

AMENDED IN SENATE MAY 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 989

Introduced by Assembly Member Mullin

February 22, 2013

An act to amend ~~Section 22309~~ of Sections 22309, 22661, 22662, 22663, 22801, 23104, 23203, and 26214 of, and to add Section 22337 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 989, as amended, Mullin. State teachers' retirement: account statements.

The State Teachers' Retirement Law creates the State Teachers' Retirement System (STRS) for the purpose of providing retirement benefits to teachers and other people employed in connection with the schools. STRS is administrated by the Teachers' Retirement Board, which is required to issue each active and inactive member, no less frequently than annually, as specified, a statement of the member's individual Defined Benefit Program and Defined Benefit Supplement Program accounts, if the system has the member's mailing address. Existing law permits the board to make the account statement available by secured access through the system's Web site. *Existing law creates the Cash Balance Benefit Program, also referred to as the cash balance plan, administrated by the Teachers' Retirement Board, to provide a retirement plan for teachers working less than half time. Existing law requires the board, in connection with the cash balance plan, to provide each participant a statement regarding the balance of his or her account with the plan at the close of the year, as specified.*

This bill would ~~require~~ *permit* the board to make an electronic copy of the account statement available to each active and inactive member *delivery of the account statements described above, subject to specified requirements.* The bill would permit the board, by resolution, to make the electronic copy *delivery of the account statement statements* the default method by which active and inactive members *and participants* receive the information in the ~~statement~~ *statements.* The bill would require the board, if it makes this resolution, to notify each member that he or she has the right to request that a copy of the individual account statement be mailed and to provide the statement by mail if requested, as specified. *The bill would provide that, until this resolution is made, the delivery by mail is the default delivery method. The bill would apply similar authorizations and requirements regarding electronic delivery of communications and other actions to provisions regarding refund of retirement contributions, redeposit of retirement contributions, and the purchase of service credit. If specified provisions mandate that actions be taken within a certain number of days of a mailing date and electronic delivery has been substituted for mail, the bill would require that date of electronic delivery be substituted for mailing date for purposes of measuring when those actions are to be taken.*

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

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

1 ~~SECTION 1. Section 22309 of the Education Code is amended~~
 2 ~~to read:~~
 3 ~~22309. (a) The board shall issue to each active and inactive~~
 4 ~~member, no less frequently than annually after the close of the~~
 5 ~~school year, a statement of the member's individual Defined~~
 6 ~~Benefit Program and Defined Benefit Supplement accounts.~~
 7 ~~(b) (1) The board shall make an electronic copy of the individual~~
 8 ~~account statement described in subdivision (a) available to each~~
 9 ~~active and inactive member.~~
 10 ~~(2) The board may, by resolution, make the electronic copy of~~
 11 ~~the individual account statement the default method by which~~
 12 ~~active and inactive members receive the information provided in~~
 13 ~~the individual account statement. If the board makes this resolution,~~
 14 ~~then the board shall notify each active and inactive member that~~

1 he or she has the right to request that a copy of the individual
2 account statement be mailed. The board shall mail a copy of the
3 individual account statement if the system has received the
4 member's request to do so in the manner specified by the board.

5 (3) ~~Until the board makes the resolution described in paragraph~~
6 ~~(2), the board shall mail a copy of the member's statement of the~~
7 ~~member's individual Defined Benefit Program and Defined Benefit~~
8 ~~Supplement accounts, provided the employer or member has~~
9 ~~informed the system of the member's current United States Postal~~
10 ~~Service mailing address. If the member indicates that he or she~~
11 ~~prefers to receive that annual statement through the Web site of~~
12 ~~the system, the board may, in lieu of mailing, issue the annual~~
13 ~~statement by secured access through the Web site of the system.~~

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

17 *SECTION 1. Section 22309 of the Education Code is amended*
18 *to read:*

19 22309. (a) ~~The~~*Except as provided in subdivision (c), the board*
20 *shall issue to each active and inactive member, no less frequently*
21 *than annually after the close of the school year, a statement of the*
22 *member's individual Defined Benefit Program and Defined Benefit*
23 *Supplement accounts, provided the employer or member has*
24 *informed the system of the member's current United States Postal*
25 *Service mailing address. If the member indicates that he or she*
26 *prefers to receive that annual statement through the Web site of*
27 *the system, the board may, in lieu of mailing, issue the annual*
28 *statement by secured access through the Web site of the system.*

