

AMENDED IN ASSEMBLY MAY 26, 2011

AMENDED IN SENATE APRIL 27, 2011

SENATE BILL

No. 349

Introduced by Senator Negrete McLeod

February 15, 2011

An act to amend Sections 22303, 22404, 22851, 22905, 22950, 23006, 23100, 23101, 23103, 23104, 23801, 23802, 23851, 23852, 23854, 24001, 24002, 24003, 24102, 24103, 24201.5, 24204, 24205, 24214, 24214.5, 24300.1, 24309, 24600, 25012, 25940 26301, 26302, and 26303 of, to add Sections 22161.3, 22853.5, 26812, and 26813 to, and to repeal Section 26505 of, the Education Code, relating to teachers' retirement, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 349, as amended, Negrete McLeod. State Teachers' Retirement Plan.

(1) Existing law permits the Teachers' Retirement Board, which administers the State Teachers' Retirement System (STRS) and the State Teachers' Retirement Plan, to establish an amount, not to exceed \$10, below which the system may dispense with the processing of benefit payments or the collection of benefit overpayments.

This bill would extend this authority to other payments and overpayments provided under the plan in addition to those related to benefits.

(2) Existing law permits STRS to contract with employers in the system to provide retirement counseling and provides that documents received in this connection by an official contracted office or by a ~~benefits-counselor~~ *counselor*, as specified, are deemed to have been received by the STRS headquarters.

This bill would revise these provisions to clarify that employees of the system may provide these retirement counseling services and *would* make conforming changes.

(3) Existing law grants a member of STRS who returns to employment after performing uniformed services, as defined, certain rights and benefits, including treatment as if there ~~was~~ *were* no break in the member's service to his or her employers for the period of the uniformed services and having that period of uniformed service count towards vesting and eligibility in the defined benefit program.

This bill would extend certain of these rights and benefits to a member who dies during uniformed services, would require that qualified military service, as defined, be counted for the purpose of vesting and eligibility for membership if the member dies during that service, and would prescribe how this service is to be calculated. The bill would permit this service to apply to the payment of certain death benefits to a beneficiary, and to survivor benefits, under specified circumstances.

(4) *Existing law requires that an employer of a member of STRS pay 8% of the member's creditable compensation to the system and requires that these contributions first be deposited in the Teachers' Retirement Fund in an amount not less than the amount necessary to fund benefits associated with the Defined Benefit Program, as determined by an actuarial valuation, as specified. Existing law requires that funds not first applied to funding the Defined Benefit Program be deposited in the Teachers' Health Benefits Fund, which is continuously appropriated. Existing law permits the Teachers' Retirement Board also to deposit a specified amount of these employer contributions into the Teachers' Retirement Program Development Fund, which is continuously appropriated. Existing law permits the board to use the money in the Teachers' Retirement Program Development Fund to pay any costs determined by the board to be related to developing programs that the board determines directly or indirectly enhance the financial security of members, participants, or beneficiaries of the State Teachers' Retirement Plan, as specified.*

This bill would delete the requirement that the employer contributions described above first be deposited in the Teachers' Retirement Fund for the purpose of funding the benefits associated with the Defined Benefit Program, as determined by an actuarial valuation. The bill would revise the priority of application of the contributions to require that they first be applied to the Teachers' Health Benefits Fund and then to the Teachers' Retirement Program Development Fund before

deposit in the Teachers' Retirement Fund. By providing that additional moneys may be deposited in these continuously appropriated funds, this bill would make an appropriation.

~~(4)~~

(5) Existing law permits the Teachers' Retirement Board to assess penalties against employers participating in the Defined Benefit Program or the Cash Balance Benefit Program if the employers fail to provide monthly reports in an acceptable form. Existing law provides that the amount of the penalties is based on the sum of the employer and employee contributions required, as specified, at a rate of interest equal to the regular interest rate or a fee of \$500, whichever is greater.

This bill would delete the reference to the \$500 fee and base the penalties solely on the contributions and rate of interest, as described above. The bill would also authorize the assessment of penalties, as specified, for late or improper contribution adjustments with regard to the Cash Balance Benefit Program, and would deem these amounts as interest earned.

~~(5)~~

(6) Existing law requires, upon a termination of a member's employment by any cause other than death, disability, or retirement, that certain amounts be paid to the member, including his or her accumulated retirement contributions and annuity deposits.

This bill would require that these payments be made upon termination of employment generally and the member's election to be paid. The bill would authorize a reduction in the payment of accumulated retirement benefits by the amount of retirement or disability benefits paid. The bill would also provide that specified beneficiary designations would be invalidated upon a refund of accumulated retirement contributions and would prescribe how the refund request would be made or determined by the board.

~~(6)~~

(7) Existing law permits a member of STRS to apply for a disability allowance if certain requirements are met, including that the member has neither attained normal retirement age, nor possesses sufficient unused sick leave days to receive creditable compensation on account of sick leave to reach normal retirement age.

This bill would make technical changes in these provisions.

~~(7)~~

(8) Existing law requires a member of STRS to provide medical documentation to substantiate the impairment qualifying the member

for a disability allowance or retirement. Existing law permits the system to order a medical examination of a member to determine whether the member is incapacitated for performance of service and prescribes procedures for this purpose.

This bill would also authorize the system to order also a review of medical documentation in this regard. The bill would also make technical changes these provisions.

(8)

(9) Existing law prescribes the conditions under which a STRS service retirement allowance becomes effective and requires, in this regard, that the effective date be no earlier than the first day of the month in which the application is received at the system's headquarters office.

This bill would make various technical changes in the requirements that a member must meet for a service requirement to become effective in specified situations, including instances when service credit is purchased and when an application for disability benefits is made.

(9)

(10) Existing law permits a member retiring prior to 60 years of age, who has attained 55 years of age, to elect to receive ½ of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age. Existing law excepts from this authorization members retiring for service pending a disability.

This bill would also except from this authorization members retiring for service following reinstatement, members who perform creditable service for 2 or more years after reinstatement, and members who retire after a prior disability retirement is terminated, among others.

(10)

(11) Existing law permits a retired member of STRS to perform specified activities as an employee of an employer in the system, as 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 limitations on the rate of pay of the member and the total amount of compensation.

This bill would also permit a retired member, pursuant to the limitations described above, to perform the work of county and district superintendents who are responsible for the supervision of persons or

administration of certain duties and to perform trustee work for the Cash Balance Benefit Program.

~~(11)~~

(12) Existing law permits a member of STRS, prior to the effective date of his or her retirement, to elect an option that provides an actuarially modified retirement allowance payable throughout the life of the member and the member's option beneficiary or beneficiaries. Existing law also prescribes how a member may change or cancel these options.

This bill would revise when these designations, changes, or cancellations must be submitted.

~~(12)~~

(13) Existing law provides that a child's portion of a STRS retirement allowance begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

This bill would prescribe when a child's portion of a disability retirement allowance terminates.

(14) Existing law creates the Teachers' Health Benefits Fund and requires that the moneys be used to pay premiums associated with Medicare Part A for retired or disabled members who retired prior to January 1, 2001, and met other qualifications. Existing law permits the Teachers' Retirement Board to extend these payments for other members of the Defined Benefit Program who retire or begin receiving a disability allowance on or after January 1, 2001, and meet other requirements, provided that the cost of payments is within the anticipated resources of the Teachers' Health Benefits Fund.

This bill would condition the extension of the payments on behalf of members retiring after January 1, 2001, as described above, on a finding, based on an actuarial valuation of the Medicare payment program and the Defined Benefit Program, that the extension would not create an unfunded obligation in the Defined Benefit Program, as specified.

~~(13)~~

(15) 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 permit a member retired for service under the Cash Balance Benefit Program to perform specified activities as an employee of an employer in the system, as an employee of a 3rd party, or as an

independent contractor within the California public school system, but would prohibit the member from making contributions to the retirement fund. The bill would condition this authorization on a variety of factors including limitations on the rate of pay of the member and the total amount of compensation, as well as on the employer maintaining accurate records in this regard, among other things. The bill would also repeal provisions that require that a participant in the Cash Balance Benefit Program who becomes reemployed under certain conditions have his or her annuity terminated.

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

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

1 SECTION 1. Section 22161.3 is added to the Education Code,
2 to read:

3 22161.3. Qualified military service is military service as defined
4 in subdivision (u) of Section 414 of Title 26 of the United States
5 Code.

6 SEC. 2. Section 22303 of the Education Code is amended to
7 read:

8 22303. (a) Due to an increase in the demand for retirement
9 counseling services, the system, notwithstanding any other
10 provision of law, may contract with a county superintendent or
11 other employer to provide retirement counseling. Retired public
12 employees may be employed on a part-time basis for that purpose,
13 unless and until the study required by subdivision (b) of Section
14 7 of Chapter 1532 of the Statutes of 1985 recommends against the
15 employment of retired public employees for these purposes. This
16 authorization is subject to the availability of funds appropriated
17 for that purpose in the annual Budget Act.

