

Assembly Bill No. 2663

CHAPTER 864

An act to amend Sections 22119.2, 22220, 22324, 22352, 22455, 22461, 22717, 22718, 23007, 23854, 24109, 24214, 24214.5, 24604, 25018, 25114, and 26812 of, and to repeal Sections 22218.5 and 24400 of, the Education Code, and to amend Section 6217.5 of the Public Resources Code, relating to teachers' retirement.

[Approved by Governor September 30, 2012. Filed with
Secretary of State September 30, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2663, Committee on Public Employees, Retirement and Social Security. Teachers' Retirement Law.

(1) The Teachers' Retirement Law, which is administered by the Teachers' Retirement Board, prescribes a comprehensive system of rights and benefits for members of the State Teachers' Retirement System (STRS). That law establishes the Defined Benefit Program, which provides service and disability retirement benefits to members, subject to members and employers making specified contributions to the Teachers' Retirement Fund for that purpose, and also establishes the Defined Benefit Supplement Program to provide supplemental benefits for members of the Defined Benefit Plan.

Under that law, any salary or other remuneration determined by the board to have been paid for the principle purpose of enhancing a member's benefits under the plan is not credited under the Defined Benefit Program, but contributions on that compensation are credited to the Defined Benefit Supplement Program.

This bill would expand the application of that provision, by replacing the term "salary or other remuneration" with "creditable compensation," as defined.

(2) Existing law requires the Teachers' Retirement Board to file an annual report with the Governor and the Legislature by March 1 of each year, accompanied by specified information on the assets of the plan, including a certification letter from the system's consulting actuary concerning the findings of the most recent actuarial valuation, along with summaries of the actuarial cost method, assumptions, and demographic data. Existing law also requires the board to annually report other investment information, including the cost of investment contracts used, to the Governor, the Legislature, the Department of Finance, and the Joint Legislative Budget Committee.

This bill would revise, recast, and consolidate these reporting requirements. Among other changes, the bill would require that the

certification letter from the system's consulting actuary concerning the most recent actuarial valuation, provided along with the annual report, be accompanied by analysis of funding progress and include actual payroll subject to the system. The bill would require the board, as part of the annual report to the Governor and the Legislature, to also provide a report on the nature and cost of investment contract services used and a report for the prior fiscal year on the percentage of purchasing power protection and any changes adopted by the board, the extent to which inflation has eroded purchasing power of benefits, and other related information. The bill would delete a requirement that the board report to the fiscal committees of the Legislature and to the Director of Finance on the return on investments and actual payroll for the prior fiscal year and would also delete a requirement that the board report to the Governor, the Legislature, and the Joint Legislative Budget Committee on the nature, duration, and cost of investment contract services used. The bill would additionally delete a provision requiring the board report to the Governor and the Legislature no later than June 1 of each year on the extent to which inflation has eroded the purchasing power of benefits provided under the Defined Benefit Program.

(3) Existing law allows the Teachers' Retirement Board to perform any acts necessary for the administration of the STRS. Existing law also requires each member or beneficiary of the system to furnish to the board any information affecting his or her status as a member or beneficiary of the Defined Benefit Program as the board requires. Existing law also requires the county superintendent and other employing agencies to furnish any further information concerning any member or beneficiary the board may require.

This bill would further require that any information or report required to be submitted to the system by an employer pursuant to specified provisions of law be submitted in a form, including, but not limited to, electronic transmission, as directed by the system.

(4) Under the Teachers' Retirement Law, upon retaining the services of a retired member, the school district, community college district, county superintendent of schools, California State University, or other employing agency is required to advise the retired member of certain limits on earnings and to maintain accurate records of the retired member's earnings.

This bill would require those employing agencies to also advise a retired member who is receiving a disability retirement or who is subject to postretirement employment within the California public school system, pursuant to specified provisions, of these earning limits, and to maintain accurate earnings' records.

(5) The Teachers' Retirement Law grants a member credit, at service retirement, for each day of accumulated and unused leave of absence for illness or injury for which full salary is allowed to which the member was entitled on the member's final day of employment with the employer subject to coverage by the Defined Benefit Program.

