

**ASSEMBLY BILL**

**No. 1379**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Bonta (Chair), Jones-Sawyer, Mullin, Rendon, and Wieckowski)**

February 26, 2013

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An act to amend Sections 22007.5, 22134.5, 22135, 22164.5, 22303, 22461, 22662, 22663, 22664, 22717, 22717.5, 22801, 22829, 23001, 23104, 23202, 23300, 24002, 24005, 24102, 24105, 24201.5, 24203.5, 24203.6, 24204, 24208, 24209, 24209.3, 24211, 24212, 24213, 24214.5, 24300.2, 24301, 24306.5, 24306.7, 24307, 24309, 24311, 24312, 24312.1, 24613, 25011.5, 25018.2, 25022, 25940, and 26911 of, and to add Section 22175 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1379, as introduced, Committee on Public Employees, Retirement and Social Security. Teachers' Retirement Law.

(1) Existing law, the Teachers' Retirement Law, establishes the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program. The (STRS) based on final compensation, credited service, and age at retirement, subject to certain variations. The STRS is administered by the Teachers' Retirement Board. Existing law establishes the Defined Benefit Supplement Program, which provides supplemental retirement, disability, and other benefits, payable either in a lump-sum payment, an annuity, or both to members of the State Teachers' Retirement Plan. Existing law establishes the Cash Balance Benefit Program, administered by the Teachers' Retirement Board, as a separate benefit program within

the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

Existing law provides that a retired person who is receiving a pension benefit from a public retirement system is prohibited from employment with a public employer participating in the same retirement system unless he or she meets specified requirements and subjects that employment to specified limitations. Existing law provides a definition of retired member activities for purposes of the defined benefit program and the cash balance plan described above. Existing law requires that certain school entities retaining the services of a retired member inform that member of specified earning limitations.

This bill would provide that activities of an employee performing an assignment of 24 months or less are not included in the definition of retired member activities. This bill would require that a retired member be informed of employment restrictions and specifically of certain potential forfeitures of service credit.

(2) Existing law establishes the effective date for a STRS member's service retirement and requires an employer to make a certification within 30 days of the effective date of the member's service retirement regarding accumulated sick leave and leaves of absence.

This bill would provide that the time by which the employer is to provide the information described above may be measured with reference to the date application for retirement is received by the system's headquarters office. The bill would also provide a definition for "system is headquarters office" and make conforming changes.

(3) Existing law authorizes the Teacher's Retirement Board to permit payment of a disability allowance or a disability retirement allowance upon application by authorized parties if the application is properly submitted within specified periods.

This bill would establish a period for application based on the member's performance of creditable service within the 4 months previous to application.

(4) Existing law prescribes various conditions pursuant to which a member of STRS who is eligible and applies for a disability allowance or a disability retirement allowance can receive that allowance.

This bill would make various changes regarding the effective date of an application for disability benefits with regard to when an application has been canceled or denied and the effective date of a termination of a disability retirement allowance. The bill would also require a member

who cancels his or her retirement application to return the gross amount of all payments for the canceled retirement benefit to the system’s headquarters office, as specified, and would provide that the member is liable for any adverse tax consequences that may result from these actions.

(5) Existing law requires, if the death of a member occurs while the member is receiving an annuity under the Defined Benefit Supplement Program, the final benefit be paid in accordance with the terms of the annuity that the member elected.

This bill would specify the method of paying the annuity if certain institutions or entities are the beneficiary of the annuity.

(6) This bill would make various technical corrections and conforming amendments to the Teachers’ Retirement Law.

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 22007.5 of the Education Code is  
2 amended to read:

3 22007.5. Except as excluded by subdivision (d) of Sections  
4 22661 and 23812, subdivision ~~(e)~~ (e) of Section 24300.1, ~~and~~  
5 subdivision (d) of ~~Sections~~ Section 25011.1, subdivision (c) of  
6 Section 25018.1, ~~and~~ subdivision (d) of Section 26807.5, and  
7 subdivision (c) of Section 26906.5, a person who is the registered  
8 domestic partner of a member, as established pursuant to Section  
9 297 or 299.2 of the Family Code, shall be treated in the same  
10 manner as a “spouse,” as defined in Section 22171.

11 SEC. 2. Section 22134.5 of the Education Code is amended to  
12 read:

13 22134.5. (a) Notwithstanding Section 22134, “final  
14 compensation” means the highest average annual compensation  
15 earnable by a member during any period of 12 consecutive months  
16 while an active member of the Defined Benefit Program or time  
17 during which he or she was not a member but for which the  
18 member has received credit under the Defined Benefit Program,  
19 except time that was so credited for service performed outside this  
20 state prior to July 1, 1944.

21 (b) For purposes of this section, periods of service separated by  
22 breaks in service may be aggregated to constitute a period of 12

1 consecutive months, if the periods of service are consecutive except  
2 for the breaks.

3 (c) The determination of final compensation of a member who  
4 has concurrent membership in any other retirement system pursuant  
5 to Section 22115.2 shall take into consideration the compensation  
6 earnable while a member of any other system, provided that both  
7 of the following exist:

8 (1) Service under any other system was not performed during  
9 the same pay period with service under the Defined Benefit  
10 Program.

11 (2) Retirement under the Defined Benefit Program is concurrent  
12 with the member’s retirement under any other system.

13 (d) If a member has received service credit for part-time service  
14 performed prior to July 1, 1956, the member’s final compensation  
15 shall be adjusted for that service in excess of one year by the ratio  
16 that part-time service bears to full-time service.

17 (e) The board may specify a different final compensation with  
18 respect to disability allowances, disability retirement allowances,  
19 family allowances, and children’s portions of survivor benefit  
20 allowances payable on and after January 1, 1978. The compensation  
21 earnable for periods of part-time service shall be adjusted by the  
22 ratio that part-time service bears to full-time service.

23 (f) This section shall apply to the following:

24 (1) A member who has 25 or more years of credited service,  
25 excluding service credited pursuant to the following:

26 (A) Section 22714.

27 ~~(B) Section 22714.5.~~

28 ~~(C)~~

29 (B) Section 22715.

30 ~~(D)~~

31 (C) Section 22717, except as provided in subdivision (b) of  
32 Section 22121.

33 ~~(E)~~

34 (D) Section 22826.

35 (2) A nonmember spouse, if the member had 25 or more years  
36 of credited service, as calculated in paragraph (1), on the date the  
37 parties separated, as established in the judgment or court order  
38 pursuant to Section 22652.

39 SEC. 3. Section 22135 of the Education Code is amended to  
40 read:

1 22135. (a) Notwithstanding subdivisions (a) and (b) of Section  
2 22134, “final compensation” means the highest average annual  
3 compensation earnable by an active member who is a classroom  
4 teacher who retires, becomes disabled, or dies, after June 30, 1990,  
5 during any period of 12 consecutive months during his or her  
6 membership in the plan’s Defined Benefit Program.

7 (b) Section 22134, except subdivision (a) of that section, shall  
8 apply to classroom teachers who retire after June 30, 1990, and  
9 any statutory reference to Section 22134 or “final compensation”  
10 with respect to a classroom teacher who retires, becomes disabled,  
11 or dies, after June 30, 1990, shall be deemed to be a reference to  
12 this section.

13 (c) As used in this section, “classroom teacher” means any of  
14 the following:

15 (1) All teachers and substitute teachers in positions requiring  
16 certification qualifications who spend, during the last 10 years of  
17 their employment with the same employer which immediately  
18 precedes their retirement, 60 percent or more of their contract time  
19 each year providing direct instruction. For the purpose of  
20 determining continuity of employment within the meaning of this  
21 subdivision, an authorized leave of absence for sabbatical or illness  
22 or other collectively bargained or employer-approved leaves shall  
23 not constitute a break in service.

24 (2) Other certificated personnel who spend, during the last 10  
25 years of their employment with the same employer that  
26 immediately precedes their retirement, 60 percent or more of their  
27 contract time each year providing direct services to pupils,  
28 including, but not limited to, librarians, counselors, nurses, speech  
29 therapists, resource specialists, audiologists, audiometrists,  
30 hygienists, optometrists, psychologists, driver safety instructors,  
31 and personnel on special assignment to perform school attendance  
32 and adjustment services.

33 (d) As used in this section, “classroom teacher” does not include  
34 any of the following:

35 (1) Certificated employees whose job descriptions require an  
36 administrative credential.

37 (2) Certificated employees whose job descriptions include  
38 responsibility for supervision of certificated staff.

39 (3) Certificated employees who serve as advisers, coordinators,  
40 consultants, or developers or planners of curricula, instructional

1 materials, or programs, who spend, during the last 10 years of their  
2 employment with the same employer that immediately precedes  
3 their retirement, less than 60 percent of their contract time in direct  
4 instruction.

5 (4) Certificated employees whose job descriptions require  
6 provision of direct instruction or services, but who are functioning  
7 in nonteaching assignments.

8 (5) Classified employees.

9 (e) This section shall apply only to teachers employed by an  
10 employer that has, pursuant to Chapter 10.7 (commencing with  
11 Section 3540) of Division 4 of Title 1 of the Government Code,  
12 entered into a written agreement with an exclusive representative,  
13 that makes this section applicable to all of its classroom teachers,  
14 as defined in subdivision (c).