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

32 (c) *The mode of issuance described subdivision (a) is subject*
33 *to Section 22337.*

34 *SEC. 2. Section 22337 is added to the Education Code, to read:*

35 22337. (a) *The requirements and procedures described in this*
36 *section shall apply, to the extent that they are applicable, to the*
37 *following sections:*

38 (1) *Section 22309.*

39 (2) *Section 22661.*

40 (3) *Section 22662.*

1 (4) Section 22663.

2 (5) Section 22801.

3 (6) Section 23104.

4 (7) Section 23203.

5 (8) Section 26214.

6 (b) A communication or other action described in a section
 7 listed in subdivision (a) may be made by electronic delivery
 8 pursuant to the requirements of this section. The board may, by
 9 resolution, make electronic delivery the default method of
 10 communication or other action with regard to these sections. If
 11 the board makes this resolution, then the board shall notify each
 12 party affected by the resolution that he or she has the right to
 13 request delivery by mail and that, unless the affected party elects
 14 to continue delivery by mail within 60 days, delivery shall be
 15 provided electronically. The option to elect delivery by mail shall
 16 be provided by mail unless the affected party has indicated that
 17 he or she prefers to receive communications in another manner,
 18 in which case the option to elect shall be provided by the method
 19 that the party has selected.

20 (c) Until the board makes the resolution described in subdivision
 21 (b), mail shall continue to be the default method of communication
 22 unless a different preferred method of communication has been
 23 selected by the member, nonmember spouse, participant,
 24 nonparticipant spouse, or beneficiary.

25 (d) If a provision in a section listed in subdivision (a) requires
 26 that action be taken within a specified number of days of a mailing
 27 date, and electronic delivery has been substituted for delivery by
 28 mail, date of electronic delivery shall substitute for date of mailing
 29 for purposes of measuring the number of days within which an
 30 action is to be taken.

31 SEC. 3. Section 22661 of the Education Code is amended to
 32 read:

33 22661. (a) The nonmember spouse who is awarded a separate
 34 account under this part shall have the right to a refund of the
 35 accumulated retirement contributions in the account under the
 36 Defined Benefit Program, and a return of the Defined Benefit
 37 Supplement account balance, of the nonmember spouse under this
 38 part.

39 (b) The nonmember spouse shall file an application on a form
 40 provided by the system to obtain a refund or lump-sum payment.

1 (c) ~~The~~ Except as provided in subdivision (i), the refund of
2 accumulated retirement contributions in the account under the
3 Defined Benefit Program and the return of the accumulated Defined
4 Benefit Supplement account balance under this part are effective
5 when the system deposits in the United States mail an initial
6 warrant drawn in favor of the nonmember spouse and addressed
7 to the latest address for the nonmember spouse on file with the
8 system.

9 (d) ~~If~~ Except as provided in subdivision (i), if the nonmember
10 spouse has elected on a form provided by the system to transfer
11 all or a specified portion of the accumulated retirement
12 contributions or accumulated Defined Benefit Supplement account
13 balance that are eligible for direct trustee-to-trustee transfer to the
14 trustee of a qualified plan under Section 402 of the Internal
15 Revenue Code of 1986 (~~26 U.S.C.A.~~ U.S.C. Sec. 402), deposit in
16 the United States mail of a notice that the requested transfer has
17 been made constitutes a refund of the nonmember spouse's
18 accumulated retirement contributions as defined in Section 22161.5
19 or the return of the accumulated Defined Benefit Supplement
20 account balance. This subdivision shall not apply to a nonmember
21 domestic partner, consistent with Section 402 of the Internal
22 Revenue Code.

23 (e) The nonmember spouse is deemed to have permanently
24 waived all rights and benefits pertaining to the service credit,
25 accumulated retirement contributions, and accumulated Defined
26 Benefit Supplement account balance under this part when the
27 refund and lump-sum payment become effective.

28 (f) The nonmember spouse may not cancel a refund or lump-sum
29 payment under this part after it is effective.