This bill would instead grant a member credit, at service retirement, for each day of accumulated sick leave days for which full salary is allowed to

which the member was entitled on the member's final day of employment with the employer or employers subject to coverage by the Defined Benefit Program during the last school year in which he or she performed creditable service. The bill would require STRS to accept certification from each employer for that period with which the member has accumulated unused sick leave, if this leave has not been transferred to another employer.

(6) Under existing law, the Teachers' Retirement Board is required to bill school employers for service credit granted for unused excess sick leave. These provisions require that excess sick leave days granted by an employer other than the member's last employer be deemed to be granted by the last employer and be included in the certification if the member was eligible to use those excess sick leave days while he or she was employed by the last employer.

This bill would additionally specify that if, during the last year a member is employed to perform creditable service subject to coverage by the Defined Benefit Program that member is employed by more than one employer, unused excess sick leave days shall be certified and paid for by the employer for the period in which the member was eligible to use those excess sick leave days.

(7) Existing law requires the Controller, in cases in which a county superintendent has failed to make payment of assessments by the Teachers' Retirement Board, upon order of the board, to withhold subsequent payments from the State School Fund to the county, or to take other related actions until the contributions are received.

This bill would apply this requirement to district superintendents, chancellors of a community college district, or other employing agencies that report directly to the retirement system.

(8) Under the Teachers' Retirement Law, a survivor benefit allowance is payable upon the death of a member of the Defined Benefit Program who has one or more years of credited service, upon meeting certain conditions. These conditions include that the member's death occurs during specified periods, including, among others, that death occurs within 4 months after termination of a disability allowance.

This bill would delete that condition.

(9) Existing law authorizes a retired member of STRS to perform specified activities as an employee in the system, an employee of a 3rd party, or as an independent contractor within the California public school system, but prohibits the member from making contributions to the retirement fund or accruing service credit based on compensation earned from that service. Existing law conditions this authorization on a variety of factors, including that a member not be required to reinstate for performing specified work, and allows a member to earn limited compensation as "creditable service" for those activities without a reduction in his or her retirement allowance.

Existing law establishes the Cash Balance Benefit Program, administered by the State Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan.

This bill would expand the authorization to perform postretirement work to include additional employment activities that within the definition of “creditable service” under the Cash Balance Benefit Program.

(10) Existing law requires STRS to reduce the retirement allowance of a retired member who performs postretirement service that exceeds specified limitations for that work by the amount of the excess compensation. Existing law specifies that 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 the retirement system for the fiscal year in which the excess compensation was earned.

This bill would further specify that this reduction may not exceed the remaining amount of the annual allowance payable for the fiscal year in which the excess compensation was earned after any reduction is made, as specified.

(11) Existing law requires STRS to make an electronic copy of benefit payment information available to any member, nonmember spouse, or beneficiary who receives a monthly benefit payment, and requires STRS to send a copy of this information to those individuals when there is an adjustment in the allowance or change in the amount deducted from the allowance.

This bill would require that information to be provided when there is an adjustment in the allowance due to an annual benefit enhancement, as specified, or a change in the amount deducted from the allowance due to an adjustment to an income tax withholding tax table made by the Internal Revenue Service or the Franchise Tax Board, except as specified.

(12) Under the Teachers’ Retirement Law, if a participant who is retired for service and is receiving an annuity under the Cash Balance Benefit Program is below the normal retirement age and earns compensation for performing certain employment activities, the participant’s annuity is required to be reduced by the amount of the compensation. That law prohibits the reduction from exceeding the annual annuity payable for the fiscal year in which the compensation was earned.

This bill would instead prohibit the reduction from exceeding the amount of the annuity payable during the first 180 calendar days after a participant is retired for service, if the participant is below the normal retirement age at the time the compensation is earned.

(13) Existing law requires all net revenues, moneys, and remittances from the use of school lands and lieu lands to be deposited in the State Treasury to the credit of the Teachers’ Retirement Fund and to be expended, as specified.

This bill would correct an erroneous cross-reference in that provision.