15 (f) The written agreement shall include a mechanism to pay for  
16 all increases in allowances provided for by this section through  
17 employer contributions or employee contributions or both, which  
18 shall be collected and retained by the employer in a trust fund to  
19 be used solely and exclusively to pay the system for all increases  
20 in allowances provided by this section and related administrative  
21 costs; and a mechanism for disposition of the employee's  
22 contributions if employment is terminated before retirement, and  
23 for the establishment of a trust fund board. The trust fund board  
24 shall administer the trust fund and shall be composed of an equal  
25 number of members representing classroom teachers chosen by  
26 the bargaining agent and the employer. If the employer agrees to  
27 pay the total cost of increases in allowances, the establishment of  
28 a trust fund and a trust fund board shall be optional to the employer.  
29 The employer, within 30 days of receiving an invoice from the  
30 system, shall reimburse the retirement fund the amount determined  
31 by the Teachers' Retirement Board to be the actuarial equivalent  
32 of the difference between the allowance the member or beneficiary  
33 receives pursuant to this section and the allowance the member or  
34 beneficiary would have received if the member's final  
35 compensation had been computed under Section 22134 and the  
36 proportionate share of the cost to the plan's Defined Benefit  
37 Program, as determined by the Teachers' Retirement Board, of  
38 administering this section. The payment shall include the cost of  
39 all increases in allowances provided for by this section for all years  
40 of service credited to the member as of the benefit effective date.

1 Interest shall be charged at the regular interest rate for any payment  
2 not received within 30 days of receipt of the invoice. Payments  
3 not received within 30 days after receipt of the invoice may be  
4 collected pursuant to Section 23007.

5 (g) Upon the execution of the agreement, the employer shall  
6 notify all certificated employees of the agreement and any  
7 certificated employee of the employer, who is a member of the  
8 Public Employees' Retirement System pursuant to Section 22508,  
9 that he or she may, within 60 days following the date of  
10 notification, elect to terminate his or her membership in the Public  
11 Employees' Retirement System and become a member of this  
12 plan's Defined Benefit Program. However, only service credited  
13 under the Defined Benefit Program subsequent to the date of that  
14 election shall be subject to this section.

15 (h) An employer that agrees to become subject to this section,  
16 shall, on a form and within the timeframes prescribed by the  
17 system, certify the applicability of this section to a member  
18 pursuant to the criteria set forth in this section when a retirement,  
19 disability, or family allowance becomes payable.

20 (i) For a nonmember spouse, final compensation shall be  
21 determined pursuant to paragraph ~~(2)~~ (5) of subdivision (c) of  
22 Section 22664. The employer, within 30 days of receiving an  
23 invoice from the system, shall reimburse the retirement fund  
24 pursuant to subdivision (f). Interest shall be charged at the regular  
25 interest rate for payments not received within the prescribed  
26 timeframe. Payments not received within 30 days of invoicing  
27 may be collected pursuant to Section 23007.

28 SEC. 4. Section 22164.5 of the Education Code is amended to  
29 read:

30 22164.5. (a) "Retired member activities" means one or more  
31 activities identified in subdivision (a) or (b) of Section 22119.5 or  
32 subdivision (a) or (b) of Section 26113 within the California public  
33 school system and performed by a member retired for service under  
34 this part as one of the following:

- 35 (1) An employee of an employer.
- 36 (2) An employee of a third party, except as specified in  
37 subdivision (b).
- 38 (3) An independent contractor.

1 (b) The activities of an employee of a third party shall not be  
 2 included in the definition of “retired member activities” if all of  
 3 the following conditions apply:

4 (1) The employee performs ~~a limited-term~~ *an assignment of 24*  
 5 *months or less.*

6 (2) The third-party employer does not participate in a California  
 7 public pension system.

8 (3) The activities performed by the individual are not normally  
 9 performed by employees of an employer, as defined in Section  
 10 22131.

11 SEC. 5. Section 22175 is added to the Education Code, to read:

12 22175. “System’s headquarters office” means the office  
 13 building established as the permanent headquarters facility for the  
 14 system, pursuant to Section 22375.

15 SEC. 6. Section 22303 of the Education Code is amended to  
 16 read:

17 22303. (a) Due to an increase in the demand for retirement  
 18 counseling services, the system, notwithstanding any other  
 19 provision of law, may contract with a county superintendent or  
 20 other employer to provide retirement counseling. Retired public  
 21 employees may be employed on a part-time basis for that purpose,  
 22 unless and until the study required by subdivision (b) of Section  
 23 7 of Chapter 1532 of the Statutes of 1985 recommends against the  
 24 employment of retired public employees for these purposes. This  
 25 authorization is subject to the availability of funds appropriated  
 26 for that purpose in the annual Budget Act.

27 (b) The board may, by resolution, designate one or more official  
 28 representatives who provide retirement counseling pursuant to  
 29 subdivision (a), or as an employee of the system, to receive  
 30 documents submitted pursuant to this part, Part 13.5 (commencing  
 31 with Section 25900), or Part 14 (commencing with Section 26000).  
 32 Notwithstanding any other provision of law, any document received  
 33 by a designated system representative during regular counseling  
 34 office business hours or in the course of performing counseling  
 35 services pursuant to this subdivision shall be deemed to have been  
 36 received by the system’s headquarters office, ~~as established~~  
 37 ~~pursuant to Section 22375~~, on the date received by the officially  
 38 designated system representative.

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



1 22461. (a) Upon retaining the services of a retired member  
2 under Section 24114, 24116, 24214, 24214.5, or 24215, the school  
3 district, community college district, county superintendent of  
4 schools, California State University, or other employing agency  
5 shall do both of the following regardless of whether the retired  
6 member performs the services as an employee of the employer,  
7 an employee of a third party, or an independent contractor:

8 (1) Advise the retired member of the earnings limitation *or*  
9 *employment restriction* set forth in ~~Sections~~ *Section 22714*, 24114,  
10 24116, 24214, 24214.5, ~~and~~ *or* 24215.

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

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

22 SEC. 8. Section 22662 of the Education Code is amended to  
23 read:

24 22662. The nonmember spouse who is awarded a separate  
25 account under the Defined Benefit Program may redeposit  
26 accumulated retirement contributions previously refunded to the  
27 member in accordance with the determination of the court pursuant  
28 to Section 22652.

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

34 (b) The nonmember spouse shall inform the system in writing  
35 of his or her intent to redeposit within 180 days after the judgment  
36 or court order that specifies the redeposit rights of the nonmember  
37 spouse is entered. The nonmember spouses' election to redeposit  
38 shall be made on a form provided by the system within 30 days  
39 after the system mails an election form and the billing.

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

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

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

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

24 SEC. 9. Section 22663 of the Education Code is amended to  
25 read:

26 22663. The nonmember spouse who is awarded a separate  
27 account under this part has the right to purchase additional service  
28 credit in accordance with the determination of the court pursuant  
29 to Section 22652.

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

33 (b) The nonmember spouse shall inform the system in writing  
34 of his or her intent to purchase additional service credit within 180  
35 days after the date the judgment or court order addressing the right  
36 of the nonmember spouse to purchase additional service credit is  
37 entered. The nonmember spouse shall elect to purchase additional  
38 service credit on a form provided by the system within 30 days  
39 after the system mails an election form and billing.

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

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

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

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

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

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

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

36 SEC. 10. Section 22664 of the Education Code is amended to  
37 read:

38 22664. The nonmember spouse who is awarded a separate  
39 account shall have the right to a service retirement allowance and,  
40 if applicable, a retirement benefit under this part.

- 1 (a) The nonmember spouse shall be eligible to retire for service
- 2 under this part if the following conditions are satisfied:
- 3 (1) The member had at least five years of credited service during
- 4 the period of marriage, at least one year of which had been
- 5 performed subsequent to the most recent refund to the member of
- 6 accumulated retirement contributions. The credited service may
- 7 include service credited to the account of the member as of the
- 8 date of the dissolution or legal separation, previously refunded
- 9 service, out-of-state service, and permissive service credit that the
- 10 member is eligible to purchase at the time of the dissolution or
- 11 legal separation.
- 12 (2) The nonmember spouse has at least ~~2½~~ *two and one-half*
- 13 years of credited service in his or her separate account.
- 14 (3) The nonmember spouse has attained 55 years of age or more.
- 15 (b) A service retirement allowance of a nonmember spouse
- 16 under this part shall become effective upon a date designated by
- 17 the nonmember spouse, provided:
- 18 (1) The requirements of subdivision (a) are satisfied.
- 19 (2) The nonmember spouse has filed an application for service
- 20 retirement on a properly executed form provided by the system,
- 21 that is executed no earlier than six months before the effective date
- 22 of the retirement allowance.
- 23 (3) The effective date is no earlier than the first day of the month
- 24 that the application is received at the system’s headquarters office
- 25 ~~as described in Section 22375~~, and the effective date is after the
- 26 date the judgment or court order pursuant to Section 22652 was
- 27 entered.
- 28 (c) (1) Upon service retirement at normal retirement age under
- 29 this part, the nonmember spouse shall receive a retirement
- 30 allowance that shall consist of an annual allowance payable in
- 31 monthly installments equal to 2 percent of final compensation for
- 32 each year of credited service.
- 33 (2) If the nonmember spouse’s retirement is effective at less
- 34 than normal retirement age and between early retirement age under
- 35 this part and normal retirement age, the retirement allowance shall
- 36 be reduced by one-half of 1 percent for each full month, or fraction
- 37 of a month, that will elapse until the nonmember spouse would
- 38 have reached normal retirement age.
- 39 (3) If the nonmember spouse’s service retirement is effective
- 40 at an age greater than normal retirement age and is effective on or

1 after January 1, 1999, the percentage of final compensation for  
2 each year of credited service shall be determined pursuant to the  
3 following table:

4	5 Age at Retirement	6 Percentage
6	60¼ .....	2.033
7	60½ .....	2.067
8	60¾ .....	2.10
9	61 .....	2.133
10	61¼ .....	2.167
11	61½ .....	2.20
12	61¾ .....	2.233
13	62 .....	2.267
14	62¼ .....	2.30
15	62½ .....	2.333
16	62¾ .....	2.367
17	63 and over .....	2.40

18  
19 (4) In computing the retirement allowance of the nonmember  
20 spouse, the age of the nonmember spouse on the last day of the  
21 month that the retirement allowance begins to accrue shall be used.