30 (g) The nonmember spouse shall not have a right to elect to
31 redeposit the refunded accumulated retirement contributions under
32 this part after the refund is effective, to redeposit under Section
33 22662 or purchase additional service credit under Section 22663
34 after the refund becomes effective, or to redeposit the accumulated
35 Defined Benefit Supplement account balance after the lump-sum
36 payment becomes effective.

37 (h) If the total service credit in the separate account of the
38 nonmember spouse under the Defined Benefit Program, including
39 service credit purchased under Sections 22662 and 22663, is less

1 than two and one-half years, the board shall refund the accumulated
2 retirement contributions in the account.

3 (i) *The mode of deposit described in subdivision (c) and the*
4 *mode of notice described in subdivision (d) are subject to Section*
5 *22337.*

6 *SEC. 4. Section 22662 of the Education Code is amended to*
7 *read:*

8 22662. The nonmember spouse who is awarded a separate
9 account under the Defined Benefit Program may redeposit
10 accumulated retirement contributions previously refunded to the
11 member in accordance with the determination of the court pursuant
12 to Section 22652.

13 (a) The nonmember spouse may redeposit under the Defined
14 Benefit Program only those accumulated retirement contributions
15 that were previously refunded to the member and in which the
16 court has determined the nonmember spouse has a community
17 property interest.

18 (b) The nonmember spouse shall inform the system in writing
19 of his or her intent to redeposit within 180 days after the judgment
20 or court order that specifies the redeposit rights of the nonmember
21 spouse is entered. ~~The~~ *Except as provided in subdivision (g), the*
22 *nonmember spouses' election to redeposit shall be made on a form*
23 *provided by the system within 30 days after the system mails an*
24 *election form and the billing.*

25 (c) If the nonmember spouse elects to redeposit under the
26 Defined Benefit Program, he or she shall repay all or a portion of
27 the member's refunded accumulated retirement contributions that
28 were awarded to the nonmember spouse and shall pay regular
29 interest from the date of the refund to the date payment of the
30 redeposit is completed.

31 (d) All payments shall be received by the system before the
32 effective date of the nonmember spouse's retirement under this
33 part. If any payment due because of the election is not received at
34 the system's headquarters office, as established pursuant to Section
35 22375, within 120 days of its due date, the election shall be
36 canceled and any payments made under the election shall be
37 returned to the nonmember spouse.

38 (e) The right of the nonmember spouse to redeposit shall be
39 subject to Section 23203.

1 (f) The member shall not have a right to redeposit the share of
2 the nonmember spouse in the previously refunded accumulated
3 retirement contributions under this part whether or not the
4 nonmember spouse elects to redeposit. However, any accumulated
5 retirement contributions previously refunded under this part and
6 not explicitly awarded to the nonmember spouse under this part
7 by the judgment or court order shall be deemed the exclusive
8 property of the member.

9 (g) *The measurement of time within which the election to*
10 *redeposit described in subdivision (b) shall be made is subject to*
11 *Section 22337.*

12 *SEC. 5. Section 22663 of the Education Code is amended to*
13 *read:*

14 22663. The nonmember spouse who is awarded a separate
15 account under this part has the right to purchase additional service
16 credit in accordance with the determination of the court pursuant
17 to Section 22652.

18 (a) The nonmember spouse may purchase only the service credit
19 that the court, pursuant to Section 22652, has determined to be the
20 community property interest of the nonmember spouse.

21 (b) The nonmember spouse shall inform the system in writing
22 of his or her intent to purchase additional service credit within 180
23 days after the date the judgment or court order addressing the right
24 of the nonmember spouse to purchase additional service credit is
25 entered. ~~The~~ *Except as provided in subdivision (f), the* nonmember
26 spouse shall elect to purchase additional service credit on a form
27 provided by the system within 30 days after the system mails an
28 election form and billing.

29 (c) If the nonmember spouse elects to purchase additional
30 service credit, he or she shall pay, prior to retirement under this
31 part, all contributions with respect to the additional service at the
32 contribution rate for additional service credit in effect at the time
33 of election and regular interest from July 1 of the year following
34 the year upon which contributions are based.