18 (b) The board may, by resolution, designate one or more official
19 representatives who provide retirement counseling pursuant to
20 subdivision (a), or as an employee of the system, to receive
21 documents submitted pursuant to this part, Part 13.5 (commencing
22 with Section 25900), or Part 14 (commencing with Section 26000).
23 Notwithstanding any other provision of law, any document received
24 by a designated system representative during regular counseling
25 office business hours or in the course of performing counseling
26 services pursuant to this subdivision shall be deemed to have been

1 received by the system's headquarters office, as established
2 pursuant to Section 22375, on the date received by the officially
3 designated system representative.

4 SEC. 3. Section 22404 of the Education Code is amended to
5 read:

6 22404. (a) Notwithstanding any other provision of this part
7 or Part 14 (commencing with Section 26000) to the contrary, the
8 board may establish by plan amendment a specified amount or
9 amounts, not to exceed ten dollars (\$10), below which the system
10 may dispense with the processing of benefit or other payments or
11 collection of benefit or other overpayments that result from
12 adjustments made to the benefit or other amount paid to a member,
13 participant, or beneficiary.

14 (b) When the cumulative dollar amount associated with one or
15 more benefit or other adjustments equals or exceeds the amount
16 described in subdivision (a), that amount shall be paid to, or
17 collected from, the member, participant, or beneficiary. That
18 cumulative amount paid or collected shall not be credited with
19 interest.

20 SEC. 4. Section 22851 of the Education Code is amended to
21 read:

22 22851. The right to pension benefits under this part of a
23 member who dies or who returns to employment with the same
24 employer which had employed the member immediately prior to
25 the eligible period of service in the uniformed services, and is
26 subject to Chapter 43 (commencing with Section 4301) of Title
27 38 of the United States Code shall be determined under this section.

28 (a) (1) A reemployed or deceased member shall be treated as
29 not having incurred a break in service by reason of that member's
30 eligible period or periods of service in the uniformed services.

31 (2) (A) Each eligible period of service served by a member in
32 the uniformed services shall, upon return to employment, with the
33 same employer which had employed the member immediately
34 prior to the eligible period of service in the uniformed services, or
35 upon death, be deemed to constitute service with the employer or
36 employers toward plan vesting and eligibility for membership in
37 the Defined Benefit Program.

38 (B) In cases of death during qualified military service, service
39 shall be calculated under Section 22853.5 and shall be used
40 exclusively for plan vesting and eligibility for membership

1 purposes. Service that is deemed to the member in this way shall
2 not be used for benefit calculations based on service credit
3 balances.

4 (3) A member who returns to employment, with the same
5 employer which had employed the member immediately prior to
6 the eligible period of service in the uniformed services shall not
7 be entitled to any benefits under this part in respect of service in
8 the uniformed services to which the member would not otherwise
9 have been entitled had the member remained continuously
10 employed and not undertaken such service in the uniformed
11 services.

12 (b) For purposes of calculating benefits, a member who returns
13 to employment with the same employer which had employed the
14 member immediately prior to the eligible period of service in the
15 uniformed services shall be entitled to service credit under this
16 part for the eligible period of service in the uniformed services
17 upon his or her payment of the member contributions required
18 under Section 22901 that otherwise would have been due for such
19 period of service had the member remained continuously employed
20 and not undertaken such service in the uniformed services. No
21 such payment of member contributions may exceed the amount
22 the member would have been required to contribute under this part
23 had the member not served in the uniformed services and had
24 remained continuously employed by the employer throughout the
25 eligible period of service in the uniformed services. If a member
26 fails to remit the member contributions that would have been
27 required under Section 22901 in respect of the eligible period of
28 service in the uniformed services no service credit shall be provided
29 under this part for the period to which the omitted contributions
30 relate.

31 (c) Any payment of member contributions to the Defined Benefit
32 Program in this section shall be made by the member during the
33 period beginning with the date of return to employment and may
34 continue for three times the period of the member's eligible service
35 in the uniformed services, not to exceed five years. Any payment
36 of member contributions to the Defined Benefit Program in this
37 section by a member who returned to employment prior to January
38 1, 1997, and qualifies for benefits in accordance with the
39 Uniformed Services Employment and Reemployment Rights Act
40 of 1994 (Chapter 43 (commencing with Section 4301) of Title 38

1 of the United States Code), shall be made by the member during
2 the period beginning with the date of notification of eligibility by
3 the employer to the system and may continue for three times the
4 period of the member's eligible service in the uniformed services,
5 not to exceed five years. Any subsequent request to purchase this
6 service shall be subject to the provisions of Chapter 14
7 (commencing with Section 22800). If all contributions due under
8 this part are not paid to the plan with respect to the Defined Benefit
9 Program within the specified repayment period and in accordance
10 with subdivision (b) of Section 22851 the contributions shall be
11 returned to the member at the end of the repayment period. Interest
12 on member contributions made for the eligible period of service
13 in the uniformed services shall not be credited under this part until
14 after the contributions due are paid and then only prospectively to
15 the member's account in accordance with Section 22216.

16 SEC. 5. Section 22853.5 is added to the Education Code, to
17 read:

18 22853.5. For purposes of computing service to award to
19 members who die during qualified military service, service shall
20 be computed as follows:

21 (a) The service credit the member would have received for the
22 eligible period of service through the beginning of the period of
23 qualified military leave through the date of death.

24 (b) In the event the service credit earnable is not reasonably
25 certain, vesting credit shall be based on the member's average
26 service credit earned during the 12-month period immediately
27 preceding the eligible period of service in the uniformed services
28 or, if shorter, the period of employment immediately preceding
29 that period of service.

30 SEC. 6. Section 22905 of the Education Code is amended to
31 read:

32 22905. (a) Member contributions pursuant to Section 22901,
33 employer contributions pursuant to Section 22903 or 22904, and
34 member contributions made by an employer pursuant to Section
35 22909 shall be credited to the member's individual account under
36 the Defined Benefit Program or the Defined Benefit Supplement
37 Program, whichever is applicable pursuant to the provisions of
38 this part.

39 (b) Member and employer contributions, exclusive of
40 contributions pursuant to Section 22951, on a member's

1 compensation under the following circumstances shall be credited
2 to the member's Defined Benefit Supplement account:

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

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

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

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

15 (d) Member and employer contributions pursuant to paragraph
16 (1) of subdivision (b) under the Defined Benefit Supplement
17 Program shall be credited to the accounts of members as of July
18 1 each year following a determination by the system under the
19 provisions of this part that those contributions should be credited
20 to the Defined Benefit Supplement Program. Any other
21 contributions under the Defined Benefit Supplement Program
22 pursuant to paragraph (2) or (3) of subdivision (b), shall be credited
23 to the individual account of the member upon receipt by the system.
24 Contributions to a member's Defined Benefit Supplement account
25 shall be identified separately from the member's contributions
26 credited under the Defined Benefit Program.

27 (e) The provisions of this section shall become operative on
28 July 1, 2002, if the revenue limit cost-of-living adjustment
29 computed by the Superintendent of Public Instruction for the
30 2001–02 fiscal year is equal to or greater than 3.5 percent.
31 Otherwise this section shall become operative on July 1, 2003.

32 *SEC. 7. Section 22950 of the Education Code is amended to*
33 *read:*

34 22950. (a) Employers shall contribute monthly to the system
35 8 percent of the creditable compensation upon which members'
36 contributions under this part are based.

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

1 ~~Program pursuant to Section 22311.5, necessary to finance the~~
 2 ~~liabilities associated with the benefits of the Defined Benefit~~
 3 ~~Program over the funding period adopted by the board, after taking~~
 4 ~~into account the contributions made pursuant to Sections 22901,~~
 5 ~~22951, and 22955 the amount remaining after depositing the~~
 6 ~~contributions pursuant to subdivisions (c) and (d).~~

7 (c) The amount of contributions required under subdivision (a)
 8 ~~that is not deposited in the Teachers' Retirement Fund pursuant~~
 9 ~~to subdivision (b) necessary to pay the liabilities incurred pursuant~~
 10 ~~to Section 25940 shall be deposited directly into the Teachers'~~
 11 ~~Health Benefits Fund, as established in Section 25930, and shall~~
 12 ~~not be deposited into or transferred from the Teachers' Retirement~~
 13 ~~Fund.~~

14 (d) (1) Notwithstanding subdivisions (b) and (c), there may be
 15 deposited into the Teachers' Retirement Program Development
 16 Fund, as established in Section 22307.5, from the contributions
 17 required under subdivision (a), an amount determined by the board,
 18 not to exceed the limit specified in paragraph (2).

19 (2) The balance of deposits into the Teachers' Retirement
 20 Program Development Fund, minus the subsequent transfer of
 21 funds, with interest, into the Teachers' Retirement Fund pursuant
 22 to subdivision (e) of Section 22307.5, shall not exceed 0.01 percent
 23 of the total of the creditable compensation of the fiscal year ending
 24 in the immediately preceding calendar year upon which member's
 25 contributions to the Defined Benefit Program are based.