22 (5) Final compensation, for purposes of calculating the service  
23 retirement allowance of the nonmember spouse under this  
24 subdivision, shall be calculated according to the definition of final  
25 compensation in Section 22134, 22134.5, 22135, or 22136,  
26 whichever is applicable, and shall be based on the member's  
27 compensation earnable up to the date the parties separated, as  
28 established in the judgment or court order pursuant to Section  
29 22652. The nonmember spouse shall not be entitled to use any  
30 other calculation of final compensation.

31 (d) Upon service retirement under this part, the nonmember  
32 spouse shall receive a retirement benefit based on an amount equal  
33 to the balance of credits in the nonmember spouse's Defined  
34 Benefit Supplement account on the date the retirement benefit  
35 becomes payable.

36 (1) A retirement benefit shall be a lump-sum payment, or an  
37 annuity payable in monthly installments, or a combination of both  
38 a lump-sum payment and an annuity, as elected by the nonmember  
39 spouse on the application for a retirement benefit. A retirement

1 benefit paid as an annuity under this chapter shall be subject to  
2 Sections 22660, 25011, and 25011.1.

3 (2) Upon distribution of the entire retirement benefit in a  
4 lump-sum payment, no other benefit shall be payable to the  
5 nonmember spouse or the nonmember spouse's beneficiary under  
6 the Defined Benefit Supplement Program.

7 (e) If the member is or was receiving a disability allowance  
8 under this part with an effective date before or on the date the  
9 parties separated as established in the judgment or court order  
10 pursuant to Section 22652, or at any time applies for and receives  
11 a disability allowance with an effective date that is before or  
12 coincides with the date the parties separated as established in the  
13 judgment or court order pursuant to Section 22652, the nonmember  
14 spouse shall not be eligible to retire until after the disability  
15 allowance of the member terminates. If the member who is or was  
16 receiving a disability allowance returns to employment to perform  
17 creditable service subject to coverage under the Defined Benefit  
18 Program or has his or her allowance terminated under Section  
19 24015, the nonmember spouse may not be paid a retirement  
20 allowance until at least six months after termination of the disability  
21 allowance and the return of the member to employment to perform  
22 creditable service subject to coverage under the Defined Benefit  
23 Program, or the termination of the disability allowance and the  
24 employment or self-employment of the member in any capacity,  
25 notwithstanding Section 22132. If at the end of the six-month  
26 period, the member has not had a recurrence of the original  
27 disability or has not had his or her earnings fall below the amounts  
28 described in Section 24015, the nonmember spouse may be paid  
29 a retirement allowance if all other eligibility requirements are met.

30 (1) The retirement allowance of the nonmember spouse under  
31 this subdivision shall be calculated as follows: the disability  
32 allowance the member was receiving, exclusive of the portion for  
33 dependent children, shall be divided between the share of the  
34 member and the share of the nonmember spouse. The share of the  
35 nonmember spouse shall be the amount obtained by multiplying  
36 the disability allowance, exclusive of the portion for dependent  
37 children, by the years of service credited to the separate account  
38 of the nonmember spouse, including service projected to the date  
39 of separation, and dividing by the projected service of the member.  
40 The nonmember spouse's retirement allowance shall be the lesser

1 of the share of the nonmember spouse under this subdivision or  
2 the retirement allowance under subdivision (c).

3 (2) The share of the member shall be the total disability  
4 allowance reduced by the share of the nonmember spouse. The  
5 share of the member shall be considered the disability allowance  
6 of the member for purposes of Section 24213.

7 (f) The nonmember spouse who receives a retirement allowance  
8 is not a retired member under this part. However, the allowance  
9 of the nonmember spouse shall be increased by application of the  
10 improvement factor and shall be eligible for the application of  
11 supplemental increases and other benefit maintenance provisions  
12 under this part, including, but not limited to, Sections 24412 and  
13 24415 based on the same criteria used for the application of these  
14 benefit maintenance increases to the service retirement allowances  
15 of members.

16 SEC. 11. Section 22717 of the Education Code is amended to  
17 read:

18 22717. (a) A member shall be granted credit at service  
19 retirement for each day of accumulated and unused sick leave days  
20 for which full salary is allowed to which the member was entitled  
21 on the member's final day of employment with the employer or  
22 employers subject to coverage by the Defined Benefit Program  
23 during the last school year in which he or she performed creditable  
24 service. The system shall accept certification from each employer  
25 with which the member has accumulated sick leave days for that  
26 period, provided this leave has not been transferred to another  
27 employer.

28 (b) The amount of service credit to be granted shall be  
29 determined by dividing the number of days of accumulated and  
30 unused sick leave days by the number of days of service the  
31 employer requires the member's class of employees to perform in  
32 a school year during the member's final year of creditable service  
33 subject to coverage by the Defined Benefit Program, which shall  
34 not be less than the minimum standard specified in Section  
35 22138.5. The number of days shall not include school and legal  
36 holidays. In no event shall the divisor be less than 175. For  
37 members employed less than full time, the standards identified in  
38 Section 22138.5 shall be considered as the minimum full-time  
39 equivalent. For those standards identified in Section 22138.5 that  
40 are applicable to teachers or instructors and that are expressed only

1 in terms of hours or instructional hours, the number of hours or  
2 instructional hours shall be divided by six to determine the number  
3 of days.

4 (c) When the member has made application for service  
5 retirement under this part, the employer shall certify to the board,  
6 within 30 days following the effective date of the member’s service  
7 retirement *or the date the application for retirement is received*  
8 *by the system’s headquarters office whichever is later*, the number  
9 of days of accumulated and unused sick leave days that the member  
10 was entitled to on the final day of employment. The board may  
11 assess a penalty on delinquent reports.

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

14 SEC. 12. Section 22717.5 of the Education Code is amended  
15 to read:

16 22717.5. (a) A member shall be credited at service retirement  
17 for each day of accumulated and unused leave of absence for  
18 education for which full salary is allowed on the member’s final  
19 day of employment with the state.

20 (b) The amount of service credit to be granted shall be 0.004  
21 years of service for each unused day of educational leave credit.

22 (c) When the member has made application for service  
23 retirement under this part, the employer shall certify to the board,  
24 within 30 days following the effective date of the member’s service  
25 retirement *or the date the application for retirement is received*  
26 *by the system’s headquarters office whichever is later*, the number  
27 of days of accumulated and unused leave of absence for education  
28 that the member was entitled to on the final day of employment.  
29 The board may assess a penalty on delinquent reports.

30 (d) This section shall apply to eligible state employees in state  
31 bargaining units that have agreed to this section in a memorandum  
32 of understanding, or as authorized by the Director of Human  
33 Resources for classifications of state employees that are excluded  
34 from the definition of “state employee” by paragraph (c) of Section  
35 3513 of the Government Code.

36 (e) The provisions of this section shall be effective for eligible  
37 members who retire directly from state employment on or after  
38 January 1, 2000.

39 SEC. 13. Section 22801 of the Education Code is amended to  
40 read:



1 22801. (a) A member who requests to purchase additional  
2 service credit as provided in this chapter and Chapter 14.2  
3 (commencing with Section 22820) shall pay, prior to retirement,  
4 all contributions with respect to that service at the contribution  
5 rate for additional service credit, adopted by the board as a plan  
6 amendment, in effect on the date of the request to purchase  
7 additional service credit. If the system is unable to inform the  
8 member or beneficiary of the amount required to purchase  
9 additional service credit prior to the effective date of the applicable  
10 allowance, the member or beneficiary may make the required  
11 payment within 30 working days after the date of mailing of the  
12 statement of contributions and interest required or the effective  
13 date of the appropriate allowance, whichever is later. The payment  
14 shall be paid in full before a member or beneficiary receives any  
15 adjustment in the appropriate allowance due because of that  
16 payment. Contributions shall be made in a lump sum, or in not  
17 more than 120 monthly installments, not to exceed ten years. No  
18 installment, except the final installment, shall be less than  
19 twenty-five dollars (\$25).

20 (b) If the member is employed to perform creditable service  
21 subject to coverage by the Defined Benefit Program on the date  
22 of the request to purchase additional service credit, the  
23 contributions shall be based upon the compensation earnable in  
24 the current school year or either of the two immediately preceding  
25 school years, whichever is highest.

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

36 (d) The employer may pay the amount required as employer  
37 contributions for additional service credited under paragraphs (7),  
38 (8), (9), and (10) of subdivision (a) of Section 22803.