(14) The bill would also provide that if any other provision of any act that is enacted by the Legislature during the 2012 calendar year amends, amends and renumbers, adds, repeals and adds, or repeals a section contained in this act, that provision would prevail over this act, regardless of when that other act is chaptered.

(15) The bill would also make certain technical, nonsubstantive changes to the provisions above.

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

SECTION 1. Section 22119.2 of the Education Code is amended to read: 22119.2. (a) “Creditable compensation” means remuneration that is payable in cash by an employer to all persons in the same class of employees and is paid to an employee for performing creditable service. Creditable compensation shall include:

(1) Salary paid in accordance with a salary schedule or employment agreement.

(2) Remuneration that is paid in addition to salary, provided it is payable to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(3) Remuneration that is paid for the use of sick leave, vacation, and other employer-approved leave, except as provided in paragraph (4) of subdivision (c).

(4) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(5) Amounts that are deducted from a member’s compensation, including, but not limited to, salary deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

(6) Any other payments the board determines to be “creditable compensation.”

(b) Any creditable compensation determined by the board to have been paid for the principal purpose of enhancing a member’s benefits under the plan shall not be credited under the Defined Benefit Program. Contributions on that compensation shall be credited to the Defined Benefit Supplement Program. A presumption by the board that creditable compensation was paid for the principal purpose of enhancing the member’s benefits under the plan may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the board that creditable compensation was paid for the principal purpose of enhancing the member’s benefits under the plan may be reversed.

(c) “Creditable compensation” does not mean and shall not include:

(1) Remuneration that is not payable in cash or is not payable to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5.

(3) Remuneration that is paid in addition to salary if it is not payable to all persons in the same class of employees in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed pursuant to paragraph (2) of subdivision (a).

(4) Remuneration that is paid for unused accumulated leave.

(5) Annuity contracts, tax-deferred retirement plans, or insurance programs and contributions to plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code when the cost is covered by an employer and is not deducted from the member's salary.

(6) Fringe benefits provided by an employer.

(7) Job-related expenses paid or reimbursed by an employer.

(8) Severance pay or compensatory damages or money paid to a member in excess of salary as a compromise settlement.

(9) Any other payments the board determines not to be "creditable compensation."

(d) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a) or (c) may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(e) For purposes of this section, remuneration shall be considered payable if it would be paid to any person who meets the qualifications or requirements specified in a collective bargaining agreement or an employment agreement as a condition of receiving the remuneration.

(f) This definition of "creditable compensation" reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member's career, consistent treatment of compensation among an entire class of employees, preventing adverse selection, and excluding from compensation earnable remuneration that is paid for the principal purpose of enhancing a member's benefits under the plan. The board shall determine the appropriate crediting of contributions between the Defined Benefit Program and the Defined Benefit Supplement Program according to these principles, to the extent not otherwise specified pursuant to this part.

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

SEC. 2. Section 22218.5 of the Education Code is repealed.

SEC. 3. Section 22220 of the Education Code is amended to read:

22220. In addition to the authority granted pursuant to Section 11181 of the Government Code, the board may subpoena witnesses and compel their attendance to testify before it.

SEC. 4. Section 22324 of the Education Code is amended to read:

22324. The board shall file an annual report with the Governor and the Legislature by March 1 of each year on all phases of its work that could affect the need for public contributions for costs of administration of the

system, including the subjects of benefits, programs, practices, procedures, comments on trends and developments in the field of retirement, and the following information on the assets of the plan:

- (a) A copy of the annual audit performed pursuant to Section 22217.
- (b) A certification letter from the system's consulting actuary concerning the findings of the most recent actuarial valuation, accompanied by analysis of funding progress and summaries of the actuarial cost method, assumptions, and demographic data, including actual payroll subject to the system.
- (c) A review of the system's asset mix strategy, a market review or the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.
- (d) A description of the investments of the system at cost and market value, and a summary of major changes that occurred since the previous year.
- (e) The annual return on investments and the following information regarding the rate of return of the system by asset type:
 - (1) Time-weighted market value rate of return on a five-year, three-year, and one-year basis.
 - (2) Time-weighted book value rate of return on a five-year, three-year, and one-year basis.
 - (3) Portfolio return comparisons that compare investment returns with universes and indexes.
- (f) A report on the use of outside investment advisers and managers.
- (g) A report on the nature and cost of investment contract services used, including either the start date of an existing contract or, if there are multiple existing contracts with the same contractor or vendor, the earliest start date.
- (h) A report on shareholder voting.
- (i) A report for the prior fiscal year on the following information:
 - (1) The percentage of purchasing power protection and any changes adopted by the board.
 - (2) The extent to which inflation has eroded the purchasing power of benefits provided under the Defined Benefit Program.
 - (3) The amount of supplementary increases in retirement allowances required to preserve the purchasing power of benefits provided by the Defined Benefit Program.