26 (3) The deposits described in this subdivision shall not be
 27 deposited into, or transferred from, the Teachers' Retirement Fund.

28 ~~SEC. 7.~~

29 *SEC. 8.* Section 23006 of the Education Code is amended to
 30 read:

31 23006. (a) If a county superintendent of schools or employing
 32 agency or school district or community college district that reports
 33 directly to the system, submits monthly reports, as specified by
 34 Section 23004, late, as defined in Section 23005, or in unacceptable
 35 form, the board shall, in accordance with regulations, assess
 36 penalties.

37 (b) The board shall, in accordance with regulations, assess
 38 penalties, based on the sum of the employer and employee
 39 contributions required under this part by the report, for late or

1 unacceptable submission of reports, at a rate of interest equal to
2 the regular interest rate.

3 ~~SEC. 8.~~

4 *SEC. 9.* Section 23100 of the Education Code is amended to
5 read:

6 23100. (a) Upon termination of employment, a member may
7 elect to be paid, pursuant to this part, each of the following:

8 (1) The member’s accumulated retirement contributions made
9 after June 30, 1935.

10 (2) The member’s accumulated annuity deposit contributions.

11 (3) An amount equal to the balance of credits in the member’s
12 Defined Benefit Supplement account.

13 (b) Accumulated retirement contributions and accumulated
14 annuity deposit contributions shall include credited interest through
15 the date of payment.

16 (c) Accumulated retirement contributions shall be reduced by
17 the amount of retirement or disability benefits paid to a member
18 pursuant to this part.

19 ~~SEC. 9.~~

20 *SEC. 10.* Section 23101 of the Education Code is amended to
21 read:

22 23101. (a) When a member’s accumulated retirement
23 contributions are refunded, as provided in Section 23100, all rights
24 to benefits pertaining to the service credit represented by those
25 contributions under this part are forfeited. Those rights and
26 benefits, based upon service performed prior to refund, shall not
27 be restored until the member has redeposited the total of the
28 refunded accumulated retirement contributions, and paid the regular
29 interest thereon as provided in Chapter 19 (commencing with
30 Section 23200).

31 (b) In addition to the rights and benefits described in subdivision
32 (a), any beneficiary designation made by a member pursuant to
33 Chapter 20 (commencing with Section 23300) and Chapter 28
34 (commencing with Section 24300) under this part shall be
35 invalidated upon the refund of the member’s accumulated
36 retirement contributions.

37 ~~SEC. 10.~~

38 *SEC. 11.* Section 23103 of the Education Code is amended to
39 read:

1 23103. Refunds to a member shall be made upon request of
2 the member on a properly executed form prescribed by the system,
3 or may be made without a request if it is determined by the board
4 that the member's employment is permanently terminated and the
5 member does not have enough credited service under the Defined
6 Benefit Program to qualify for service retirement under this part.

7 ~~SEC. 11.~~

8 *SEC. 12.* Section 23104 of the Education Code is amended to
9 read:

10 23104. (a) Deposit in the United States mail of an initial
11 warrant drawn as directed by the member as a refund of
12 contributions upon termination of employment, and addressed to
13 the address directed by the member, constitutes a return of the
14 member's accumulated retirement contributions under this part.

15 (b) If the member has elected on a form provided by the system
16 to transfer all or a specified portion of the accumulated retirement
17 contributions that are eligible for direct trustee-to-trustee transfer
18 to the trustee of a qualified plan under Section 402 of the Internal
19 Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the
20 United States mail of a notice that the requested transfer has been
21 made constitutes a return of the member's accumulated retirement
22 contributions under this part.

23 (c) For refunds not involving direct trustee-to-trustee transfers,
24 if the member returns the total gross distribution amount to the
25 system's headquarters office, as established pursuant to Section
26 22375, within 30 days from the mailing date, the refund shall be
27 canceled and the person shall be restored as a member of the
28 Defined Benefit Program with all the rights and privileges under
29 this part restored.

30 (d) For refunds involving direct trustee-to-trustee transfers, if
31 the member returns the warrant drawn to the trustee of the qualified
32 plan or the trustee returns the amount of the qualified refund and,
33 if applicable, any additional amounts necessary to equal, but in no
34 event to exceed, the total gross distribution amount to the system's
35 headquarters office, as established pursuant to Section 22375,
36 within 30 days from the mailing date, the refund shall be canceled
37 and the person shall be restored as a member of the Defined Benefit
38 Program with all the rights and privileges under this part restored.

1 ~~SEC. 12.~~

2 *SEC. 13.* Section 23801 of the Education Code is amended to
3 read:

4 23801. (a) A death payment of no less than five thousand
5 dollars (\$5,000) shall be paid to the beneficiary upon receipt of
6 proof of death of a member who had one or more years of credited
7 service, including service deemed to the member under
8 subparagraph (B) of paragraph (2) of subdivision (a) of Section
9 22851, at least one of which had been earned subsequent to the
10 most recent refund of accumulated retirement contributions, if the
11 member died during any one of the following periods:

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

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

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

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

20 (5) Within 12 months of the last day for which creditable
21 compensation was paid, if the member was on an approved leave
22 of absence without compensation for reasons other than disability.

23 (6) While on a leave of absence to perform qualified military
24 service, if the death occurred on or after January 1, 2007.

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

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

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

36 ~~SEC. 13.~~

37 *SEC. 14.* Section 23802 of the Education Code is amended to
38 read:

39 23802. (a) Upon receipt of proof of death of a member who
40 has no preretirement option in effect, and who either does not meet

1 the eligibility requirements set forth in Section 23804, or meets
2 the eligibility requirements set forth in Section 23804 but has no
3 eligible survivors for a family allowance as specified in Section
4 23805 or 23806, there shall be paid to the beneficiary both of the
5 following:

- 6 (1) The accumulated retirement contributions after July 1, 1935.
- 7 (2) The accumulated annuity deposit contributions.
- 8 (b) Accumulated contributions include credited interest through
9 the date of payment.

10 ~~SEC. 14.~~

11 *SEC. 15.* Section 23851 of the Education Code is amended to
12 read:

13 23851. (a) A death payment of not less than twenty thousand
14 dollars (\$20,000) shall be paid to the beneficiary, as designated
15 pursuant to Section 23300, upon receipt of proof of death of a
16 member, who had one or more years of credited service, including
17 service deemed to the member under subparagraph (B) of paragraph
18 (2) of subdivision (a) of Section 22851, at least one of which had
19 been earned subsequent to the most recent refund of accumulated
20 retirement contributions, if the member died during any one of the
21 following periods:

- 22 (1) While in employment for which creditable compensation is
23 paid.
- 24 (2) Within four months after termination of creditable service
25 or termination of employment, whichever occurs first.
- 26 (3) Within 12 months of the last day for which creditable
27 compensation was paid, if the member was on an approved leave
28 of absence without creditable compensation for reasons other than
29 disability.
- 30 (4) While on a leave of absence to perform qualified military
31 service, if the death occurred on or after January 1, 2007.

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

38 (c) The board may adjust the death payment amount following
39 each actuarial valuation based on changes in the All Urban

1 California Consumer Price Index and adopt as a plan amendment
2 with respect to the Defined Benefit Program any adjusted amount.

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

6 ~~SEC. 15.~~

7 *SEC. 16.* Section 23852 of the Education Code is amended to
8 read:

9 23852. Upon receipt of proof of death of a member who has
10 no preretirement option in effect:

11 (a) The surviving spouse may elect to receive either of the
12 following:

13 (1) The member's accumulated retirement contributions in a
14 lump sum.

15 (2) If the member meets the provisions set forth in Section
16 23854, the survivor benefit allowance pursuant to Sections 23854
17 and 23855.

18 (b) If there is no surviving spouse, and the member meets the
19 provisions set forth in Section 23854, then each dependent child
20 shall receive the child's portion of the survivor benefit allowance
21 pursuant to Sections 23854, 23855, and 23856. The child's portion
22 of the survivor benefit allowance shall be paid in lieu of the return
23 of the member's accumulated retirement contributions.

24 (c) If there is no surviving spouse or dependent child to receive
25 a benefit under subdivision (a) or (b), the member's accumulated
26 retirement contributions shall be paid to the member's beneficiary
27 in a lump sum.

28 (d) The member's accumulated annuity deposit contributions
29 shall be paid to the member's beneficiary in a lump sum.

30 (e) The payment of accumulated contributions in a lump sum
31 shall include credited interest through the date of payment.

32 ~~SEC. 16.~~

33 *SEC. 17.* Section 23854 of the Education Code is amended to
34 read:

35 23854. (a) A survivor benefit allowance is payable upon receipt
36 of proof of death of a member, as defined in Section 23850, who
37 had one or more years of credited service, including deemed service
38 under subparagraph (B) of paragraph (2) of subdivision (a) of
39 Section 22851, at least one of which had been earned subsequent
40 to the most recent refund of accumulated retirement contributions.