39 (e) The Public Employees' Retirement System shall transfer  
40 the actuarial present value of the assets of a person who makes an

1 election pursuant to paragraph (11) of subdivision (a) of Section  
2 22803.

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

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

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

25 SEC. 14. Section 22829 of the Education Code is amended to  
26 read:

27 22829. (a) This section applies only to a member who elects  
28 to receive out-of-state service credit pursuant to Section 22827.

29 (b) The member shall pay all contributions with respect to that  
30 service at the contribution rate for additional service credit adopted  
31 by the board as a plan amendment in effect at the time of election.

32 (c) Contributions shall be based upon the member’s age at the  
33 date of the election and upon compensation earnable in the last  
34 school year of credited service or either of the two immediately  
35 preceding school years, whichever is highest.

36 (d) Any payment that a member may make to the system to  
37 obtain credit for out-of-state service shall be paid in full before a  
38 member or beneficiary may receive any adjustment in the  
39 appropriate allowance due date because of that payment.

1 (e) The system shall make any appropriate adjustments to the  
2 member's benefit allowance to reflect the purchase of additional  
3 service retroactive to the effective date of retirement.

4 (f) Contributions for out-of-state service credit shall be made  
5 in a lump sum.

6 (g) If the payment election described in subdivision (b) is not  
7 received at the system's headquarters office, ~~as described in Section~~  
8 ~~22375~~, within 30 days of receiving a bill for this purchase from  
9 the system, the election shall be canceled.

10 (h) If the election to purchase out-of-state service is canceled  
11 as described in subdivision (g), the member may, prior to June 30,  
12 2009, make a new election to purchase out-of-state service pursuant  
13 to this section.

14 SEC. 15. Section 23001 of the Education Code is amended to  
15 read:

16 23001. Each county superintendent, district superintendent,  
17 chancellor of a community college district, or other employing  
18 agency that reports directly to the system shall draw requisitions  
19 for contributions required by Sections 22901 and 22950 in favor  
20 of the State Teachers' Retirement System, and the requisitions,  
21 when allowed and signed by the county auditor, shall constitute a  
22 warrant against the county treasury. The county superintendent,  
23 district superintendent, chancellor of a community college district,  
24 or other employing agency thereupon shall forward the warrants  
25 to the board in the system's headquarters office, ~~as established~~  
26 ~~pursuant to Section 22375~~. The amounts received shall be deposited  
27 immediately in the State Treasury to the Teachers' Retirement  
28 Fund.

29 SEC. 16. Section 23104 of the Education Code is amended to  
30 read:

31 23104. (a) Deposit in the United States mail of an initial  
32 warrant drawn as directed by the member as a refund of  
33 contributions upon termination of employment, and addressed to  
34 the address directed by the member, constitutes a return of the  
35 member's accumulated retirement contributions under this part.

36 (b) If the member has elected on a form provided by the system  
37 to transfer all or a specified portion of the accumulated retirement  
38 contributions that are eligible for direct trustee-to-trustee transfer  
39 to the trustee of a qualified plan under Section 402 of the Internal  
40 Revenue Code of 1986 (26 U.S.C. Sec. 402), deposit in the United

1 States mail of a notice that the requested transfer has been made  
2 constitutes a return of the member’s accumulated retirement  
3 contributions under this part.

4 (c) For refunds not involving direct trustee-to-trustee transfers,  
5 if the member returns the total gross distribution amount to the  
6 system’s headquarters office, ~~as established pursuant to Section~~  
7 ~~22375~~, within 30 days from the mailing date, the refund shall be  
8 canceled and the person shall be restored as a member of the  
9 Defined Benefit Program with all the rights and privileges under  
10 this part restored.

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

20 SEC. 17. Section 23202 of the Education Code is amended to  
21 read:

22 23202. (a) An election pursuant to Section 23200 to redeposit  
23 accumulated retirement contributions may be made by a member  
24 anytime prior to the effective date of the member’s retirement  
25 under this part.

26 (b) An election to redeposit accumulated retirement  
27 contributions returned to the member shall be considered as an  
28 election to repay accumulated retirement contributions previously  
29 returned, up to but not exceeding the amount required to restore  
30 the total service credit returned, under the provisions of this  
31 chapter.

32 (c) If any payment due because of this election is not received  
33 at the system’s headquarters office, ~~as established pursuant to~~  
34 ~~Section 22375~~, within 120 days of its due date, the election shall  
35 be canceled. Upon the cancellation of election, the member shall  
36 receive credit for the payments made under the election or, at the  
37 request of the member, those payments shall be returned.

38 (d) If the election is canceled, the member may at any time prior  
39 to the effective date of retirement under this part, again elect to  
40 redeposit accumulated retirement contributions previously

1 withdrawn or returned, in accordance with Section 23200 and all  
2 the laws, rules, and regulations pertaining thereto.

3 SEC. 18. Section 23300 of the Education Code is amended to  
4 read:

5 23300. (a) A member of the Defined Benefit Program may  
6 designate a beneficiary to receive benefits payable under this part  
7 upon the member's death. A beneficiary designation may not be  
8 made in derogation of a community property interest of a  
9 nonmember spouse, as defined by Section 25000.9, with respect  
10 to service or contributions credited under this part, unless the  
11 nonmember spouse has previously obtained an alternative order  
12 pursuant to Section 2610 of the Family Code.

13 (b) A member's beneficiary designation for benefits payable  
14 under the Defined Benefit Program, including a designation made  
15 pursuant to Section 24300 or 24300.1, shall also apply to benefits  
16 payable under the Defined Benefit Supplement Program. A  
17 beneficiary designation shall be in writing on a form prescribed  
18 by the system and executed by the member.

19 (c) A beneficiary designation shall not be valid unless it is  
20 received in the system's headquarters office, ~~as established pursuant~~  
21 ~~to Section 22375~~, prior to the member's death.

22 (d) A member may change or revoke a beneficiary designation  
23 at any time by making a new designation pursuant to this section.

24 (e) This section is not applicable to the designation of an option  
25 beneficiary or an annuity beneficiary under this part.

26 (f) An option beneficiary may designate a death beneficiary  
27 who would, upon the death of the option beneficiary, be entitled  
28 to receive the option beneficiary's accrued monthly allowance.

29 SEC. 19. Section 24002 of the Education Code is amended to  
30 read:

31 24002. (a) The board may authorize payment of a disability  
32 allowance to any member who is qualified upon application under  
33 this part by the member, the member's guardian or conservator,  
34 or the member's employer, if the application is submitted on a  
35 properly executed form prescribed by the system during any one  
36 of the following periods:

37 (1) While the member is employed *and has performed creditable*  
38 *service within the four months previous to application*, or while  
39 *the member is on a compensated leave of absence.*

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

5 (3) While the member is on a leave of absence without  
6 compensation, granted for reason other than mental or physical  
7 incapacity for performance of service, and within four months  
8 after the last day of actual performance of service for which  
9 compensation is payable to the member, or within 12 months of  
10 that date if the member is on an employer-approved leave to study  
11 at an approved college or university.

12 (4) Within four months after the termination of the member's  
13 employment subject to coverage under the Defined Benefit  
14 Program, if the application was not made under paragraph (2) and  
15 was not made more than four months after the last day of actual  
16 performance of service for which compensation is payable to the  
17 member.

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

23 SEC. 20. Section 24005 of the Education Code is amended to  
24 read:

25 24005. (a) A disability allowance under this part shall become  
26 effective upon any date designated by the member, provided all  
27 of the following conditions are met:

28 (1) An application for disability allowance is filed on a properly  
29 executed form prescribed by the system.

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

32 (3) The effective date is no earlier than either the first day of  
33 the month in which the application is received by the system's  
34 headquarters office, ~~as established pursuant to Section 22375,~~ or  
35 the date upon and continuously after which the member is  
36 determined to the satisfaction of the board to have been mentally  
37 incompetent.

38 (b) If the member is employed to perform creditable service  
39 subject to coverage under the Defined Benefit Program at the time  
40 the disability allowance is approved under this part, the member

1 shall notify the system in writing, within 90 days, of the last day  
2 on which the member will perform service. If the member does  
3 not respond within 90 days, or if the last day on which service will  
4 be performed is more than 90 days after the date the system notifies  
5 the member of approval of the disability allowance, the member's  
6 application for a disability allowance shall be rejected and a  
7 disability allowance shall not be payable to the member.

8 SEC. 21. Section 24102 of the Education Code is amended to  
9 read:

10 24102. (a) The board may authorize payment of a disability  
11 retirement allowance under this part to any member who is  
12 qualified upon application by the member, the member's guardian  
13 or conservator, or the member's employer, if the application is  
14 submitted on a properly executed form prescribed by the system  
15 during any one of the following periods:

16 (1) While the member is employed *and has performed creditable*  
17 *service within the four months previous to application, or while*  
18 *the member is on a compensated leave of absence.*

19 (2) While the member is physically or mentally incapacitated  
20 for performance of service and the incapacity has been continuous  
21 from the last day of actual performance of service for which  
22 compensation is payable to the member.

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

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

36 (b) The member is not qualified to receive a disability *retirement*  
37 allowance if the member is applying because of a physical or  
38 mental condition that existed at the time the most recent  
39 membership in the Defined Benefit Program commenced and  
40 which remains substantially unchanged at the time of application.

