

SEC. 17. Section 24119 of the Education Code is amended to read:

24119. When a member retired for disability under this part returns to work in the member's former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, which can be medically substantiated, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability retirement allowance shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day ~~ofcreditable~~ *of creditable* service for which compensation is payable to the member, provided the member complies with Section 24103.

~~SEC. 15.~~

SEC. 18. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) Notwithstanding Section 24214, as of July 1, 2010, the postretirement compensation limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 either as an employee of an employer, an employee of a third party, or as an independent contractor, within the California public school system, shall be zero dollars ($0) during the first six calendar months after a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned.

(b) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (a), 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.

SEC. 19. Section 24216 of the Education Code is amended to read:

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent pursuant to Section 41320.1, or who is appointed as a trustee pursuant to the ~~Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28) or the High Priority Schools Grant Program (Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28)~~ *Local Educational Agency Intervention (Article 3.1 (commencing with Section 52055.57) of Chapter 6.1 of Part 28 of Title 2)*, or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of 24 consecutive months.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned to the position and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system providing that the Superintendent or the county superintendent of schools submits documentation required by the system to substantiate the eligibility of the member retired for

service for an exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) (1) A member retired for service under this part who is employed by an employer to perform creditable service in an emergency situation to fill a vacant administrative position requiring highly specialized skills shall be exempt from the provisions of subdivisions (d) and (f) of Section 24214 for creditable service performed up to one-half of the full-time position, if the vacancy occurred due to circumstances beyond the control of the employer.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned to the position and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system subject to the following conditions:

(A) The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.

(B) The employment is reported in a public meeting of the governing body of the employer.

(C) The employer submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(4) An exemption under this subdivision shall not be granted to a member retired for service whose termination of employment with the employer is the basis for the vacant administrative position.

(c) This section does not apply to any person who has received additional service credit pursuant to Section 22715 or 22716.

(d) A person who has received additional service credit pursuant to Section 22714 or 22714.5 shall be ineligible for one year from the effective date of retirement for the exemption provided in this section for service performed in any school district, community college district, or county office of education in the state.

(e) This section shall remain in effect only until June 30, 2012, and shall be repealed on January 1, 2013, unless a later enacted statute deletes or extends that date.

~~SEC. 16.~~

SEC. 20. Section 24300.1 of the Education Code is amended 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 beneficiary 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) For purposes of this section, the member shall designate an option beneficiary on a properly executed 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 of an option may not be made in derogation of a spouse's or a former spouse's community property rights as specified in a court order.

(d) 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.

(e) 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.

(f) 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.

(g) 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. 17.~~

SEC. 21. Section 24309 of the Education Code is amended to read:

24309. (a) A member may change or cancel the election of an option made pursuant to Section 24307. The change or cancellation shall be on a properly executed form provided by the system and received at the system's headquarters office, as established pursuant to Section 22375, within 30 days of the date of the member's signature and, if applicable, the spouse's signature, and before 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. The change or cancellation shall become effective as of the date of the member's signature.

(1) Any change to an election of an option shall be made according to Section 24307 and shall be considered a new preretirement election of an option.

(2) Regardless of how the member elects to receive his or her retirement allowance, a change made to an election of an option or a cancellation of an option shall result in the reduction of that allowance 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. Any change or cancellation of the designation of the option beneficiary under this subdivision shall result in the allowance reduction prescribed in this section.

~~SEC. 18.~~

SEC. 22. Section 24607 of the Education Code is amended to read:

24607. ~~Anypayment~~ *Any payment* issued by the system under this part, for the month in which a retired member or disabled member ~~dies,or~~ *dies, or* any subsequent month shall be revoked by the system.

~~SEC. 19.~~

SEC. 23. Section 27406 of the Education Code is amended to read:

27406. The nonparticipant spouse who is awarded separate nominal accounts with respect to the Cash Balance Benefit Program shall have the right to a lump-sum distribution of amounts credited to the account.

(a) The nonparticipant spouse shall file an application on a form provided by the system to obtain the distribution.

(b) The distribution is effective when the system deposits in the United States mail a warrant drawn in favor of the nonparticipant spouse and addressed to the latest address for the nonparticipant spouse on file with the system.

(c) If the nonparticipant spouse has elected on a form provided by the system to transfer all or a specified portion of the accounts that are eligible for direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of a qualified plan under Section 402 of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes a distribution of the nonparticipant spouse's credit balance from the separate nominal accounts. This subdivision shall not apply to a nonparticipant partner consistent with Section 402 of the Internal Revenue Code.

(d) The nonparticipant spouse is deemed to have permanently waived all rights to an annuity when the distribution becomes effective.

(e) The nonparticipant spouse may not cancel a distribution after the distribution is effective.

(f) The nonparticipant spouse shall have no right to elect to redeposit the distribution after the distribution is effective.

SEC. 24. Any section of any other act enacted by the Legislature during the 2010 calendar year that takes effect on or before January 1, 2011, that also 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 or not 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 made by this act shall not become operative if any section of any other act that is also enacted by the Legislature during the 2010 calendar year and takes effect on or before January 1, 2011, also amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CORRECTIONS:

Text—Page 23.

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