SEC. 5. Section 22352 of the Education Code is amended to read:

22352. Upon a finding by the board that necessary investment expertise is not available within existing civil service classifications, and with the approval of the State Personnel Board, the board may contract with qualified investment managers having demonstrated expertise in the management of large and diverse investment portfolios to render service in connection with the investment program of the board.

SEC. 6. Section 22455 of the Education Code is amended to read:

22455. (a) The county superintendent and other employing agencies shall furnish any further information concerning any member or beneficiary the board may require.

(b) Any information or reports required to be submitted to the system by an employer pursuant to this part or Part 14 (commencing with Section 26000) shall be submitted in a form, including, but not limited to, electronic transmission, as directed by the system.

SEC. 7. Section 22461 of the Education Code is amended to read:

22461. (a) Upon retaining the services of a retired member under Section 24114, 24116, 24214, 24214.5, or 24215, the school district, community college district, county superintendent of schools, California State University, or other employing agency shall do both of the following regardless of whether the retired member performs the services as an employee of the employer, an employee of a third party, or an independent contractor:

(1) Advise the retired member of the earnings limitation set forth in Sections 24114, 24116, 24214, 24214.5, and 24215.

(2) Maintain accurate records of the retired member's earnings and report those earnings monthly to the system and the retired member regardless of the method of payment or the fund from which the payments were made.

(b) This section shall not be construed to make any school district, community college district, county superintendent of schools, the California State University, or other employing agency liable for any amount paid to the retired member in excess of the earnings limitation under any circumstance, including the failure to inform the retired member that continuation of service would exceed the limitations.

SEC. 8. Section 22717 of the Education Code is amended to read:

22717. (a) A member shall be granted credit at service retirement for each day of accumulated and unused sick leave days for which full salary is allowed to which the member was entitled on the member's final day of employment with the employer or employers subject to coverage by the Defined Benefit Program during the last school year in which he or she performed creditable service. The system shall accept certification from each employer with which the member has accumulated sick leave days for that period, provided this leave has not been transferred to another employer.

(b) The amount of service credit to be granted shall be determined by dividing the number of days of accumulated and unused sick leave days by the number of days of service the employer requires the member's class of employees to perform in a school year during the member's final year of creditable service subject to coverage by the Defined Benefit Program, which shall not be less than the minimum standard specified in Section 22138.5. The number of days shall not include school and legal holidays. In no event shall the divisor be less than 175. For members employed less than full time, the standards identified in Section 22138.5 shall be considered as the minimum full-time equivalent. For those standards identified in Section 22138.5 that are applicable to teachers or instructors and that are expressed only in terms of hours or instructional hours, the number of hours or instructional hours shall be divided by six to determine the number of days.

(c) When the member has made application for service retirement under this part, the employer shall certify to the board, within 30 days following

the effective date of the member's service retirement, the number of days of accumulated and unused sick leave days that the member was entitled to on the final day of employment. The board may assess a penalty on delinquent reports.

(d) This section shall be applicable to any person who retires on or after January 1, 1999.

SEC. 9. Section 22718 of the Education Code is amended to read:

22718. (a) The Teachers' Retirement Board shall bill school employers for service credit granted for unused excess sick leave under this part, subject to the following provisions:

(1) (A) In addition to the certification of sick leave days, the employer shall also certify the number of unused excess sick leave days.