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

4 (1) Death occurred after October 15, 1992.

5 (2) A preretirement election of an option is not in effect.

6 (3) Death occurs during any one of the following periods:

7 (A) While in employment for which compensation is paid.

8 (B) Within four months after termination of service or
9 termination of employment, whichever occurs first.

10 (C) Within four months after termination of disability allowance.

11 (D) Within four months after reinstatement from disability
12 retirement.

13 (E) Within 12 months following the last day for which
14 compensation was paid if the member was on an approved leave
15 of absence without compensation for reasons other than disability.

16 (F) While on a leave of absence to perform qualified military
17 service, if the death occurred on or after January 1, 2007.

18 (4) At least one-half year of credited service had been performed
19 subsequent to the end of the last break in service, if a break in
20 service of more than one year had occurred.

21 (5) At least one year of credited service had been performed
22 subsequent to the last reinstatement date, if reinstated from service
23 retirement.

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

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

29 ~~SEC. 17.~~

30 *SEC. 18.* Section 24001 of the Education Code is amended to
31 read:

32 24001. (a) (1) A member may apply for a disability allowance
33 under the Defined Benefit Program, upon written application for
34 disability allowance to the board on a properly executed form
35 provided by the system, if the member has five or more years of
36 credited service and if all of the following requirements are met:

37 (A) At least four years were credited for actual performance of
38 service subject to coverage under the Defined Benefit Program.
39 Credit received because of workers' compensation payments shall

1 be counted toward the four-year requirement in accordance with
2 Section 22710.

3 (B) The last five years of credited service were performed in
4 this state.

5 (C) Except as described in subdivision (d) of Section 24201.5,
6 at least one year was credited for service performed subsequent to
7 the date on which the member terminated the service retirement
8 allowance under Section 24208.

9 (D) At least one year was credited for service performed
10 subsequent to the most recent refund of accumulated retirement
11 contributions.

12 (E) The member has neither attained normal retirement age, nor
13 possesses sufficient unused sick leave days to receive creditable
14 compensation on account of sick leave to normal retirement age.

15 (F) The member is not applying for a disability allowance
16 because of a physical or mental condition known to exist at the
17 time the most recent membership in the Defined Benefit Program
18 commenced and remains substantially unchanged at the time of
19 application.

20 (2) A member who becomes disabled prior to normal retirement
21 age, who has sick leave which will extend beyond normal
22 retirement age, and who has a dependent child, may be awarded
23 a disability allowance with an effective date after normal retirement
24 age if the application is filed prior to attaining normal retirement
25 age.

26 (b) Nothing in subdivision (a) shall affect the right of a member
27 to a disability allowance under this part if the reason that the
28 member is credited with less than four years of actual service
29 performed subject to coverage under the Defined Benefit Program
30 is due to an on-the-job injury or a disease that occurred while the
31 member was employed and the four-year requirement can be
32 satisfied by credit obtained under Chapter 14 (commencing with
33 Section 22800) or Chapter 14.5 (commencing with Section 22850)
34 in addition to any credit received from workers' compensation
35 payments.

36 (c) Nothing in subdivision (a) shall affect the right of a member
37 under this part who has less than five years of credited service to
38 a disability allowance if the following conditions are met:

39 (1) The member has at least one year of credited service
40 performed in this state.

1 (2) The disability is the direct result of an unlawful act of bodily
2 injury that was perpetrated on his or her person by another human
3 being while the member was performing his or her official duties
4 in a position subject to coverage under the Defined Benefit
5 Program.

6 (3) The member provides documentation of the unlawful act in
7 the form of an official police report or official employer incident
8 report.

9 (d) A member who is eligible to apply for a disability allowance
10 pursuant to this section may also apply for a service retirement
11 pending a determination of his or her application for disability as
12 described in Section 24201.5.

13 ~~SEC. 18.~~

14 *SEC. 19.* Section 24002 of the Education Code is amended to
15 read:

16 24002. (a) The board may authorize payment of a disability
17 allowance to any member who is qualified upon application under
18 this part by the member, the member's guardian or conservator,
19 or the member's employer, if the application is submitted on a
20 properly executed form prescribed by the system during any one
21 of the following periods:

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

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

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

35 (4) Within four months after the termination of the member's
36 employment subject to coverage under the Defined Benefit
37 Program, if the application was not made under paragraph (2) and
38 was not made more than four months after the last day of actual
39 performance of service for which compensation is payable to the
40 member.

1 (b) A member is not qualified to receive a disability allowance
 2 if the member is applying because of a physical or mental condition
 3 that existed at the time the most recent membership in the Defined
 4 Benefit Program commenced and which remains substantially
 5 unchanged at the time of application.

6 ~~SEC. 19.~~

7 *SEC. 20.* Section 24003 of the Education Code is amended to
 8 read:

9 24003. (a) The member shall provide medical documentation
 10 to substantiate the impairment qualifying the member for the
 11 disability allowance.

12 (b) On receipt of an application for disability allowance under
 13 this part, the system may order a medical examination or review
 14 of medical documentation of a member to determine whether the
 15 member is incapacitated for performance of service. The medical
 16 examination or review of medical documentation shall be
 17 conducted by a practicing physician, selected by the board, with
 18 expertise in the member’s impairment and the board shall pay all
 19 costs associated with the examination or review of medical
 20 documentation. If the member refuses to submit to the required
 21 medical examination or review of medical documentation, the
 22 application for disability allowance shall be rejected. If a medical
 23 examination is ordered:

24 (1) The member shall either remain in this state, or return to
 25 this state at the member’s own expense, to undergo the medical
 26 examination, or the application shall be rejected, unless this
 27 requirement is waived by the board. The board shall pay all other
 28 reasonable costs related to travel and meals in accordance with the
 29 rates set for state employees by the Department of Personnel
 30 Administration.

31 (2) If the member is too ill to be examined, the system shall
 32 postpone the examination until the member can be examined. The
 33 member or the member’s treating physician shall inform the
 34 system, in writing, when the medical examination can be
 35 rescheduled.

36 (c) The system may reject the disability allowance application
 37 under this part if the member fails to provide requested medical
 38 documentation to substantiate a disability, as defined in Section
 39 22126, within 45 days from the date of the request or within 30
 40 days from the time that a legally designated representative is

1 empowered to act on behalf of a member who is mentally or
2 physically incapacitated.

3 (d) If the board determines that a member who has applied for
4 a disability allowance under this part may perform service in the
5 member's former position of employment or in a comparable level
6 position with the assistance of reasonable accommodation, the
7 board may require the member to request reasonable
8 accommodation from the employer. Failure of the member to
9 request reasonable accommodation, as directed by the board, may
10 be grounds for cancellation of the disability allowance application.

11 (e) If the employer fails or refuses to provide reasonable
12 accommodation, the board may require the member to pursue an
13 administrative appeal of the employer's denial as a condition for
14 receiving a disability allowance under this part.

15 (f) The system shall inform the member of the rejection or
16 cancellation of the member's disability allowance application under
17 this part within 30 days after that determination is made by the
18 system.

19 (g) In determining whether a member meets the definition of
20 disability pursuant to Section 22126, the board shall make a
21 determination on the basis of competent medical documentation
22 and shall not use the awarding of a disability allowance as a
23 substitute for the disciplinary process.

24 ~~SEC. 20.~~

25 *SEC. 21.* Section 24102 of the Education Code is amended to
26 read:

27 24102. (a) The board may authorize payment of a disability
28 retirement allowance under this part to any member who is
29 qualified upon application by the member, the member's guardian
30 or conservator, or the member's employer, if the application is
31 submitted on a properly executed form prescribed by the system
32 during any one of the following periods:

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

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

39 (3) While the member is on a leave of absence without
40 compensation, granted for reason other than mental or physical

1 incapacity for performance of service, and within four months
2 after the last day of actual performance of service for which
3 compensation is payable to the member, or within 12 months of
4 that date if the member was on an employer-approved leave to
5 study at an approved college or university.

6 (4) Within four months after the termination of the member's
7 employment subject to coverage under the Defined Benefit
8 Program, if the application was not made under paragraph (2) and
9 was not made more than four months after the last day of actual
10 performance of service for which compensation is payable to the
11 member.

12 (b) The member is not qualified to receive a disability allowance
13 if the member is applying because of a physical or mental condition
14 that existed at the time the most recent membership in the Defined
15 Benefit Program commenced and which remains substantially
16 unchanged at the time of application.

17 ~~SEC. 21.~~

18 *SEC. 22.* Section 24103 of the Education Code is amended to
19 read:

20 24103. (a) The member shall provide medical documentation
21 substantiating the impairment qualifying the member for the
22 disability retirement under this part.

