

Assembly Bill No. 989

Passed the Assembly August 30, 2013

Chief Clerk of the Assembly

Passed the Senate August 19, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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 system to notify the affected parties that they have the right to request 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 designation is made, 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.

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

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

22309. (a) Except as provided in subdivision (c), the system shall make available to each active and inactive member, at least annually after the close of the school year, a statement of the member's individual Defined Benefit Program and Defined Benefit Supplement accounts. The system shall mail a copy of the member's statement, provided the employer or member has informed the system of the member's current mailing address and the member has not requested to receive that annual statement electronically, in lieu of mailing.

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

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

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

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

- (1) Section 22309.
- (2) Section 22661.
- (3) Section 22662.
- (4) Section 22663.
- (5) Section 22801.
- (6) Section 23104.
- (7) Section 23203.
- (8) Section 24615.
- (9) Section 26214.

(b) A communication or other action described in a section listed in subdivision (a) may be made by electronic delivery pursuant to the requirements of this section. The system may designate electronic delivery the default method of communication or other action with regard to these sections, provided that the system notifies the parties affected that they have the right to request delivery by mail and that, unless the affected party elects, in a manner specified by the system, to continue delivery by mail, delivery shall be provided electronically.

(c) Prior to the designation described in subdivision (b), mail shall continue to be the default method of communication unless the member, nonmember spouse, participant, nonparticipant spouse, or beneficiary has requested that he or she receive that communication electronically, pursuant to a procedure specified by the system.

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

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

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

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

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

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

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

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

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

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

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

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

22662. The nonmember spouse who is awarded a separate account under the Defined Benefit Program may redeposit accumulated retirement contributions previously refunded to the

member in accordance with the determination of the court pursuant to Section 22652.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the member is employed to perform creditable service subject to coverage by the Defined Benefit Program on the date

of the request to purchase additional service credit, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any payment of contributions that a member or beneficiary is required by law to make to the system shall be paid upon receipt of written notice from the system, except as provided in subdivision (c). Payment may be made either in a lump sum or installments, as permitted by the system. Payment of contributions due the

system not discovered or unpaid, for whatever reason, prior to the time of retirement, disability, or death shall be paid prior to granting an allowance or benefit to the member or beneficiary unless, in the opinion of the board, the making of the payment prior to receipt of an allowance or benefit would impose an undue hardship, in which case payment may be made by the system withholding not more than 18 consecutive monthly installments from payments due from the system. Those installments may not be less than twenty-five dollars (\$25) per month, except for the last installment, which may be less than twenty-five dollars (\$25).

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

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

26214. (a) Except as provided in subdivision (b), the system shall make available, after the end of the plan year, to each participant having a balance in his or her employee account or employer account, a statement setting forth the balance as of the close of the plan year and amounts credited for the year. The system shall mail a copy of the participant's statement, provided that the employer or participant has informed the system of the participant's current mailing address and the participant has not requested to receive that statement electronically, in lieu of mailing.

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

Approved _____, 2013

Governor