35 (1) (A) The nonmember spouse shall purchase additional service
36 credit by paying the required contributions and interest in one lump
37 sum, or in not more than 120 monthly installments, provided that
38 no installment, except the final installment, is less than twenty-five
39 dollars (\$25). Regular interest shall be charged on the monthly,
40 unpaid balance if the nonmember spouse pays in installments.

1 (B) If any payment due, because of the election, is not received
2 at the system’s headquarters office, as established pursuant to
3 Section 22375, within 120 days of its due date, the election shall
4 be canceled and any payments made under the election shall be
5 returned to the nonmember spouse.

6 (2) The contributions shall be based on the member’s
7 compensation earnable in the most recent school year during which
8 the member was employed, preceding the date of separation
9 established by the court pursuant to Section 22652.

10 (3) All payments of contributions and interest shall be received
11 by the system before the effective date of the retirement of the
12 nonmember spouse.

13 (d) The nonmember spouse does not have a right to purchase
14 additional service credit under this part after the effective date of
15 a refund of the accumulated retirement contributions in the separate
16 account of the nonmember spouse.

17 (e) The member does not have a right to purchase the community
18 property interest of the nonmember spouse of additional service
19 credit under this part whether or not the nonmember spouse elects
20 to purchase the additional service credit. However, any additional
21 service credit eligible for purchase that is not explicitly awarded
22 to the nonmember spouse by the judgment or court order shall be
23 deemed the exclusive property of the member.

24 (f) *The measurement of time within which the election to*
25 *purchase additional service credit described in subdivision (b)*
26 *shall be made is subject to Section 22337.*

27 *SEC. 6. Section 22801 of the Education Code is amended to*
28 *read:*

29 22801. (a) A member who requests to purchase additional
30 service credit as provided in this chapter and Chapter 14.2
31 (commencing with Section 22820) shall pay, prior to retirement,
32 all contributions with respect to that service at the contribution
33 rate for additional service credit, adopted by the board as a plan
34 amendment, in effect on the date of the request to purchase
35 additional service credit. If the system is unable to inform the
36 member or beneficiary of the amount required to purchase
37 additional service credit prior to the effective date of the applicable
38 allowance, the member or beneficiary may make the required
39 payment within 30 working days after the date of mailing of the
40 statement of contributions and interest required or the effective

1 date of the appropriate allowance, whichever is later, *except as*
2 *provided in subdivision (i)*. The payment shall be paid in full before
3 a member or beneficiary receives any adjustment in the appropriate
4 allowance due because of that payment. Contributions shall be
5 made in a lump sum, or in not more than 120 monthly installments,
6 not to exceed ten years. No installment, except the final installment,
7 shall be less than twenty-five dollars (\$25).

8 (b) If the member is employed to perform creditable service
9 subject to coverage by the Defined Benefit Program on the date
10 of the request to purchase additional service credit, the
11 contributions shall be based upon the compensation earnable in
12 the current school year or either of the two immediately preceding
13 school years, whichever is highest.

14 (c) If the member is not employed to perform creditable service
15 subject to coverage by the Defined Benefit Program on the date
16 of the request to purchase additional service credit, the
17 contributions shall be based upon the compensation earnable in
18 the last school year of credited service or either of the two
19 immediately preceding school years, whichever is highest, and
20 additional regular interest shall be added to the contributions from
21 July 1 of the subsequent year in which the member last performed
22 creditable service subject to coverage by the Defined Benefit
23 Program to 20 days after the date of the request.

24 (d) The employer may pay the amount required as employer
25 contributions for additional service credited under paragraphs (7),
26 (8), (9), and (10) of subdivision (a) of Section 22803.

27 (e) The Public Employees' Retirement System shall transfer
28 the actuarial present value of the assets of a person who makes an
29 election pursuant to paragraph (11) of subdivision (a) of Section
30 22803.

31 (f) Regular interest shall be charged on the monthly unpaid
32 balance if the member pays in installments. Regular interest may
33 not be charged or be payable for the period of a delay caused by
34 the system's inability or failure to determine and inform the
35 member or beneficiary of the amount of contributions and interest
36 that is payable. The period of delay shall commence on the 20th
37 day following the day on which the member or beneficiary who
38 wishes to make payment evidences in writing to the system that
39 he or she is ready, willing, and able to make payment to the system.
40 The period of delay shall cease on the first day of the month

1 following the mailing of notification of contributions and interest
2 payable.