23 (b) On receipt of an application for disability retirement under
24 this part, the system may order a medical examination or review
25 of medical documentation of a member to determine whether the
26 member is incapacitated for performance of service. The medical
27 examination or review of medical documentation shall be
28 conducted by a practicing physician, selected by the board, with
29 expertise in the member's impairment, and the board shall pay all
30 costs associated with the examination or review of medical
31 documentation. If the member refuses to submit to the required
32 medical examination or review of medical documentation, the
33 application for disability retirement shall be rejected. If a medical
34 examination is ordered:

35 (1) The member shall either remain in this state, or return to
36 this state at the member's own expense, to undergo the medical
37 examination or the application shall be rejected, unless this
38 requirement is waived by the board. The board shall pay all other
39 reasonable costs related to travel and meals in accordance with the

1 rates set for state employees by the Department of Personnel
2 Administration.

3 (2) If the member is too ill to be examined, the system shall
4 postpone the examination until the member can be examined. The
5 member or the member's treating physician shall inform the
6 system, in writing, when the medical examination can be
7 rescheduled.

8 (c) The system may reject the disability retirement application
9 under this part if the member fails to provide requested medical
10 documentation to substantiate a disability, as defined in Section
11 22126, within 45 days from the date of the request or within 30
12 days from the time that a legally designated representative is
13 empowered to act on behalf of a member who is mentally or
14 physically incapacitated.

15 (d) If the board determines that a member who has applied for
16 disability retirement under this part may perform service in the
17 member's former position of employment or in a comparable level
18 position with the assistance of reasonable accommodation, the
19 board may require the member to request reasonable
20 accommodation from the employer. Failure of the member to
21 request reasonable accommodation, as directed by the board, may
22 be grounds for cancellation of the disability retirement application
23 under this part.

24 (e) If the employer fails or refuses to provide reasonable
25 accommodation, the board may require the member to pursue an
26 administrative appeal of the employer's denial as a condition for
27 receiving a disability retirement allowance under this part.

28 (f) The system shall inform the member of the rejection or
29 cancellation of the member's disability retirement allowance
30 application under this part within 30 days after that determination
31 is made by the system.

32 (g) In determining whether a member meets the definition of
33 disability pursuant to Section 22126, the board shall make a
34 determination on the basis of competent medical documentation
35 and shall not use the awarding of a disability retirement as a
36 substitute for the disciplinary process.

37 ~~SEC. 22.~~

38 *SEC. 23.* Section 24201.5 of the Education Code is amended
39 to read:

1 24201.5. (a) A member who is eligible and applies for a
2 disability allowance or retirement pursuant to Section 24001 or
3 24101 may apply to receive a service retirement allowance pending
4 the determination of his or her application for disability, subject
5 to all of the following:

6 (1) The member is eligible to retire for service under Section
7 24201 or 24203.

8 (2) The member submits the application on a form provided by
9 the system, subject to all of the following:

10 (A) The application is executed no earlier than the date the
11 application for disability benefits is executed and no earlier than
12 six months before the effective date of the retirement allowance.

13 (B) The effective date is no earlier than the first day of the month
14 in which the application for disability benefits is received at the
15 system's headquarters office, as established pursuant to Section
16 22375.

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

19 (D) The effective date is no earlier than one year following the
20 date on which a retirement allowance was terminated pursuant to
21 Section 24208 or subdivision (a) of Section 24117.

22 (3) The effective date of the service retirement allowance can
23 be no earlier than the date upon and continuously after which the
24 member is determined to the satisfaction of the board to have been
25 mentally incompetent.

26 (4) A member who applies for service retirement under this
27 section is not eligible to receive a lump-sum payment and an
28 actuarially reduced monthly allowance pursuant to Section 24221.

29 (5) A member who applies for service retirement under this
30 section is not eligible to receive an allowance calculated pursuant
31 to Section 24205.

32 (6) (A) Except as described in subparagraph (B), a member
33 who applies for service retirement under this section shall not
34 receive service credit for each day of accumulated and unused
35 leave of absence for illness or injury or for education pursuant to
36 Section 22717 or 22717.5.

37 (B) If the application for disability is denied, the member's
38 service retirement allowance shall be adjusted to the effective date
39 of the service retirement to include service credited pursuant to
40 Section 22717 or 22717.5.

1 (7) If the application for disability is denied, a member who
2 applies for a service retirement allowance under this section is
3 subject to all of the following:

4 (A) Unless otherwise provided in this part, a member who, on
5 his or her application for service retirement, elects an option
6 pursuant to Section 24300.1 or 24307 may not change or revoke
7 that option.

8 (B) If the member receives a modified service retirement
9 allowance based on the election of an option pursuant to Section
10 24300.1 or 24307, that modified service retirement allowance shall
11 continue in effect and unchanged.

12 (C) If the member did not elect an option pursuant to Section
13 24300.1 or 24307 and receives an unmodified service retirement
14 allowance, that unmodified service retirement allowance shall
15 continue in effect and unchanged.

16 (b) A member who applies for service retirement under this
17 section may change or cancel his or her service retirement
18 application pursuant to Section 24204, or may terminate his or her
19 service retirement allowance pursuant to Section 24208.

20 (c) A member may not cancel his or her application for disability
21 prior to a determination of that application unless he or she submits
22 a written request to the system's headquarters office, as established
23 pursuant to Section 22375. If a member elects to cancel his or her
24 service retirement application or elects to terminate his or her
25 service retirement allowance as described in subdivision (b), that
26 election shall not cancel the application for disability.

27 (d) (1) Paragraph (3) of subdivision (a) of Sections 24001 and
28 24101 shall not apply to a member who cancels an application for
29 service retirement pursuant to Section 24204 or who terminates a
30 service retirement allowance pursuant to Section 24208, if all of
31 the following apply:

32 (A) The member earned at least one year of credited service
33 subsequent to the most recent terminated service retirement
34 allowance.

35 (B) The member's application for disability under this section
36 is pending determination by the board.

37 (2) If the member's application for disability under this section
38 is denied, paragraph (3) of subdivision (a) of Sections 24001 and
39 24101 shall apply if the member submits a new application for
40 disability.

1 (e) (1) If the board approves the application for disability, and
2 notwithstanding subdivision (f) of Section 24204, the board shall
3 cancel the member's application for service retirement and shall
4 authorize payment of a disability allowance or disability retirement.

5 (2) If the board approves the application for disability and the
6 member has received service retirement allowance payments under
7 this part, the effective date for the disability allowance or disability
8 retirement shall be the same as the effective date of the service
9 retirement allowance.

10 (f) If a member who applies for service retirement under this
11 section dies prior to a determination by the board on the application
12 for disability, the member shall be considered retired for service
13 at the time of death, and any subsequent benefits shall be paid
14 accordingly.

15 (g) If a member who applies for service retirement under this
16 section dies after the board has approved the member's application
17 for disability, the member shall be considered a disabled member,
18 or retired for disability, at the time of death, and any subsequent
19 benefits shall be paid accordingly, even if the member died prior
20 to receiving notification of the approval of his or her application
21 for disability.

22 (h) If the member changes or cancels his or her service
23 retirement application or terminates his or her service retirement
24 allowance as described in subdivision (b), the system shall make
25 appropriate adjustments to the applicable service retirement
26 allowance, disability allowance, or disability retirement allowance,
27 retroactive to the effective date of the disability allowance or
28 disability retirement allowance. Subdivision (a) of Section 24617
29 shall not apply.

30 (i) The system may recover a service retirement allowance
31 overpayment made to a member by deducting that overpayment
32 from any subsequent disability benefit payable to the member.

33 (j) Nothing in this section shall be construed to allow a member
34 or beneficiary to receive more than one type of retirement or
35 disability allowance for the same period of time.

36 ~~SEC. 23.~~

37 *SEC. 24.* Section 24204 of the Education Code is amended to
38 read:

1 24204. (a) A service retirement allowance under this part shall
2 become effective upon any date designated by the member,
3 provided all of the following conditions are met:

4 (1) An application for service retirement allowance is filed on
5 a form provided by the system, which is executed no earlier than
6 six months before the effective date of retirement allowance.

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

9 (3) The effective date is no earlier than one year following the
10 date on which the retirement allowance was terminated under
11 Section 24208, or subdivision (a) of Section 24117.

12 (4) The effective date is no earlier than the date upon and
13 continuously after which the member is determined to the
14 satisfaction of the board to have been mentally incompetent.

15 (5) The effective date is no earlier than the date upon which the
16 member completes payment of a service credit purchase pursuant
17 to Section 22801, 22820, or 22826, or payment of a redeposit of
18 contributions pursuant to Section 23200, except as provided in
19 Section 22801 or 22829.

20 (6) The effective date is no earlier than the first day of the month
21 in which the application for disability benefits is received at the
22 system's headquarters office, as established pursuant to Section
23 22375, if the application is made pursuant to Section 24201.5.

