

AMENDED IN SENATE JUNE 17, 2013

AMENDED IN SENATE MAY 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 989**

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**Introduced by Assembly Member Mullin**

February 22, 2013

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An act to amend Sections 22309, 22661, 22662, 22663, 22801, 23104, 23203, 24615, 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 *Internet* 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 permit the board to make an electronic delivery of the account statements described above, subject to specified requirements. The bill would permit the ~~board, by resolution, to make the system to designate~~ electronic delivery of the account statements the default method by which active and inactive members and participants receive the information in the statements. The bill would require the ~~board, if it makes this resolution, system~~ to notify ~~each member that he or she has~~ *the affected parties that they have* 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~~ *delivery by mail, and that unless the affected party elects, in a manner specified by the board, delivery will be provided electronically.* The bill would provide that, until this ~~resolution~~ *designation* is made, ~~the~~ delivery by mail is the default delivery method, *except as specified.* 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) Except as provided in subdivision (c), the ~~board~~  
4 ~~system~~ shall ~~issue~~ *make available* to each active and inactive  
5 member, ~~no less frequently than at least~~ annually after the close  
6 of the school year, a statement of the member’s individual Defined  
7 Benefit Program and Defined Benefit Supplement ~~accounts,~~  
8 ~~accounts.~~ *The system shall mail a copy of the member’s statement,*  
9 *provided the employer or member has informed the system of the*  
10 *member’s current United States Postal Service mailing address:*  
11 *If and the member indicates that he or she prefers has not requested*

1 to receive that annual statement through the Web site of the system;  
2 the board may *electronically*, in lieu of mailing, issue the annual  
3 statement by secured access through the Web site of the system.

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

7 (c) The mode of issuance described in subdivision (a) is subject  
8 to Section 22337.

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

10 22337. (a) The requirements and procedures described in this  
11 section shall apply, to the extent that they are applicable, to the  
12 following sections:

13 (1) Section 22309.

14 (2) Section 22661.

15 (3) Section 22662.

16 (4) Section 22663.

17 (5) Section 22801.

18 (6) Section 23104.

19 (7) Section 23203.

20 (8) *Section 24615.*

21 ~~(8)~~

22 (9) Section 26214.

23 (b) A communication or other action described in a section listed  
24 in subdivision (a) may be made by electronic delivery pursuant to  
25 the requirements of this section. The board system may, by  
26 resolution, make *designate* electronic delivery the default method  
27 of communication or other action with regard to these sections. If  
28 the board makes this resolution, then the board shall notify each  
29 party affected by the resolution that he or she has sections, provided  
30 that the system notifies the parties affected that they have the right  
31 to request delivery by mail and that, unless the affected party elects  
32 to continue delivery by mail within 60 days, in a manner specified  
33 by the system, to continue delivery by mail, delivery shall be  
34 provided electronically. The option to elect delivery by mail shall  
35 be provided by mail unless the affected party has indicated that he  
36 or she prefers to receive communications in another manner, in  
37 which case the option to elect shall be provided by the method that  
38 the party has selected.

39 (c) ~~Until the board makes the resolution~~ Prior to the designation  
40 described in subdivision (b), mail shall continue to be the default

1 method of communication unless a different preferred method of  
2 communication has been selected by the member, nonmember  
3 spouse, participant, nonparticipant spouse, or beneficiary *has*  
4 *requested that he or she receive that communication electronically,*  
5 *pursuant to a procedure specified by the system.*

6 (d) If a provision in a section listed in subdivision (a) requires  
7 that action be taken within a specified number of days of a mailing  
8 date, and electronic delivery has been substituted for delivery by  
9 mail, date of electronic delivery shall substitute for date of mailing  
10 for purposes of measuring the number of days within which an  
11 action is to be taken.

12 SEC. 3. Section 22661 of the Education Code is amended to  
13 read:

14 22661. (a) The nonmember spouse who is awarded a separate  
15 account under this part shall have the right to a refund of the  
16 accumulated retirement contributions in the account under the  
17 Defined Benefit Program, and a return of the Defined Benefit  
18 Supplement account balance, of the nonmember spouse under this  
19 part.

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

22 (c) Except as provided in subdivision (i), the refund of  
23 accumulated retirement contributions in the account under the  
24 Defined Benefit Program and the return of the accumulated Defined  
25 Benefit Supplement account balance under this part are effective  
26 when the system deposits in the United States mail an initial  
27 warrant drawn in favor of the nonmember spouse and addressed  
28 to the latest address for the nonmember spouse on file with the  
29 system.