(B) Excess sick leave days granted by an employer other than the member's last employer shall be deemed to be granted by the last employer and shall be included in the certification if the member was eligible to use those excess sick leave days while he or she was employed by the last employer. If, during the last year a member is employed to perform creditable service subject to coverage by the Defined Benefit Program, that member is employed by more than one employer, unused excess sick leave days shall be certified and paid for by the employer for the period in which the member was eligible to use those excess sick leave days.

(2) The billing shall be authorized only if the employer grants more than one day of sick leave per pay period of at least four weeks to members of the Defined Benefit Program.

(3) The employer shall be billed only for the present value of the unused excess sick leave days and any subsequent adjustments to the billing shall be billed or refunded, as appropriate, to the employer.

(4) (A) The employer shall remit the amount billed to the system with the certification required by Section 22717 within 30 days after the effective date of the member's retirement or within 30 days after the date the system has notified the employer that a certification must be made, whichever is later.

(B) If payment is not received within 30 days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(C) If the system has billed the employer for an additional amount, the employer shall remit the additional amount within 30 days after the date of the billing. If payment is not received for the additional amount within 30 days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(b) If a school employer fails to pay a bill charged according to subdivision (a), the Teachers' Retirement Board may request the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, to reduce state apportionments to the school employer by an amount equal to the amount billed. The Superintendent or chancellor shall make the reduction, and if requested by the board, direct the Controller to reduce the amount transferred from the

General Fund to Section A or Section B, as appropriate, of the State School Fund by an equal amount, which shall instead be transferred to the Teachers' Retirement Fund.

SEC. 10. Section 23007 of the Education Code is amended to read:

23007. If any county superintendent, district superintendent, chancellor of a community college district, or other employing agency that reports directly to the system fails to make payment of any assessment by the board, the Controller shall, upon order of the board, withhold subsequent payments from the State School Fund to the county for deposit in the county school service fund or, upon the request of a county superintendent of schools to the county auditor, he or she shall withhold payments to a school district for deposit in the district general fund until the contributions and report are received in acceptable form in the office of the system and the board directs the Controller to make those payments, less the amount of the assessments to the county that would have been paid had no payments been withheld. The Controller shall then pay to the system the amount of the assessments withheld for deposit in the State Treasury to the Teachers' Retirement Fund.

SEC. 11. Section 23854 of the Education Code is amended to read:

23854. (a) A survivor benefit allowance is payable upon receipt of proof of death of a member, as defined in Section 23850, who had one or more years of credited service, including deemed service under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851, at least one of which had been earned subsequent to the most recent refund of accumulated retirement contributions.

(b) For the survivor benefit allowance to be payable upon the death of a member, all of the following conditions shall be met at the time of death:

- (1) Death occurred after October 15, 1992.
- (2) A preretirement election of an option is not in effect.
- (3) Death occurs during any one of the following periods:
 - (A) While in employment for which compensation is paid.
 - (B) Within four months after termination of service or termination of employment, whichever occurs first.
 - (C) Within four months after reinstatement from disability retirement.
 - (D) Within 12 months following the last day for which compensation was paid if the member was on an approved leave of absence without compensation for reasons other than disability.
 - (E) While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.
- (4) At least one-half year of credited service had been performed subsequent to the end of the last break in service, if a break in service of more than one year had occurred.
- (5) At least one year of credited service had been performed subsequent to the last reinstatement date, if reinstated from service retirement.

(c) The survivor benefit allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(d) The survivor benefit allowance may be terminated, if all eligible beneficiaries formally waive their rights in accordance with the requirements established by the system.

SEC. 12. Section 24109 of the Education Code is amended to read:

24109. Retirement allowances payable pursuant to subdivision (a) of Section 24106 shall be reduced by an amount equal to the unmodified benefits paid or payable under a workers' compensation program for the same impairment or impairments that qualify the member for a disability retirement allowance under this part. For purposes of this section, unmodified benefits are limited to benefits for temporary disability, permanent disability, and for vocational rehabilitation paid or payable under the Workers' Compensation Act.

SEC. 13. Section 24214 of the Education Code, as amended by Section 26 of Chapter 703 of the Statutes of 2011, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, 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 shall 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 within the California public school system shall 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 shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, 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 subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, 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 subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, 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 subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, 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 remaining amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

(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 July 1, 2012.