24 (b) A member who files an application for service retirement
25 may change or cancel his or her retirement application, as long as
26 the form provided by the system is received in the system's
27 headquarters office, established pursuant to Section 22375, no later
28 than 30 days from the date the member's initial benefit payment
29 for the member's most recent retirement under the Defined Benefit
30 Program is paid by the system.

31 (c) The retirement date of a member retiring on and after January
32 1, 2012, shall be no earlier than January 1, 2012.

33 ~~SEC. 24.~~

34 *SEC. 25.* Section 24205 of the Education Code is amended to
35 read:

36 24205. A member retiring prior to 60 years of age, and who
37 has attained 55 years of age, may elect to receive one-half of the
38 service retirement allowance for normal retirement age for a limited
39 time and then revert to the full retirement allowance for normal
40 retirement age.

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

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

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

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

21 (e) The annual improvement factor provided for in Sections
22 22140 and 22141 shall be based upon the retirement allowance as
23 calculated under subdivision (a) or (b). The improvement factor
24 shall begin to accrue on September 1 following the retired
25 member's 60th birthday. These increases shall be accumulated
26 and shall become payable when the full retirement allowance for
27 normal retirement age first becomes payable.

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

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

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

10 (i) This section shall not apply to a member who retires for
11 service pursuant to Section 24201.5, 24209, 24209.3, 24210,
12 24211, or 24212.

13 ~~SEC. 25.~~

14 *SEC. 26.* Section 24214 of the Education Code, as amended
15 by Section 1 of Chapter 306 of the Statutes of 2009, is amended
16 to read:

17 24214. (a) A member retired for service under this part may
18 perform the activities identified in subdivision (a) or (b) of Section
19 22119.5, or subdivision (a) or (b) of Section 26113, as an employee
20 of an employer, as an employee of a third party, or as an
21 independent contractor within the California public school system,
22 but the member shall not make contributions to the retirement fund
23 or accrue service credit based on compensation earned from that
24 service. The employer shall maintain accurate records of the
25 earnings of the retired member and report those earnings monthly
26 to the system and retired member as described in Section 22461.

27 (b) If a member is retired for service under this part, the rate of
28 pay for service performed by that member as an employee of the
29 employer, as an employee of a third party, or as an independent
30 contractor shall not be less than the minimum, nor exceed that paid
31 by the employer to other employees performing comparable duties.

32 (c) A member retired for service under this part shall not be
33 required to reinstate for performing the activities identified in
34 subdivision (a) or (b) of Section 22119.5 as an employee of an
35 employer, as an employee of a third party, or as an independent
36 contractor within the California public school system.

37 (d) A member retired for service under this part may earn
38 compensation for performing activities identified in subdivision
39 (a) or (b) of Section 22119.5 in any one school year up to the
40 limitation specified in subdivision (f) as an employee of an

1 employer, as an employee of a third party, or an independent
2 contractor, within the California public school system, without a
3 reduction in his or her retirement allowance.

4 (e) (1) The postretirement compensation limitation provisions
5 set forth in this section are not applicable to compensation earned
6 by a member retired for service under this part who has returned
7 to work after the date of retirement and, for a period of at least 12
8 consecutive months, has not performed the activities identified in
9 subdivision (a) or (b) of Section 22119.5 as an employee of an
10 employer, as an employee of a third party, or as an independent
11 contractor within the California public school system. For the
12 purpose of this paragraph, the period of 12 consecutive months
13 shall begin no earlier than the effective date of the member's most
14 recent retirement.

15 (2) The postretirement compensation limitation provisions set
16 forth in this section are not applicable to compensation earned for
17 the performance of the activities described in subdivision (a) for
18 which the employer is not eligible to receive state apportionment
19 or to compensation that is not creditable pursuant to Section
20 22119.2.

21 (f) The limitation that shall apply to the compensation for
22 performance of the activities identified in subdivision (a) or (b) of
23 Section 22119.5 by a member retired for service under this part
24 either as an employee of an employer, an employee of a third party,
25 or as an independent contractor shall, in any one school year, be
26 an amount calculated by the board each July 1 equal to twenty-two
27 thousand dollars (\$22,000) adjusted by the percentage change in
28 the average compensation earnable of active members of the
29 Defined Benefit Program, as determined by the system, from the
30 1998–99 fiscal year to the fiscal year ending in the previous
31 calendar year.

32 (g) If a member retired for service under this part earns
33 compensation for performing activities identified in subdivision
34 (a) or (b) of Section 22119.5 in excess of the limitation specified
35 in subdivision (f), as an employee of an employer, as an employee
36 of a third party, or as an independent contractor, within the
37 California public school system, and if that compensation is not
38 exempt from that limitation under subdivision (e) or any other
39 provisions of law, the member's retirement allowance shall be
40 reduced by the amount of the excess compensation. The amount

1 of the reduction may be equal to the monthly allowance payable
2 but shall not exceed the amount of the annual allowance payable
3 under this part for the fiscal year in which the excess compensation
4 was earned.

5 (h) The amendments to this section enacted during the 1995–96
6 Regular Session shall be deemed to have become operative on July
7 1, 1996.

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

11 ~~SEC. 26.~~

12 *SEC. 27.* Section 24214 of the Education Code, as amended
13 by Section 2 of Chapter 306 of the Statutes of 2009, is amended
14 to read:

15 24214. (a) A member retired for service under this part may
16 perform the activities identified in subdivision (a) or (b) of Section
17 22119.5, or subdivision (a) or (b) of Section 26113, as an employee
18 of an employer, as an employee of a third party, or as an
19 independent contractor within the California public school system,
20 but the member shall not make contributions to the retirement fund
21 or accrue service credit based on compensation earned from that
22 service. The employer shall maintain accurate records of the
23 earnings of the retired member and report those earnings monthly
24 to the system and retired member as described in Section 22461.

25 (b) If a member is retired for service under this part, the rate of
26 pay for service performed by that member as an employee of the
27 employer, as an employee of a third party, or as an independent
28 contractor within the California public school system shall not be
29 less than the minimum, nor exceed that paid by the employer to
30 other employees performing comparable duties.

31 (c) A member retired for service under this part shall not be
32 required to reinstate for performing the activities identified in
33 subdivision (a) or (b) of Section 22119.5 as an employee of an
34 employer, as an employee of a third party, or as an independent
35 contractor within the California public school system.

36 (d) A member retired for service under this part may earn
37 compensation for performing activities identified in subdivision
38 (a) or (b) of Section 22119.5 in any one school year up to the
39 limitation specified in subdivision (f) as an employee of an
40 employer, as an employee of a third party, or an independent

1 contractor, within the California public school system, without a
2 reduction in his or her retirement allowance.

3 (e) The postretirement compensation limitation provisions set
4 forth in this section are not applicable to compensation earned for
5 the performance of the activities described in subdivision (a) for
6 which the employer is not eligible to receive state apportionment
7 or to compensation that is not creditable pursuant to Section
8 22119.2.

9 (f) The limitation that shall apply to the compensation for
10 performance of the activities identified in subdivision (a) or (b) of
11 Section 22119.5 by a member retired for service under this part
12 either as an employee of an employer, an employee of a third party,
13 or as an independent contractor shall, in any one school year, be
14 an amount calculated by the board each July 1 equal to twenty-two
15 thousand dollars (\$22,000) adjusted by the percentage change in
16 the average compensation earnable of active members of the
17 Defined Benefit Program, as determined by the system, from the
18 1998–99 fiscal year to the fiscal year ending in the previous
19 calendar year.

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

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

35 (i) This section shall become operative on July 1, 2012.

36 ~~SEC. 27.~~

37 *SEC. 28.* Section 24214.5 of the Education Code is amended
38 to read:

39 24214.5. (a) Notwithstanding Section 24214, as of July 1,
40 2010, the postretirement compensation limitation that shall apply

1 to the compensation for performance of the activities identified in
2 subdivision (a) or (b) of Section 22119.5 either as an employee of
3 an employer, an employee of a third party, or as an independent
4 contractor, within the California public school system, shall be
5 zero dollars (\$0) during the first six calendar months after the most
6 recent retirement of a member retired for service under this part,
7 if the member is below normal retirement age at the time the
8 compensation is earned.

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

20 ~~SEC. 28:~~

21 *SEC. 29.* Section 24300.1 of the Education Code is amended
22 to read:

23 24300.1. (a) A member may, upon application for retirement,
24 elect an option pursuant to this part that would provide an
25 actuarially modified retirement allowance payable throughout the
26 life of the member and the member's option beneficiary or
27 beneficiaries, as follows:

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

32 (2) Seventy-five percent beneficiary option. The modified
33 retirement allowance shall be paid to the member and upon the
34 member's death, 75 percent of the modified allowance shall
35 continue to be paid to the option beneficiary. Pursuant to Section
36 401(a)(9) of the Internal Revenue Code, unless the option
37 beneficiary is the member's spouse or former spouse who has been
38 awarded a community property interest in the benefits of the
39 member under this part, the member may not designate an option

1 beneficiary under this option who is more than exactly 19 years
2 younger than the member.