30 (d) Except as provided in subdivision (i), if the nonmember  
31 spouse has elected on a form provided by the system to transfer  
32 all or a specified portion of the accumulated retirement  
33 contributions or accumulated Defined Benefit Supplement account  
34 balance that are eligible for direct trustee-to-trustee transfer to the  
35 trustee of a qualified plan under Section 402 of the Internal  
36 Revenue Code of 1986 (26 U.S.C. Sec. 402), deposit in the United  
37 States mail of a notice that the requested transfer has been made  
38 constitutes a refund of the nonmember spouse's accumulated  
39 retirement contributions as defined in Section 22161.5 or the return  
40 of the accumulated Defined Benefit Supplement account balance.

1 This subdivision shall not apply to a nonmember domestic partner,  
2 consistent with Section 402 of the Internal Revenue Code.

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

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

10 (g) The nonmember spouse shall not have a right to elect to  
11 redeposit the refunded accumulated retirement contributions under  
12 this part after the refund is effective, to redeposit under Section  
13 22662 or purchase additional service credit under Section 22663  
14 after the refund becomes effective, or to redeposit the accumulated  
15 Defined Benefit Supplement account balance after the lump-sum  
16 payment becomes effective.

17 (h) If the total service credit in the separate account of the  
18 nonmember spouse under the Defined Benefit Program, including  
19 service credit purchased under Sections 22662 and 22663, is less  
20 than two and one-half years, the ~~board~~ *system* shall refund the  
21 accumulated retirement contributions in the account.

22 (i) The mode of deposit described in subdivision (c) and the  
23 mode of notice described in subdivision (d) are subject to Section  
24 22337.

25 SEC. 4. Section 22662 of the Education Code is amended to  
26 read:

27 22662. The nonmember spouse who is awarded a separate  
28 account under the Defined Benefit Program may redeposit  
29 accumulated retirement contributions previously refunded to the  
30 member in accordance with the determination of the court pursuant  
31 to Section 22652.

32 (a) The nonmember spouse may redeposit under the Defined  
33 Benefit Program only those accumulated retirement contributions  
34 that were previously refunded to the member and in which the  
35 court has determined the nonmember spouse has a community  
36 property interest.

37 (b) The nonmember spouse shall inform the system in writing  
38 of his or her intent to redeposit within 180 days after the judgment  
39 or court order that specifies the redeposit rights of the nonmember  
40 spouse is entered. Except as provided in subdivision (g), the

1 nonmember ~~spouses~~ *spouse*'s election to redeposit shall be made  
2 on a form provided by the system within 30 days after the system  
3 mails an election form and the billing.

4 (c) If the nonmember spouse elects to redeposit under the  
5 Defined Benefit Program, he or she shall repay all or a portion of  
6 the member's refunded accumulated retirement contributions that  
7 were awarded to the nonmember spouse and shall pay regular  
8 interest from the date of the refund to the date payment of the  
9 redeposit is completed.

10 (d) All payments shall be received by the system before the  
11 effective date of the nonmember spouse's retirement under this  
12 part. If any payment due because of the election is not received at  
13 the system's headquarters office, as established pursuant to Section  
14 22375, within 120 days of its due date, the election shall be  
15 canceled and any payments made under the election shall be  
16 returned to the nonmember spouse.

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

19 (f) The member shall not have a right to redeposit the share of  
20 the nonmember spouse in the previously refunded accumulated  
21 retirement contributions under this part whether or not the  
22 nonmember spouse elects to redeposit. However, any accumulated  
23 retirement contributions previously refunded under this part and  
24 not explicitly awarded to the nonmember spouse under this part  
25 by the judgment or court order shall be deemed the exclusive  
26 property of the member.

27 (g) The measurement of time within which the election to  
28 redeposit described in subdivision (b) shall be made is subject to  
29 Section 22337.

30 SEC. 5. Section 22663 of the Education Code is amended to  
31 read:

32 22663. The nonmember spouse who is awarded a separate  
33 account under this part has the right to purchase additional service  
34 credit in accordance with the determination of the court pursuant  
35 to Section 22652.

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

39 (b) The nonmember spouse shall inform the system in writing  
40 of his or her intent to purchase additional service credit within 180

1 days after the date the judgment or court order addressing the right  
2 of the nonmember spouse to purchase additional service credit is  
3 entered. Except as provided in subdivision (f), the nonmember  
4 spouse shall elect to purchase additional service credit on a form  
5 provided by the system within 30 days after the system mails an  
6 election form and billing.

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

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

19 (B) If any payment due, because of the election, is not received  
20 at the system's headquarters office, as established pursuant to  
21 Section 22375, within 120 days of its due date, the election shall  
22 be canceled and any payments made under the election shall be  
23 returned to the nonmember spouse.