1 SEC. 22. Section 24105 of the Education Code is amended to  
2 read:

3 24105. (a) A disability retirement allowance under this part  
4 shall become effective upon any date designated by the member,  
5 provided that all of the following conditions are met:

6 (1) An application for disability retirement is filed on a properly  
7 executed form prescribed by the system.

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

10 (3) The effective date is no earlier than either the first day of  
11 the month in which the application is received at the system's  
12 headquarters office, ~~as established pursuant to Section 22375,~~ or  
13 the date upon and continuously after which the member is  
14 determined to the satisfaction of the board to have been mentally  
15 incompetent.

16 (b) If a member's application for disability retirement under  
17 this part does not contain an election of either an unmodified  
18 allowance or an allowance modified under an option and if the  
19 member subsequently submits an election, but not within the  
20 30-day period established pursuant to Section 24301, the board  
21 shall set a benefit effective date which is no earlier than the first  
22 day of the month in which the subsequent election is received by  
23 the system. If the member fails to submit an election pursuant to  
24 Section 24301 and within six months of the date the  
25 acknowledgment notice is mailed pursuant to Section 24301, the  
26 member's application for disability retirement under this part shall  
27 be rejected.

28 (c) If the member is employed to perform creditable service  
29 subject to coverage under the Defined Benefit Program at the time  
30 the disability retirement is approved, the member shall notify the  
31 system in writing, within 90 days, of the last day on which the  
32 member will perform service. If the member does not respond  
33 within 90 days, or if the last day on which service will be  
34 performed is more than 90 days after the date the system notifies  
35 the member of the approval of disability retirement, the member's  
36 application for disability retirement shall be rejected and a  
37 disability retirement allowance shall not be payable to the member.

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 unless the application for disability benefits is denied or~~  
17 ~~canceled and the member has indicated an earlier service~~  
18 ~~retirement date on the application to use if denied or canceled. If~~  
19 ~~the application for disability benefits is denied or canceled, the~~  
20 ~~service retirement date of a member retiring on or after January~~  
21 ~~1, 2014, shall be no earlier than January 1, 2014.~~

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

24 (D) The effective date is no earlier than ~~one year following day~~  
25 ~~after the date on which a retirement allowance was terminated~~  
26 ~~pursuant to Section 24208 or subdivision (a) of Section 24117,~~  
27 ~~unless the application for disability benefits is denied or canceled~~  
28 ~~and the member has indicated an earlier service retirement date~~  
29 ~~on the application to use if denied or canceled. If the application~~  
30 ~~for disability benefits is denied or canceled, the service retirement~~  
31 ~~date is no earlier than one day after the date on which a retirement~~  
32 ~~allowance was terminated pursuant to Section 24208, provided~~  
33 ~~that the retirement allowance is terminated on or after January 1,~~  
34 ~~2014.~~

35 (E) *The effective date is no earlier than one year following the*  
36 *date on which a retirement allowance was terminated pursuant to*  
37 *subdivision (a) of Section 24117.*

38 (3) The effective date of the service retirement allowance can  
39 be no earlier than the date upon and continuously after which the

1 member is determined to the satisfaction of the board to have been  
2 mentally incompetent.

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

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

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

14 (B) If the application for disability is denied *or canceled*, the  
15 member's service retirement allowance shall be adjusted to the  
16 effective date of the service retirement to include service credited  
17 pursuant to Section 22717 or 22717.5.

18 (7) If the application for disability is denied *or canceled*, a  
19 member who applies for a service retirement allowance under this  
20 section is subject to all of the following:

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

25 (B) If the member receives a modified service retirement  
26 allowance based on the election of an option pursuant to Section  
27 24300.1 or 24307, that modified service retirement allowance shall  
28 continue in effect and unchanged.

29 (C) If the member did not elect an option pursuant to Section  
30 24300.1 or 24307 and receives an unmodified service retirement  
31 allowance, that unmodified service retirement allowance shall  
32 continue in effect and unchanged.

33 (b) A member who applies for service retirement under this  
34 section may change or cancel his or her service retirement  
35 application pursuant to Section 24204, or may terminate his or her  
36 service retirement allowance pursuant to Section 24208.

37 (c) A member may not cancel his or her application for disability  
38 prior to a determination of that application unless he or she submits  
39 a written request to the system's headquarters office, ~~as established~~  
40 ~~pursuant to Section 22375~~. If a member elects to cancel his or her

1 service retirement application or elects to terminate his or her  
2 service retirement allowance as described in subdivision (b), that  
3 election shall not cancel the application for disability.

4 (d) (1) ~~Paragraph~~ *Subparagraph (C) of paragraph (1) of*  
5 *subdivision (a) of Section 24001 and paragraph (3) of subdivision*  
6 *(a) of Sections 24001 and Section 24101 shall not apply to a*  
7 *member who cancels an application for service retirement pursuant*  
8 *to Section 24204 or who terminates a service retirement allowance*  
9 *pursuant to Section 24208, if all of the following apply:*

10 (A) The member earned at least one year of credited service  
11 subsequent to the most recent terminated service retirement  
12 allowance.

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

15 (2) If the member's application for disability under this section  
16 is denied *or canceled, subparagraph (C) of paragraph (1) of*  
17 *subdivision (a) of Section 24001 and paragraph (3) of subdivision*  
18 *(a) of Sections 24001 and Section 24101 shall apply if the member*  
19 *submits a new application for disability.*

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

24 (2) If the board approves the application for disability and the  
25 member has received service retirement allowance payments under  
26 this part, the effective date for the disability allowance or disability  
27 retirement shall be the same as the effective date of the service  
28 retirement allowance.

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

34 (g) If a member who applies for service retirement under this  
35 section dies after the board has approved the member's application  
36 for disability, the member shall be considered a disabled member,  
37 or retired for disability, at the time of death, and any subsequent  
38 benefits shall be paid accordingly, even if the member died prior  
39 to receiving notification of the approval of his or her application  
40 for disability.

1 (h) If the member changes or cancels his or her service  
 2 retirement application or terminates his or her service retirement  
 3 allowance as described in subdivision (b), the system shall make  
 4 appropriate adjustments to the applicable service retirement  
 5 allowance, disability allowance, or disability retirement allowance,  
 6 retroactive to the effective date of the disability allowance or  
 7 disability retirement allowance. Subdivision (a) of Section 24617  
 8 shall not apply.

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

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

15 SEC. 24. Section 24203.5 of the Education Code is amended  
 16 to read:

17 24203.5. (a) The percentage of final compensation used to  
 18 compute the allowance pursuant to Section 24202.5, 24203, or  
 19 24205 of a member retiring on or after January 1, 1999, who has  
 20 30 or more years of credited service, shall be increased by  
 21 two-tenths of 1 percentage point, provided that the sum of the  
 22 percentage of final compensation used to compute the allowance,  
 23 including any adjustments for retiring before the normal retirement  
 24 age, and the additional percentage provided by this section does  
 25 not exceed 2.40 percent.

26 (b) For purposes of establishing eligibility for the increased  
 27 allowance pursuant to this section only, credited service shall  
 28 exclude service credited pursuant to the following:

- 29 (1) Section 22714.
- 30 ~~(2) Section 22714.5.~~
- 31 ~~(3)~~
- 32 (2) Section 22715.
- 33 ~~(4)~~
- 34 (3) Section 22717, except as provided in subdivision (b) of  
 35 Section 22121.
- 36 ~~(5)~~
- 37 (4) Section 22717.5.

38 (c) For purposes of establishing eligibility for the increased  
 39 allowance pursuant to this section only, credited service shall  
 40 include credited service that a court has ordered be awarded to a

1 nonmember spouse pursuant to Section 22652. A nonmember  
2 spouse shall also be eligible for the increased allowance pursuant  
3 to this section if the member had 30 or more years of credited  
4 service on the date the parties separated, as established in the  
5 judgment or court order pursuant to Section 22652.

6 (d) Nonqualified service credit for which contributions pursuant  
7 to Section 22826 were made in a lump sum on or after January 1,  
8 2000, or for which the first installment was made on or after  
9 January 1, 2000, may not be included in determining the eligibility  
10 for an increased allowance pursuant to this section.

11 SEC. 25. Section 24203.6 of the Education Code is amended  
12 to read:

13 24203.6. (a) In addition to the amount otherwise payable  
14 pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209,  
15 24209.3, 24210, 24211, and 24212, a member shall receive an  
16 increase in the monthly allowance, prior to any modification  
17 pursuant to Sections 24300, 24300.1, and 24309, in the amount  
18 identified in subdivision (b), if the member meets all of the  
19 following criteria:

20 (1) The member retires for service on or after January 1, 2001.

21 (2) Prior to January 1, 2011, the member has 30 or more years  
22 of credited service, including any credited service that a court has  
23 ordered be awarded to a nonmember spouse pursuant to Section  
24 22652, but excluding service credited pursuant to the following:

25 (A) Section 22714.

26 ~~(B) Section 22714.5.~~

27 ~~(C)~~

28 (B) Section 22715.

29 ~~(D)~~

30 (C) Section 22717, except as provided in subdivision (b) of  
31 Section 22121.

32 ~~(E)~~

33 (D) Section 22717.5.

34 ~~(F)~~

35 (E) Section 22826.

36 (3) The member is receiving an allowance subject to Section  
37 24203.5.