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

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

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

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

30 (C) The member's election of the compound option is subject
31 to all of the following:

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

39 (ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code,
40 unless the option beneficiary is the member's spouse or former

1 spouse who has been awarded a community property interest in
2 the member's benefits under this part, the member may not
3 designate an option beneficiary under the 75 percent beneficiary
4 option within this compound option who is more than exactly 19
5 years younger than the member.

6 (b) For purposes of this section, the member shall designate an
7 option beneficiary on a properly executed retirement application.
8 Except as otherwise provided by this chapter, the option shall
9 become effective on the member's retirement date.

10 (c) A member may revoke or change an election of an option
11 no later than 30 days from the date the member's initial benefit
12 payment for the member's most recent retirement under the Defined
13 Benefit Program is paid by the system. A revocation of an option
14 may not be made in derogation of a spouse's or a former spouse's
15 community property rights as specified in a court order.

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

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

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

1 (g) The board may evaluate the existing options and annuities
2 provided pursuant to this section, Chapter 38 (commencing with
3 Section 25000) of this part, and Part 14 (commencing with Section
4 26000) and adopt, as a plan amendment, any appropriate changes
5 to the options and annuities based on the needs of the members,
6 participants, and their beneficiaries, including, but not limited to,
7 providing economic security for beneficiaries and reducing the
8 complexity of the options and annuities. The changes to the options
9 and annuities may have no net actuarial impact on the retirement
10 fund and the board may establish any eligibility criteria the board
11 deems necessary to prevent an adverse actuarial impact to the fund.
12 The board shall designate the effective date of the plan amendment,
13 which shall be at least 18 months after the amendment is adopted
14 by the board, and notwithstanding any other provision of this
15 section, the options and annuities available to members and
16 participants eligible to retire pursuant to this part and Part 14
17 (commencing with Section 26000), after the effective date of the
18 plan amendment made pursuant to this subdivision, shall reflect
19 the changes adopted as a plan amendment to this subdivision.

20 ~~SEC. 29:~~

21 *SEC. 30.* Section 24309 of the Education Code is amended to
22 read:

23 24309. (a) A member may change or cancel the election of an
24 option made pursuant to Section 24307. The change or cancellation
25 shall be on a properly executed form provided by the system and
26 received at the system's headquarters office, as established pursuant
27 to Section 22375, within 30 days of the date of the member's
28 signature and, if applicable, the spouse's signature, and no later
29 than 30 days from the date the member's initial benefit payment
30 for the member's most recent retirement under the Defined Benefit
31 Program is paid by the system. The change or cancellation shall
32 become effective as of the date of the member's signature or the
33 day prior to the member's retirement date, whichever is earlier.

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

37 (2) Regardless of how the member elects to receive his or her
38 retirement allowance, a change made to an election of an option
39 or a cancellation of an option shall result in the reduction of that
40 allowance by an amount determined by the board to be the actuarial

1 equivalent of the coverage the member received as a result of the
2 preretirement election and that does not result in any adverse
3 funding to the plan.

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

10 (c) If the option elected pursuant to Section 24307 is "Option
11 8" as described in paragraph (7) of subdivision (a) of Section 24300
12 or the compound option as described in paragraph (4) of
13 subdivision (a) of Section 24300.1, a member may cancel the
14 designation of an option beneficiary. If the member cancels the
15 designation of the option beneficiary or the option beneficiary
16 predeceases the member prior to the member's retirement, the
17 member may elect to receive that portion of the retirement
18 allowance without modification for the option or elect one or
19 multiple new or existing option beneficiaries as described in
20 Section 24307. Any change or cancellation of the designation of
21 the option beneficiary under this subdivision shall result in the
22 allowance reduction prescribed in this section.

23 ~~SEC. 30.~~

24 *SEC. 31.* Section 24600 of the Education Code is amended to
25 read:

26 24600. (a) A retirement allowance under this part begins to
27 accrue on the effective date of the member's retirement and ceases
28 on the earlier of the day of the member's death or the day on which
29 the retirement allowance is terminated for a reason other than the
30 member's death.

31 (b) A retirement allowance payable to an option beneficiary
32 under this part begins to accrue on the day following the day of
33 the retired member's death and ceases on the day of the option
34 beneficiary's death.

35 (c) A disability allowance under this part begins to accrue on
36 the effective date of the member's disability allowance and ceases
37 on the earlier of the day of the member's death or the day on which
38 the disability allowance is terminated for a reason other than the
39 member's death.

1 (d) A family allowance under this part begins to accrue on the
2 day following the day of the member’s death and ceases on the
3 day of the event that terminates eligibility for the allowance.

4 (e) A survivor benefit allowance payable to a surviving spouse
5 under this part pursuant to Chapter 23 (commencing with Section
6 23850) begins to accrue on the day the member would have
7 attained 60 years of age or on the day following the day of the
8 member’s death, as elected by the surviving spouse, and ceases
9 on the day of the surviving spouse’s death.

10 (f) (1) Except as provided in paragraph (2), a child’s portion
11 of an allowance under this part begins to accrue on the effective
12 date of that allowance and ceases on the earlier of either the
13 termination of the child’s eligibility or the termination of the
14 allowance.

15 (2) A child’s portion of a disability retirement allowance under
16 Chapter 26 (commencing with Section 24100) ceases on the earlier
17 of either:

18 (A) The termination date of the child’s eligibility.

19 (B) The termination of the allowance for reasons other than
20 death.

21 (g) Supplemental payments issued under this part pursuant to
22 Sections 24412 and 24415 to retired members, disabled members,
23 and beneficiaries shall begin to accrue pursuant to Sections 24412
24 and 24415 and shall cease to accrue as of the termination dates
25 specified in subdivisions (a) to (f), inclusive, of this section.

26 (h) Notwithstanding any other provision of this part or other
27 law, distributions payable under the plan with respect to the
28 Defined Benefit Program and the Defined Benefit Supplement
29 Program shall be made in accordance with applicable provisions
30 of the Internal Revenue Code of 1986 and related regulations. The
31 required beginning date of benefit payments that represent the
32 entire interest of the member in the plan with respect to the Defined
33 Benefit Program and the Defined Benefit Supplement Program
34 shall be either:

35 (1) In the case of a refund of contributions, as described in
36 Chapter 18 (commencing with Section 23100) of this part and
37 distribution of an amount equal to the balance of credits in a
38 member’s Defined Benefit Supplement account, as described in
39 Chapter 38 (commencing with Section 25000) of this part, not
40 later than April 1 of the calendar year following the later of (A)

1 the calendar year in which the member attains the age at which
2 the Internal Revenue Code of 1986 requires a distribution of
3 benefits or (B) the calendar year in which the member terminates
4 employment within the meaning of subdivision (i).

5 (2) In the case of a retirement allowance, as defined in Section
6 22166, not later than April 1 of the calendar year following the
7 later of (A) the calendar year in which the member attains the age
8 at which the Internal Revenue Code of 1986 requires a distribution
9 of benefits or (B) the calendar year in which the member terminates
10 employment within the meaning of subdivision (i), to continue
11 over the life of the member or the lives of the member and the
12 member's option beneficiary, or over the life expectancy of the
13 member or the life expectancy of the member and the member's
14 option beneficiary.

15 (i) For purposes of subdivision (h), the phrase "terminates
16 employment" means the later of:

17 (1) The date the member ceases to perform creditable service
18 subject to coverage under this plan.

19 (2) The date the member ceases employment in a position
20 subject to coverage under another public retirement system in this
21 state if the compensation earnable while a member of the other
22 system may be considered in the determination of final
23 compensation pursuant to Section 22134, 22135, or 22136.

24 ~~SEC. 31.~~

25 *SEC. 32.* Section 25012 of the Education Code is amended to
26 read:

27 25012. (a) An annuity payable under the Defined Benefit
28 Supplement Program shall be determined as a value actuarially
29 equivalent to the balance of credits in the member's Defined
30 Benefit Supplement Program account on the member's retirement
31 date and after any lump-sum payment. If a single life annuity is
32 elected, the annuity shall be calculated using the age of the member
33 on the member's retirement date. A member may elect a single
34 life annuity only if the member did not elect to receive a modified
35 allowance pursuant to Section 24300 or 24300.1. If a joint and
36 survivor annuity is elected, the annuity shall be calculated using
37 the age of the member and the age of the member's beneficiary
38 on the member's retirement date. A member may elect a joint and
39 survivor annuity only if the member elected to receive a modified
40 allowance pursuant to Section 24300 or 24300.1.

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

3 *SEC. 33. Section 25940 of the Education Code is amended to*
4 *read:*

5 25940. (a) Effective July 1, 2001, the system shall pay to the
6 federal Centers for Medicare and Medicaid Services or a successor
7 agency the premiums associated with Medicare Part A for retired
8 or disabled members described in this section.