24 (2) The contributions shall be based on the member's  
25 compensation earnable in the most recent school year during which  
26 the member was employed, preceding the date of separation  
27 established by the court pursuant to Section 22652.

28 (3) All payments of contributions and interest shall be received  
29 by the system before the effective date of the retirement of the  
30 nonmember spouse.

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

35 (e) The member does not have a right to purchase the community  
36 property interest of the nonmember spouse of additional service  
37 credit under this part whether or not the nonmember spouse elects  
38 to purchase the additional service credit. However, any additional  
39 service credit eligible for purchase that is not explicitly awarded

1 to the nonmember spouse by the judgment or court order shall be  
2 deemed the exclusive property of the member.

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

6 SEC. 6. Section 22801 of the Education Code is amended to  
7 read:

8 22801. (a) A member who requests to purchase additional  
9 service credit as provided in this chapter and Chapter 14.2  
10 (commencing with Section 22820) shall pay, prior to retirement,  
11 all contributions with respect to that service at the contribution  
12 rate for additional service credit, adopted by the board as a plan  
13 amendment, in effect on the date of the request to purchase  
14 additional service credit. If the system is unable to inform the  
15 member or beneficiary of the amount required to purchase  
16 additional service credit prior to the effective date of the applicable  
17 allowance, the member or beneficiary may make the required  
18 payment within 30 working days after the date of mailing of the  
19 statement of contributions and interest required or the effective  
20 date of the appropriate allowance, whichever is later, except as  
21 provided in subdivision (i). The payment shall be paid in full before  
22 a member or beneficiary receives any adjustment in the appropriate  
23 allowance due because of that payment. Contributions shall be  
24 made in a lump sum, or in not more than 120 monthly installments,  
25 not to exceed ten years. No installment, except the final installment,  
26 shall be less than twenty-five dollars (\$25).

27 (b) If the member is employed to perform creditable service  
28 subject to coverage by the Defined Benefit Program on the date  
29 of the request to purchase additional service credit, the  
30 contributions shall be based upon the compensation earnable in  
31 the current school year or either of the two immediately preceding  
32 school years, whichever is highest.

33 (c) If the member is not employed to perform creditable service  
34 subject to coverage by the Defined Benefit Program on the date  
35 of the request to purchase additional service credit, the  
36 contributions shall be based upon the compensation earnable in  
37 the last school year of credited service or either of the two  
38 immediately preceding school years, whichever is highest, and  
39 additional regular interest shall be added to the contributions from  
40 July 1 of the subsequent year in which the member last performed

1 creditable service subject to coverage by the Defined Benefit  
2 Program to 20 days after the date of the request.

3 (d) The employer may pay the amount required as employer  
4 contributions for additional service credited under paragraphs (7),  
5 (8), (9), and (10) of subdivision (a) of Section 22803.

6 (e) The Public Employees' Retirement System shall transfer  
7 the actuarial present value of the assets of a person who makes an  
8 election pursuant to paragraph (11) of subdivision (a) of Section  
9 22803.

10 (f) Regular interest shall be charged on the monthly unpaid  
11 balance if the member pays in installments. Regular interest may  
12 not be charged or be payable for the period of a delay caused by  
13 the system's inability or failure to determine and inform the  
14 member or beneficiary of the amount of contributions and interest  
15 that is payable. The period of delay shall commence on the 20th  
16 day following the day on which the member or beneficiary who  
17 wishes to make payment evidences in writing to the system that  
18 he or she is ready, willing, and able to make payment to the system.  
19 The period of delay shall cease on the first day of the month  
20 following the mailing of notification of contributions and interest  
21 payable.

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

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

32 (i) The measurement of time within which the purchase of  
33 additional service credit described in subdivision (a) shall be made  
34 is subject to Section 22337.

35 SEC. 7. Section 23104 of the Education Code is amended to  
36 read:

37 23104. (a) Deposit in the United States mail of an initial  
38 warrant drawn as directed by the member as a refund of  
39 contributions upon termination of employment, and addressed to

1 the address directed by the member, constitutes a return of the  
2 member’s accumulated retirement contributions under this part.

3 (b) Except as provided in subdivision (e), if the member has  
4 elected on a form provided by the system to transfer all or a  
5 specified portion of the accumulated retirement contributions that  
6 are eligible for direct trustee-to-trustee transfer to the trustee of a  
7 qualified plan under Section 402 of the Internal Revenue Code of  
8 1986 (26 U.S.C. Sec. 402), deposit in the United States mail of a  
9 notice that the requested transfer has been made constitutes a return  
10 of the member’s accumulated retirement contributions under this  
11 part.