38 (b) The amount of the increase in the monthly allowance shall  
39 be based on the member's years of credited service at the time of  
40 retirement as follows:

1	30 years of credited service .....	\$200
2	31 years of credited service .....	\$300
3	32 or more years of credited service .....	\$400

4

5 (c) This section also applies to a nonmember spouse, if all of  
6 the following conditions are satisfied:

7 (1) The member is eligible for the allowance increase pursuant  
8 to subdivisions (a) and (b) upon his or her retirement for service.

9 (2) On the date the parties separated, as established in the  
10 judgment or court order pursuant to Section 22652, the member  
11 had at least 30 years of credited service, excluding service credited  
12 pursuant to the following:

13 (A) Section 22714.

14 ~~(B) Section 22714.5.~~

15 ~~(C)~~

16 (B) Section 22715.

17 ~~(D)~~

18 (C) Section 22717, except as provided in subdivision (b) of  
19 Section 22121.

20 ~~(E)~~

21 (D) Section 22717.5.

22 ~~(F)~~

23 (E) Section 22826.

24 (3) The service credit of the member was divided into separate  
25 accounts in the name of the member and the nonmember spouse  
26 by a court pursuant to Section 22652. The amount identified in the  
27 schedule in subdivision (b) and payable pursuant to this section,  
28 that is based on the service credited during the marriage, shall be  
29 divided and paid to the member and the nonmember spouse  
30 proportionately according to the respective percentages of the  
31 member's service credit that were allocated to the member and the  
32 nonmember spouse in the court's order.

33 (d) The allowance increase provided under this section is not  
34 subject to Sections 24415 and 24417, but is subject to Section  
35 22140.

36 SEC. 26. Section 24204 of the Education Code is amended to  
37 read:

38 24204. (a) A service retirement allowance under this part shall  
39 become effective upon any date designated by the member,  
40 provided all of the following conditions are met:

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

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

6 (3) The effective date is no earlier than *one day after* the date  
7 on which the retirement allowance was terminated under Section  
8 24208.

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

12 (5) 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 (6) 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 ~~(7) 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. *If a member cancels his or her*  
31 *retirement application, the member shall return the total gross*  
32 *distribution amount of all payments for the canceled retirement*  
33 *benefit to the system's headquarters office no later than 45 days*  
34 *from the date of the member's initial benefit payment and shall be*  
35 *liable for any adverse tax consequences that may result from these*  
36 *actions.*

37 (c) The retirement date of a member retiring on ~~and~~ or after  
38 January 1, 2012, shall be no earlier than January 1, 2012.

1 (d) *Nothing in this section shall be construed to allow a member*  
 2 *to receive more than one type of retirement or disability allowance*  
 3 *for the same period of time by virtue of his or her own membership.*

4 SEC. 27. Section 24208 of the Education Code is amended to  
 5 read:

6 24208. (a) A member retired for service under this part may  
 7 terminate the retirement allowance payable under this part and  
 8 applicable to his or her credited service upon written request to  
 9 the system effective upon a date designated by the member, subject  
 10 to the following conditions:

11 (1) The request for termination of the retirement allowance is  
 12 filed on a form provided by the system, and the form is executed  
 13 no earlier than six months before the effective date of the  
 14 termination.

15 (2) The effective date of the termination of the retirement  
 16 allowance is no earlier than the first day of the month in which the  
 17 request for termination is received in the system's headquarters  
 18 office, ~~as established pursuant to Section 22375~~ *or no earlier than*  
 19 *one day after the benefit effective date of the most recent*  
 20 *retirement, whichever is later.*

21 (b) A member who files a request for termination of the  
 22 retirement allowance may cancel the termination upon written  
 23 request to the system, provided that the cancellation request is  
 24 received in the system's headquarters office, as established pursuant  
 25 to Section 22375, no later than the last day of the month in which  
 26 the termination is effective.

27 (c) A member whose retirement allowance is terminated  
 28 pursuant to this section may apply for retirement pursuant to  
 29 Section 24209 *or Section 24209.3*, in accordance with Section  
 30 24204.

31 (d) A member whose retirement allowance is terminated  
 32 pursuant to this section may not file a preretirement election of an  
 33 option pursuant to Section 24307 within one year of reinstatement  
 34 that elects either a different option or a different beneficiary or set  
 35 of beneficiaries, or both, than were in effect at the time the  
 36 retirement allowance was terminated.

37 (e) A member whose retirement allowance is terminated  
 38 pursuant to this section and retires pursuant to Section 24209 *with*  
 39 *a benefit effective date* within one year of reinstatement shall elect



1 the same option and beneficiary or beneficiaries that were in effect  
2 at the time the retirement allowance was terminated.

3 SEC. 28. Section 24209 of the Education Code is amended to  
4 read:

5 24209. (a) Upon retirement for service following reinstatement,  
6 the member shall receive a service retirement allowance equal to  
7 the sum of both of the following:

8 (1) An amount equal to the monthly allowance the member was  
9 ~~receiving~~ *eligible to receive* immediately preceding reinstatement,  
10 exclusive of any amounts payable pursuant to Section 22714,  
11 ~~22714.5~~, or 22715, increased by the improvement factor that would  
12 have been applied to the allowance if the member had not  
13 reinstated.

14 (2) An amount calculated pursuant to Section 24202, 24202.5,  
15 24203, 24203.5, or 24206 on service credited subsequent to the  
16 most recent reinstatement, the member's age at retirement, and  
17 final compensation.

18 (b) If the total amount of credited service, other than that accrued  
19 pursuant to Sections 22714, ~~22714.5~~, 22715, 22717, 22717.5, and  
20 22826, is equal to or greater than 30 years, the amounts identified  
21 in paragraphs (1), for members who initially retired on or after  
22 January 1, 1999, and (2) of subdivision (a) shall be calculated  
23 pursuant to Section 24203.5.

24 (c) If the total amount of credited service, other than that accrued  
25 pursuant to Sections 22714, ~~22714.5~~, 22715, 22717, 22717.5, and  
26 22826, is equal to or greater than 30 years, upon retirement for  
27 service following reinstatement, a member who retired pursuant  
28 to Section 24213, and received the terminated disability allowance  
29 for the prior retirement, shall receive a service retirement allowance  
30 equal to the sum of the following:

31 (1) An amount based on the service credit accrued prior to the  
32 effective date of the disability allowance, the member's age at the  
33 prior retirement increased by the factor provided in Section  
34 24203.5, and projected final compensation.

35 (2) An amount calculated pursuant to Section 24202, 24202.5,  
36 24203.5, or 24206 on service credited subsequent to the  
37 reinstatement, the member's age at retirement, and final  
38 compensation.

1 (d) For purposes of this section, final compensation shall not  
2 be based on a determination of compensation earnable as described  
3 in subdivision (e) of Section 22115.

4 SEC. 29. Section 24209.3 of the Education Code is amended  
5 to read:

6 24209.3. (a) Notwithstanding subdivision (a) of Section 24209  
7 ~~and subdivision (d) of Section 24204~~, and exclusive of any amounts  
8 payable during the prior retirement for service pursuant to Section  
9 22714, ~~22714.5~~, or 22715:

10 (1) A member who retired, other than pursuant to Section 24210,  
11 24211, 24212, or 24213, and who reinstates and performs creditable  
12 service, as defined in Section 22119.5, after the most recent  
13 reinstatement, in an amount equal to two or more years of credited  
14 service, shall, upon retirement for service on or after the effective  
15 date of this section, receive a service retirement allowance equal  
16 to the sum of the following:

17 (A) An amount calculated pursuant to this chapter based on  
18 credited service performed prior to the most recent reinstatement,  
19 using the member's age at the subsequent service retirement, from  
20 which age shall be deducted the total time during which the  
21 member was retired for service, and final compensation.

22 (B) An amount calculated pursuant to this chapter based on  
23 credited service performed subsequent to the most recent  
24 reinstatement, using the member's age at the subsequent service  
25 retirement, and final compensation.

26 (2) A member who retired pursuant to Section 24210 and who  
27 reinstates and performs creditable service, as defined in Section  
28 22119.5, after the most recent reinstatement, in an amount equal  
29 to two or more years of credited service, shall, upon retirement for  
30 service on or after the effective date of this section, receive a  
31 service retirement allowance equal to the sum of the following:

32 (A) An amount calculated pursuant to this chapter based on  
33 service credit accrued prior to the effective date of the disability  
34 retirement, using the member's age at the subsequent service  
35 retirement, from which age shall be deducted the total time during  
36 which the member was retired for service, and indexed final  
37 compensation to the effective date of the initial service retirement.

38 (B) An amount calculated pursuant to this chapter based on the  
39 service credit accrued after termination of the disability retirement,  
40 using the member's age at the subsequent service retirement, from

1 which age shall be deducted the total time during which the  
2 member was retired for service, and final compensation.

3 (C) An amount calculated pursuant to this chapter based on  
4 credited service performed subsequent to the most recent  
5 reinstatement, using the member's age at the subsequent service  
6 retirement, and final compensation.

7 (3) A member who retired pursuant to Section 24211 and who  
8 reinstates and performs creditable service, as defined in Section  
9 22119.5, after the most recent reinstatement, in an amount equal  
10 to two or more years of credited service, shall, upon retirement for  
11 service on or after the effective date of this section, receive a  
12 service retirement allowance equal to the sum of the following:

13 (A) The greater of (i) the disability allowance the member was  
14 receiving immediately prior to termination of that allowance,  
15 excluding the children's portion, or (ii) an amount calculated  
16 pursuant to this chapter based on service credit accrued prior to  
17 the effective date of the disability allowance, using the member's  
18 age at the subsequent service retirement, from which age shall be  
19 deducted the total time during which the member was retired for  
20 service, and final compensation using compensation earnable or  
21 projected final compensation or a combination of both.