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

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

13 (i) *The measurement of time within which the purchase of*
14 *additional service credit described in subdivision (a) shall be made*
15 *is subject to Section 22337.*

16 SEC. 7. *Section 23104 of the Education Code is amended to*
17 *read:*

18 23104. (a) Deposit in the United States mail of an initial
19 warrant drawn as directed by the member as a refund of
20 contributions upon termination of employment, and addressed to
21 the address directed by the member, constitutes a return of the
22 member’s accumulated retirement contributions under this part.

23 (b) ~~If~~ *Except as provided in subdivision (e), if* the member has
24 elected on a form provided by the system to transfer all or a
25 specified portion of the accumulated retirement contributions that
26 are eligible for direct trustee-to-trustee transfer to the trustee of a
27 qualified plan under Section 402 of the Internal Revenue Code of
28 1986 (26 U.S.C. Sec. 402), deposit in the United States mail of a
29 notice that the requested transfer has been made constitutes a return
30 of the member’s accumulated retirement contributions under this
31 part.

32 (c) ~~For~~ *Except as provided in subdivision (e), for* refunds not
33 involving direct trustee-to-trustee transfers, if the member returns
34 the total gross distribution amount to the system’s headquarters
35 office, as established pursuant to Section 22375, within 30 days
36 from the mailing date, the refund shall be canceled and the person
37 shall be restored as a member of the Defined Benefit Program with
38 all the rights and privileges under this part restored.

39 (d) ~~For~~ *Except as provided in subdivision (e), for* refunds
40 involving direct trustee-to-trustee transfers, if the member returns

1 the warrant drawn to the trustee of the qualified plan or the trustee
2 returns the amount of the qualified refund and, if applicable, any
3 additional amounts necessary to equal, but in no event to exceed,
4 the total gross distribution amount to the system's headquarters
5 office, as established pursuant to Section 22375, within 30 days
6 from the mailing date, the refund shall be canceled and the person
7 shall be restored as a member of the Defined Benefit Program with
8 all the rights and privileges under this part restored.

9 *(e) The mode of notice described in subdivision (b) and the*
10 *measurement of time within which the return of total gross*
11 *distribution amounts described in subdivisions (c) and (d) shall*
12 *be made are subject to Section 22337.*

13 *SEC. 8. Section 23203 of the Education Code is amended to*
14 *read:*

15 23203. (a) A member who elects to redeposit refunded
16 accumulated retirement contributions shall pay, prior to retirement,
17 all contributions and interest as determined under Section 23200.

18 (b) If the system is unable to inform the member or beneficiary
19 of the amount required to redeposit the refunded accumulated
20 retirement contributions prior to the effective date of the applicable
21 allowance, the member or beneficiary may make the required
22 payment within 30 working days after the date of mailing of the
23 statement of contributions and interest required or the effective
24 date of the appropriate allowance, whichever is later, *except as*
25 *provided in subdivision (d)*. The payment shall be paid in full
26 before a member or beneficiary receives any adjustment in the
27 appropriate allowance due because of that payment.

28 (c) Redeposit of refunded accumulated retirement contributions
29 shall be made in one sum, or in not more than 120 monthly
30 installments, not to exceed ten years, provided that no installment,
31 except the final installment, is less than twenty-five dollars (\$25).

32 *(d) The measurement of time within which a redeposit described*
33 *in subdivision (b) shall be made is subject to Section 22337.*

34 *SEC. 9. Section 26214 of the Education Code is amended to*
35 *read:*

36 26214. ~~The~~ *(a) Except as provided in subdivision (b), the board*
37 *shall issue, after the end of the plan year, to each participant having*
38 *a balance in his or her employee account or employer account, a*
39 *statement setting forth the balance as of the close of the plan year*
40 *and amounts credited for the year, provided that the employer or*

1 participant has informed the system of the participant's current
2 United States Postal Service mailing address. If the participant
3 indicates that he or she prefers to receive that statement through
4 the Web site of the system, the board may, in lieu of mailing, issue
5 the statement by secured access through the Web site of the system.
6 The board shall prescribe the form and content of the account
7 statement.
8 *(b) The mode of issuance described subdivision (a) is subject*
9 *to Section 22337.*

O