12 (c) Except as provided in subdivision (e), for refunds not  
13 involving direct trustee-to-trustee transfers, if the member returns  
14 the total gross distribution amount to the system’s headquarters  
15 office, as established pursuant to Section 22375, within 30 days  
16 from the mailing date, the refund shall be canceled and the person  
17 shall be restored as a member of the Defined Benefit Program with  
18 all the rights and privileges under this part restored.

19 (d) Except as provided in subdivision (e), for refunds involving  
20 direct trustee-to-trustee transfers, if the member returns the warrant  
21 drawn to the trustee of the qualified plan or the trustee returns the  
22 amount of the qualified refund and, if applicable, any additional  
23 amounts necessary to equal, but in no event to exceed, the total  
24 gross distribution amount to the system’s headquarters office, as  
25 established pursuant to Section 22375, within 30 days from the  
26 mailing date, the refund shall be canceled and the person shall be  
27 restored as a member of the Defined Benefit Program with all the  
28 rights and privileges under this part restored.

29 (e) The mode of notice described in subdivision (b) and the  
30 measurement of time within which the return of total gross  
31 distribution amounts described in subdivisions (c) and (d) shall be  
32 made are subject to Section 22337.

33 SEC. 8. Section 23203 of the Education Code is amended to  
34 read:

35 23203. (a) A member who elects to redeposit refunded  
36 accumulated retirement contributions shall pay, prior to retirement,  
37 all contributions and interest as determined under Section 23200.

38 (b) If the system is unable to inform the member or beneficiary  
39 of the amount required to redeposit the refunded accumulated  
40 retirement contributions prior to the effective date of the applicable

1 allowance, the member or beneficiary may make the required  
2 payment within 30 working days after the date of mailing of the  
3 statement of contributions and interest required or the effective  
4 date of the appropriate allowance, whichever is later, except as  
5 provided in subdivision (d). The payment shall be paid in full  
6 before a member or beneficiary receives any adjustment in the  
7 appropriate allowance due because of that payment.

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

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

14 *SEC. 9. Section 24615 of the Education Code is amended to*  
15 *read:*

16 24615. (a) If the ~~board~~ *system* determines that contributions  
17 are due ~~the system~~ under this part from a retired member, disabled  
18 member, or a person who has died, and the person is unable to pay  
19 the amount due, the ~~board~~ *system* may withhold all or part of  
20 subsequent payments due the retired member, disabled member,  
21 or survivor, until the amounts withheld equal the contributions due  
22 plus regular interest to the date of payment. Total contributions  
23 plus regular interest due shall be recovered by the system within  
24 18 months.

25 (b) Any payment of contributions that a member or beneficiary  
26 is required by law to make to the system shall be paid upon receipt  
27 of written notice from the system, *except as provided in subdivision*

28 (c). Payment may be made either in a lump sum or installments,  
29 as permitted by the system. Payment of contributions due the  
30 system not discovered or unpaid, for whatever reason, prior to the  
31 time of retirement, disability, or death shall be paid prior to  
32 granting an allowance or benefit to the member or beneficiary  
33 unless, in the opinion of the board, the making of the payment  
34 prior to receipt of an allowance or benefit would impose an undue  
35 hardship, in which case payment may be made by the system  
36 withholding not more than 18 consecutive monthly installments  
37 from payments due from the system. Those installments may not  
38 be less than twenty-five dollars (\$25) per month, except for the  
39 last installment, which may be less than twenty-five dollars (\$25).

1 (c) *The mode of notice and the measurement of time within*  
2 *which a redeposit described in subdivision (b) shall be made is*  
3 *subject to Section 22337.*

4 ~~SEC. 9.~~

5 *SEC. 10.* Section 26214 of the Education Code is amended to  
6 read:

7 26214. (a) Except as provided in subdivision (b), the ~~board~~  
8 ~~system shall issue~~ *make available*, after the end of the plan year,  
9 to each participant having a balance in his or her employee account  
10 or employer account, a statement setting forth the balance as of  
11 the close of the plan year and amounts credited for the ~~year, year.~~  
12 *The system shall mail a copy of the participant's statement,*  
13 *provided that the employer or participant has informed the system*  
14 *of the participant's current United States Postal Service mailing*  
15 *address. If and the participant indicates that he or she prefers has*  
16 *not requested to receive that statement through the Web site of the*  
17 *system, the board may electronically, in lieu of mailing, issue the*  
18 *statement by secured access through the Web site of the system.*  
19 ~~The board shall prescribe the form and content of the account~~  
20 ~~statement.~~

21 (b) The mode of issuance described *in* subdivision (a) is subject  
22 to Section 22337.