22 (B) An amount equal to either of the following:

23 (i) For a member who was receiving a benefit pursuant to  
24 subdivision (a) of Section 24211, the member's credited service  
25 at the time of the retirement pursuant to Section 24211, excluding  
26 service credited pursuant to Section 22717 or 22717.5 or Chapter  
27 14 (commencing with Section 22800) or Chapter 14.2  
28 (commencing with Section 22820) or Chapter 19 (commencing  
29 with Section 23200).

30 (ii) For a member who was receiving a benefit pursuant to  
31 subdivision (b) of Section 24211, the member's projected service,  
32 excluding service credited pursuant to Section 22717 or 22717.5  
33 or Chapter 14 (commencing with Section 22800) or Chapter 14.2  
34 (commencing with Section 22820) or Chapter 19 (commencing  
35 with Section 23200).

36 (C) An amount calculated pursuant to this chapter based on  
37 credited service performed subsequent to the most recent  
38 reinstatement, using the member's age at the subsequent service  
39 retirement, and final compensation using compensation earnable  
40 or projected final compensation or a combination of both.

1 (D) An amount based on any service credited pursuant to  
2 Chapter 14 (commencing with Section 22800) or Chapter 14.2  
3 (commencing with Section 22820) or Chapter 19 (commencing  
4 with Section 23200) or, for credited service performed during the  
5 most recent reinstatement, Section 22714, ~~22714.5~~, 22715, 22717,  
6 or 22717.5, using the member's age at the subsequent service  
7 retirement, from which age shall be deducted the total time during  
8 which the member was retired for service, and final compensation  
9 using compensation earnable, or projected final compensation, or  
10 a combination of both.

11 (4) A member who retired pursuant to Section 24212 or 24213  
12 and who reinstates and performs creditable service, as defined in  
13 Section 22119.5, after the most recent reinstatement, in an amount  
14 equal to two or more years of credited service, shall, upon  
15 retirement for service on or after the effective date of this section,  
16 receive a service retirement allowance equal to the sum of the  
17 following:

18 (A) An amount calculated pursuant to this chapter based on the  
19 member's projected service credit, excluding service credited  
20 pursuant to Section 22717, 22717.5, or Chapter 14 (commencing  
21 with Section 22800) or Chapter 14.2 (commencing with Section  
22 22820) or Chapter 19 (commencing with Section 23200), using  
23 the member's age at the subsequent service retirement, from which  
24 age shall be deducted the total time during which the member was  
25 retired for service, and final compensation using compensation  
26 earnable or projected final compensation or a combination of both.

27 (B) An amount calculated pursuant to this chapter based on  
28 credited service performed subsequent to the most recent  
29 reinstatement, using the member's age at the subsequent service  
30 retirement, and final compensation, using compensation earnable  
31 or projected final compensation or a combination of both.

32 (C) An amount based on any service credited pursuant to  
33 Chapter 14 (commencing with Section 22800) or Chapter 14.2  
34 (commencing with Section 22820) or Chapter 19 (commencing  
35 with Section 23200) or, for credited service performed during the  
36 most recent reinstatement, Section 22714, ~~22714.5~~, 22715, 22717,  
37 or 22717.5, using the member's age at the subsequent service  
38 retirement, from which age shall be deducted the total time during  
39 which the member was retired for service, and final compensation

1 using compensation earnable, or projected final compensation, or  
2 a combination of both.

3 (b) If the total amount of credited service, other than that accrued  
4 pursuant to Sections 22714, ~~22714.5~~, 22715, 22717, 22717.5, and  
5 22826, is equal to or greater than the number of years required to  
6 be eligible for an increased allowance pursuant to this chapter or  
7 Section 22134.5, the amounts identified in this section shall be  
8 calculated pursuant to the section authorizing the increased benefit.

9 (c) For members receiving an allowance pursuant to Section  
10 24410.5 or 24410.6, the amount payable pursuant to this section  
11 shall not be less than the amount payable to the member as of the  
12 effective date of reinstatement.

13 (d) The amount payable pursuant to this section shall not be  
14 less than the amount that would be payable to the member pursuant  
15 to Section 24209.

16 (e) For purposes of determining an allowance increase pursuant  
17 to Sections 24415 and 24417, the calendar year of retirement shall  
18 be the year of the subsequent retirement if the final compensation  
19 used to calculate the allowance pursuant to this section is higher  
20 than the final compensation used to calculate the allowance for  
21 the prior retirement.

22 (f) The allowance paid pursuant to this section to a member  
23 receiving a lump-sum payment pursuant to Section 24221 shall be  
24 actuarially reduced to reflect that lump-sum payment.

25 (g) For purposes of this section, final compensation shall not  
26 be based on a determination of compensation earnable as described  
27 in subdivision (e) of Section 22115.

28 SEC. 30. Section 24211 of the Education Code is amended to  
29 read:

30 24211. When a member who has been granted a disability  
31 allowance under this part after June 30, 1972, returns to  
32 employment subject to coverage under the Defined Benefit  
33 Program and performs:

34 (a) Less than three years of creditable service after termination  
35 of the disability allowance, the member shall receive a retirement  
36 allowance which is the sum of the allowance calculated on service  
37 credit accrued after the termination date of the disability allowance,  
38 the age of the member on the last day of the month in which the  
39 retirement allowance begins to accrue, and final compensation

1 using compensation earnable ~~and~~ *or* projected final compensation,  
 2 *or a combination of both*, plus the greater of either of the following:  
 3 (1) A service retirement allowance calculated on service credit  
 4 accrued as of the effective date of the disability allowance, the age  
 5 of the member on the last day of the month in which the retirement  
 6 allowance begins to accrue, and projected final compensation  
 7 excluding service credited pursuant to Sections 22717 and 22717.5  
 8 or Chapter 14 (commencing with Section 22800) or Chapter 14.2  
 9 (commencing with Section 22820) or Chapter 19 (commencing  
 10 with Section 23200), to the termination date of the disability  
 11 allowance.  
 12 (2) The disability allowance the member was ~~receiving~~ *eligible*  
 13 *to receive* immediately prior to termination of that allowance,  
 14 excluding children’s portions.  
 15 (b) Three or more years of creditable service after termination  
 16 of the disability allowance, the member shall receive a retirement  
 17 allowance that is the greater of the following:  
 18 (1) A service retirement allowance calculated on all actual and  
 19 projected service excluding service credited pursuant to Sections  
 20 22717 and 22717.5 or Chapter 14 (commencing with Section  
 21 22800) or Chapter 14.2 (commencing with Section 22820) or  
 22 Chapter 19 (commencing with Section 23200), the age of the  
 23 member on the last day of the month in which the retirement  
 24 allowance begins to accrue, and final compensation using  
 25 compensation earnable, or projected final compensation, or a  
 26 combination of both.  
 27 (2) The disability allowance the member was receiving  
 28 immediately prior to termination of that allowance, excluding  
 29 children’s portions.  
 30 (c) The allowance shall be increased by an amount based on  
 31 any service credited pursuant to Sections 22714, ~~22714.5~~, 22715,  
 32 22717, and 22717.5 or Chapter 14 (commencing with Section  
 33 22800) or Chapter 14.2 (commencing with Section 22820) or  
 34 Chapter 19 (commencing with Section 23200), and final  
 35 compensation using compensation earnable, or projected final  
 36 compensation, or a combination of both.  
 37 (d) If the total amount of credited service, other than projected  
 38 service or service that accrued pursuant to Sections 22714, ~~22714.5~~,  
 39 22715, 22717, 22717.5, and 22826, is equal to or greater than 30

1 years, the amounts identified in subdivisions (a) and (b) shall be  
2 calculated pursuant to Sections 24203.5 and 24203.6.

3 (e) For purposes of this section, final compensation shall not  
4 be based on a determination of compensation earnable as described  
5 in subdivision (e) of Section 22115.

6 SEC. 31. Section 24212 of the Education Code is amended to  
7 read:

8 24212. (a) If a disability allowance granted under this part  
9 after June 30, 1972, is terminated for reasons other than those  
10 specified in Section 24213 and the member does not return to  
11 employment subject to coverage under the Defined Benefit  
12 Program, the member's service retirement allowance, when  
13 payable, shall be based on projected service, excluding service  
14 credited pursuant to Sections 22717 and 22717.5 or Chapter 14  
15 (commencing with Section 22800) or Chapter 14.2 (commencing  
16 with Section 22820), projected final compensation, and the age of  
17 the member on the last day of the month in which the retirement  
18 allowance begins to accrue. The allowance payable under this  
19 section, excluding annuities payable from accumulated annuity  
20 deposit contributions, shall not be greater than the terminated  
21 disability allowance excluding children's portions.

22 (b) The allowance shall be increased by an amount based on  
23 any service credited pursuant to Sections 22714, ~~22714.5~~, 22715,  
24 22717, and 22717.5 or Chapter 14 (commencing with Section  
25 22800) or Chapter 14.2 (commencing with Section 22820) or  
26 Chapter 19 (commencing with Section 23200) and final  
27 compensation using compensation earnable, or projected final  
28 compensation, or a combination of both.