SEC. 14. 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, or subdivision (a) or (b) of Section 26113, 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 the most recent retirement of 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, or subdivision (a) or (b) of Section 26113, 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 allowance payable 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.

SEC. 15. Section 24400 of the Education Code is repealed.

SEC. 16. Section 24604 of the Education Code is amended to read:

24604. (a) A member, nonmember spouse, or beneficiary under this part shall specify whether monthly benefit payments are to be disbursed by: (1) direct deposit (electronic funds transfer); (2) direct mail to a financial or other institution; or (3) mailing to a payment address provided by the member, nonmember spouse, or beneficiary.

(b) A member, nonmember spouse, or beneficiary under this part to whom a lump-sum payment or benefit is to be disbursed, and who is receiving payment for an ongoing benefit by electronic funds transfer, may have the lump-sum payment disbursed by electronic funds transfer to the financial institution on file for payment of the ongoing benefit.

(c) A member, nonmember spouse, or beneficiary under this part who is not receiving payment for an ongoing benefit by electronic funds transfer and to whom a lump-sum payment or benefit is to be disbursed shall specify the address to which the payment shall be mailed.

(d) (1) The system shall make available an electronic copy of the benefit payment information to any member, nonmember spouse, or beneficiary under this part who receives a monthly benefit payment.

(2) The board shall notify the member, nonmember spouse, or beneficiary that he or she has the right to request that a copy of the benefit payment information be mailed. The board shall send a copy of the benefit payment information if the system has received a written request from that person.

(3) The system shall send a copy of the benefit payment information to any member, nonmember spouse, or beneficiary under this part when there is an adjustment in the allowance due to an annual benefit enhancement, pursuant to Sections 22140 and 24402, or a change in any amount deducted from the allowance due to an adjustment to an income tax withholding tax table made by the Internal Revenue Service or the Franchise Tax Board, unless the person has notified the system that he or she does not want to receive a copy of the benefit payment information.

(e) A payment disbursed as specified by the member, nonmember spouse, or beneficiary under this part shall fully discharge the board, system, and plan from any claim resulting from actions taken under this section.

SEC. 17. 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 (d) 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. 18. Section 25114 of the Education Code is amended to read:

25114. Except as provided in this section, an employee shall select from registered 403(b) products.

(a) An employee of a local school district, community college district, or county office of education may continue to make contributions to unregistered products purchased or entered into prior to November 30, 2004.

(b) A state employee of a state employer under the uniform state payroll system, excluding the California State University System, eligible to participate in an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986, may continue to make contributions to unregistered products purchased or entered into prior to January 1, 2009.

SEC. 19. Section 26812 of the Education Code is amended to read:

26812. (a) A participant retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 26113 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 participant shall not make contributions to the plan. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member.

(b) If a participant 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 shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A participant retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 26113 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) If a participant retired for service under this part and receiving an annuity under the Cash Balance Benefit Program is below normal retirement age and earns compensation for performing activities identified in subdivision (a) or (b) of Section 26113 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 participant's annuity shall be reduced by the amount of the compensation. This reduction shall only be made for compensation earned during the first 180 calendar days after a participant retired for service under this part, if the participant is below normal retirement age at the time the compensation is earned. The amount of the reduction may be equal to the monthly annuity payable but shall not exceed the amount of the annuity payable during the first 180 calendar days after a participant retired for service under this part, if the participant is below normal retirement age at the time the compensation is earned.

SEC. 20. Section 6217.5 of the Public Resources Code is amended to read:

6217.5. Except for the revenues distributed pursuant to Section 3826, all net revenues, moneys, and remittances from the use of school lands and lieu lands shall be deposited in the State Treasury to the credit of the Teachers' Retirement Fund and shall be expended pursuant to Section 24412 of the Education Code.

SEC. 21. Any section of any other act enacted by the Legislature during the 2012 calendar year that takes effect on or before January 1, 2013, 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 2012 calendar year and takes effect on or before January 1, 2013, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.