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

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

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

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

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

19 (c) The board may extend eligibility for the payments described
20 in this section to members of the Defined Benefit Program who
21 meet the requirements of subdivision (d) and who retire or begin
22 receiving a disability allowance on or after January 1, 2001, within
23 a school year specified by the board, if the board finds, *pursuant*
24 *to an actuarial valuation of the Defined Benefit Program and the*
25 *program established by this section*, that the cost of the payments
26 for members who retire or begin receiving a disability allowance
27 during the specified school year may be paid ~~within the anticipated~~
28 ~~resources available in the fund, as determined by the actuarial~~
29 ~~valuation of the program established by this chapter without~~
30 *creating or increasing an unfunded actuarial liability in the*
31 *Defined Benefit Program by the end of the funding period*
32 *established by the board because the contributions that would*
33 *otherwise be deposited in the Teachers' Retirement Fund pursuant*
34 *to subdivision (b) of Section 22950 would instead be deposited in*
35 *the fund pursuant to subdivision (c) of Section 22950 to fund the*
36 *extension of payments. Any extension of eligibility to members*
37 *who retire or begin receiving a disability allowance on or after*
38 *January 1, 2001, shall be provided equally to any member who*
39 *meets the requirements of subdivision (d) and retires or begins*

1 receiving a disability allowance during the school year specified
2 by the board.

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

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

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

9 (ii) Completed or is conducting a division pursuant to Section
10 22156 of the Government Code on or after January 1, 2001, and,
11 if the member was less than 58 years of age at the time of the
12 division, the member elected to be covered by Medicare.

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

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

18 (ii) Completed or is conducting a division pursuant to Section
19 22156 of the Government Code on or after January 1, 2001, and,
20 if the member was still actively employed and less than 58 years
21 of age at the time of the division, the member elected to be covered
22 by Medicare.

23 (iii) Completed or is conducting a division pursuant to Section
24 22156 of the Government Code on or after January 1, 2001, and,
25 if the member is no longer actively employed, the division was
26 completed prior to the time the member reached normal retirement
27 age.

28 (2) For purposes of paragraph (1), a division occurs during the
29 10-day period during which the member has the opportunity to
30 elect to be covered by Medicare pursuant to Section 22156 of the
31 Government Code.

32 (3) This subdivision does not apply to a member who retires
33 from a district, or is receiving a disability allowance and the
34 member was last employed in a district, that either as of January
35 1, 2001, had no members who were less than 58 years of age and
36 who were hired prior to April 1, 1986, or was created pursuant to
37 a formation or a reorganization on or after April 1, 1986, and prior
38 to January 1, 2001.

39 (e) The amount paid to the federal Centers for Medicare and
40 Medicaid Services or a successor agency pursuant to this section

1 shall include any surcharges applicable to enrollment in Medicare
2 Part A or Part B by members who retired prior to January 1, 2001,
3 and who enrolled in Medicare Parts A and B after the age of 65
4 years and prior to July 1, 2001. If the system pays the Part A
5 premium and Part B surcharges on behalf of a member and that
6 member later becomes eligible for Part A coverage without
7 payment of a premium, the system shall continue to pay any
8 applicable Part B surcharges on behalf of that member. The board
9 may require a member on whose behalf a surcharge would be paid
10 pursuant to this subdivision to authorize the system to deduct the
11 Part B premium from the member's retirement allowance as a
12 condition of having the system pay the Part A premium pursuant
13 to this section.

14 ~~SEC. 32.~~

15 *SEC. 34.* Section 26301 of the Education Code is amended to
16 read:

17 26301. (a) Employers shall report contributions paid on behalf
18 of each participant in each pay period, along with all other
19 information required by the system no later than 10 working days
20 following the last day of the pay period in which the salary was
21 earned, and the report shall be delinquent immediately thereafter.
22 That report shall be submitted electronically in an encrypted format
23 provided by the system that ensures the security of the transmitted
24 participant data.

25 (b) The board shall, in accordance with regulations, assess a
26 penalty against the employer for a report submitted late or in an
27 unacceptable form. The penalty shall be based upon the sum of
28 the employee and employer contributions required to be reported
29 under this part at a rate of interest equal to the regular interest rate,
30 accruing on the balance for the period between the time the report
31 was due and the time an acceptable report is actually received by
32 the system.

33 ~~SEC. 33.~~

34 *SEC. 35.* Section 26302 of the Education Code is amended to
35 read:

36 26302. (a) If more or less than the contributions required by
37 this part are paid to the plan based on salary paid to a participant,
38 proper adjustment shall be made by the employer within 60 days
39 of discovery or of notification by the system, and any contributions

1 deducted in error from the participant's salary shall be returned to
2 the participant by the employer within the same time period.

3 (b) The board shall, in accordance with regulations, assess
4 penalties for late or improper adjustments pursuant to Section
5 26301. These penalties shall be assessed at a rate equal to the
6 penalties imposed under subdivision (b) of Section 26301 and shall
7 be deemed to be interest earned in the year in which the penalty
8 is received.

9 ~~SEC. 34.~~

10 *SEC. 36.* Section 26303 of the Education Code is amended to
11 read:

12 26303. (a) Employers shall transmit to the plan the employee
13 contributions and employer contributions with respect to the Cash
14 Balance Benefit Program for salary paid to each participant during
15 the pay period no later than 10 working days following the last
16 day of the pay period in which the salary was earned.

17 (b) Payments shall be delinquent on the 11th working day
18 thereafter, and interest shall begin to accrue at the regular interest
19 rate from that day until payment for the contributions and interest
20 is received in full by the system. The board, in accordance with
21 regulations, shall collect interest for late payment from the
22 employer under this subdivision.

23 ~~SEC. 35.~~

24 *SEC. 37.* Section 26505 of the Education Code is repealed.

25 ~~SEC. 36.~~

26 *SEC. 38.* Section 26812 is added to the Education Code, to
27 read:

28 26812. (a) A participant retired for service under this part may
29 perform the activities identified in subdivision (a) or (b) of Section
30 26113 as an employee of an employer, as an employee of a third
31 party, or as an independent contractor within the California public
32 school system, but the participant shall not make contributions to
33 the plan. The employer shall maintain accurate records of the
34 earnings of the retired member and report those earnings monthly
35 to the system and retired member.

36 (b) If a participant is retired for service under this part, the rate
37 of pay for service performed by that member as an employee of
38 the employer, as an employee of a third party, or as an independent
39 contractor shall not be less than the minimum, nor exceed that paid
40 by the employer to other employees performing comparable duties.

1 (c) A participant retired for service under this part shall not be
 2 required to reinstate for performing the activities identified in
 3 subdivision (a) or (b) of Section 26113 as an employee of an
 4 employer, as an employee of a third party, or as an independent
 5 contractor within the California public school system.

6 (d) If a participant retired for service under this part and
 7 receiving an annuity under the Cash Balance Benefit Program is
 8 below normal retirement age and earns compensation for
 9 performing activities identified in subdivision (a) or (b) of Section
 10 26113 as an employee of an employer, as an employee of a third
 11 party, or as an independent contractor, within the California public
 12 school system, the participant’s annuity shall be reduced by the
 13 amount of the compensation. This reduction shall only be made
 14 for compensation earned during the first 180 calendar days after
 15 a participant retired for service under this part, if the participant
 16 is below normal retirement age at the time the compensation is
 17 earned. The amount of the reduction may be equal to the monthly
 18 annuity payable but shall not exceed the amount of the annual
 19 annuity payable under this part for the fiscal year in which the
 20 compensation was earned.

21 ~~SEC. 37.~~

22 *SEC. 39.* Section 26813 is added to the Education Code, to
 23 read:

24 26813. A member retired for service under the Defined Benefit
 25 Program may perform the activities identified in subdivision (a)
 26 or (b) of Section 22119.5 and subdivision (a) or (b) of Section
 27 26113 in any one school year up to the limitation specified in
 28 Sections 24214 and 24214.5 as an employee of an employer, as
 29 an employee of a third party, or as an independent contractor within
 30 the California public school system, but the member shall not make
 31 contributions to the fund. The employer shall maintain accurate
 32 records of the earnings of the retired member and report those
 33 earnings monthly to the system and retired member as described
 34 in Section 22461.

35 ~~SEC. 38.~~

36 *SEC. 40.* Any section of any other act enacted by the
 37 Legislature during the 2011 calendar year that takes effect on or
 38 before January 1, 2012, and that amends, amends and renumbers,
 39 adds, repeals and adds, or repeals a section that is amended,
 40 amended and renumbered, added, repealed and added, or repealed

1 by this act, shall prevail over this act, whether that act is enacted
2 prior to or subsequent to the enactment of this act. The repeal, or
3 repeal and addition, of any article, chapter, part, title, or division
4 of any code by this act shall not become operative if any section
5 of any other act that is enacted by the Legislature during the 2010
6 calendar year and takes effect on or before January 1, 2012,
7 amends, amends and renumbers, adds, repeals and adds, or repeals
8 any section contained in that article, chapter, part, title, or division.

O