29 SEC. 32. Section 24213 of the Education Code is amended to  
30 read:

31 24213. (a) When a member who has been granted a disability  
32 allowance under this part after June 30, 1972, attains normal  
33 retirement age, or at a later date when there is no dependent child,  
34 the disability allowance shall be terminated and the member shall  
35 be eligible for service retirement. The retirement allowance shall  
36 be calculated on the projected final compensation and projected  
37 service to normal retirement age, excluding service credited  
38 pursuant to Section 22717 or 22717.5, or Chapter 14 (commencing  
39 with Section 22800) or Chapter 14.2 (commencing with Section  
40 22820). The allowance payable under this section, excluding

1 annuities payable from accumulated annuity deposit contributions,  
 2 shall not be greater than the terminated disability allowance. The  
 3 allowance shall be increased by an amount based on any service  
 4 credited pursuant to Section 22714, ~~22714.5~~, 22715, 22717, or  
 5 22717.5, or Chapter 14 (commencing with Section 22800), Chapter  
 6 14.2 (commencing with Section 22820), or Chapter 19  
 7 (commencing with Section 23200) and projected final  
 8 compensation to normal retirement age.

9 (b) Upon retirement, the member may elect to modify the service  
 10 retirement allowance payable in accordance with any option  
 11 provided under this part.

12 SEC. 33. Section 24214.5 of the Education Code is amended  
 13 to read:

14 24214.5. (a) Notwithstanding subdivision (f) of Section 24214,  
 15 the postretirement compensation limitation shall be zero dollars  
 16 (\$0) in either of the following circumstances:

17 (1) During the first 180 *calendar* days after the most recent  
 18 retirement of a member retired for service under this part.

19 (2) During the first ~~six consecutive months~~ 180 *calendar days*  
 20 after the most recent retirement if the member received additional  
 21 service credit pursuant to Section 22714 or 22715 or received from  
 22 any public employer any financial inducement to retire, as defined  
 23 by subdivision (j) of Section 24214.

24 (b) If the member has attained normal retirement age at the time  
 25 the compensation is earned, subdivision (a) shall not apply and  
 26 Section 24214 shall apply if the appointment has been approved  
 27 by the governing body of the employer in a public meeting, as  
 28 reflected in a resolution adopted by the governing body of the  
 29 employer prior to the performance of retired member activities,  
 30 expressing its intent to seek an exemption from the limitation  
 31 specified in subdivision (a). Approval of the appointment may not  
 32 be placed on a consent calendar. Notwithstanding any other  
 33 provision of Article 3.5 (commencing with Section 6250) of  
 34 Division 7 of Title 1 of the Government Code or any state or  
 35 federal law incorporated by subdivision (k) of Section 6254 of the  
 36 Government Code, the resolution shall be subject to disclosure by  
 37 the entity adopting the resolution and the system. The resolution  
 38 shall include the following specific information and findings:

39 (1) The nature of the employment.



1 (2) A finding that the appointment is necessary to fill a critically  
2 needed position before 180 *calendar* days have passed.

3 (3) A finding that the member is not ineligible for application  
4 of this subdivision pursuant to subdivision (d).

5 (4) A finding that the termination of employment of the retired  
6 member with the employer is not the basis for the need to acquire  
7 the services of the member.

8 (c) Subdivision (b) shall not apply to a retired member whose  
9 termination of employment with the employer is the basis for the  
10 need to acquire the services of the member.

11 (d) Subdivision (b) shall not apply if the member received  
12 additional service credit pursuant to Section 22714 or 22715 or  
13 received from any public employer any financial inducement to  
14 retire.

15 (e) The Superintendent, the county superintendent of schools,  
16 or the chief executive officer of a community college shall submit  
17 all documentation required by the system to substantiate the  
18 eligibility of the retired member for application of subdivision (b),  
19 including, but not limited to, the resolution adopted pursuant to  
20 that subdivision.

21 (f) If a member will be receiving compensation for performance  
22 of retired member activities before 180 *calendar* days after the  
23 most recent retirement, the Superintendent, the county  
24 superintendent of schools, or the chief executive officer of a  
25 community college shall submit all documentation required by the  
26 system that certifies that the member did not receive from any  
27 public employer any financial inducement to retire.

28 (g) The documentation required by this section shall be received  
29 by the system prior to the retired member's performance of retired  
30 member activities.

31 (h) Within 30 calendar days after the receipt of all  
32 documentation required by the system pursuant to this section, the  
33 system shall inform the entity seeking application of the exemption  
34 specified in subdivision (b), or seeking to employ a retired member  
35 pursuant to subdivision (f), and the retired member whether the  
36 compensation paid to the member will be subject to the limitation  
37 specified in subdivision (a).

38 (i) If a member retired for service under this part earns  
39 compensation for performing retired member activities in excess  
40 of the limitation specified in subdivision (a), the member's

1 retirement allowance shall be reduced by the amount of the excess  
2 compensation. The amount of the reduction may be equal to the  
3 monthly allowance payable but may not exceed the amount of the  
4 allowance payable during the first 180 *calendar* days, in accordance  
5 with subdivision (a), after a member retired for service under this  
6 part.

7 SEC. 34. Section 24300.2 of the Education Code is amended  
8 to read:

9 24300.2. (a) A member who retired and elected an option  
10 pursuant to Section 24300 may elect to change options, subject to  
11 all of the following:

12 (1) A member who elected Option 2 may elect to change to the  
13 100-percent beneficiary option described in paragraph (1) or the  
14 75-percent beneficiary option described in paragraph (2) of  
15 subdivision (a) of Section 24300.1.

16 (2) A member who elected Option 3, Option 4, or Option 5 may  
17 elect to change to the 75-percent beneficiary option described in  
18 paragraph (2) or the 50-percent beneficiary option described in  
19 paragraph (3) of subdivision (a) of Section 24300.1.

20 (3) A member who elected Option 6 or Option 7 may elect to  
21 change to the 75-percent beneficiary option described in paragraph  
22 (2) of subdivision (a) of Section 24300.1.

23 (4) A member who elected Option 8 may elect to have any  
24 designated percentage of his or her unmodified allowance changed  
25 in accordance with paragraph (1), (2), or (3).

26 (5) The election by a member under this section is made on or  
27 after January 1, 2007, and prior to July 1, 2007.

28 (6) The member designates the same beneficiary that was  
29 designated under the prior option elected by the member, if the  
30 option and beneficiary designation were effective on or before  
31 December 31, 2006.

32 (7) The member and the option beneficiary are not afflicted  
33 with a known terminal illness and the member declares, under  
34 penalty of perjury under the laws of this state, that to the best of  
35 his or her knowledge, he or she and the option beneficiary are not  
36 afflicted with a known terminal illness.

37 (8) The option beneficiary has not predeceased the member as  
38 of the effective date of the change in the option by the member.

39 (b) The change in the option by the member shall be effective  
40 on the date the election is signed, provided that the election is on

1 a properly executed form provided by the system and that election  
2 is received at the system's headquarters office ~~as described in~~  
3 ~~Section 22375~~ within 30 days after the date the election is signed.

4 (c) After receipt of a member's election document, the system  
5 shall mail an acknowledgment notice to the member that sets forth  
6 the new option elected by the member.

7 (d) If the member and the option beneficiary are alive and not  
8 afflicted with a known terminal illness, a member may cancel the  
9 election to change options and elect to receive the benefit according  
10 to the preexisting option election. After cancellation, the member  
11 may elect to make a one-time change from the preexisting option  
12 to any other option provided by and subject to the restrictions of  
13 paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation  
14 or the cancellation and one-time change shall be made on a properly  
15 executed form provided by the system and shall be received at the  
16 system's headquarters office ~~as described in Section 22375~~ no  
17 later than 30 calendar days following the date of mailing of the  
18 acknowledgment notice. If the member elects to make the one-time  
19 change provided by this subdivision, the change shall be effective  
20 as of the member's signature date on the initial election to change.

21 (e) If the system is unable to mail an acknowledgment notice  
22 to the member on or before June 1, 2007, or prior to the end of the  
23 election period, provided that the member and the option  
24 beneficiary are alive and not afflicted with a known terminal  
25 illness, the system shall allow a member to cancel the election to  
26 change options and elect to receive the benefit according to the  
27 preexisting option election. After cancellation, the member may  
28 elect to make a one-time change from the preexisting option to  
29 any other option provided by and subject to the restrictions of  
30 paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation  
31 or the cancellation and one-time change may be made after the  
32 end of the election period if it is made on a properly executed form  
33 provided by the system and is received at the system's headquarters  
34 office ~~as described in Section 22375~~ no later than 30 days following  
35 the date of the acknowledgment notice. If the member elects to  
36 make the one-time change provided by this subdivision, the change  
37 shall be effective as of the member's signature date on the initial  
38 election to change.

39 (f) If the member elects to change his or her option as described  
40 in subdivision (a), the retirement allowance of the member shall

1 be modified in a manner determined by the board to prevent any  
2 additional liability to the plan.

3 (g) The member shall not change options in derogation of a  
4 spouse's or former spouse's community property rights as specified  
5 in a court order.

6 SEC. 35. Section 24301 of the Education Code is amended to  
7 read:

8 24301. (a) A member ~~who has filed an application under this~~  
9 ~~part~~ *upon application* for a disability retirement pursuant to Chapter  
10 26 (commencing with Section 24100), may elect, as provided in  
11 Section 24300 or 24300.1 to receive an actuarially modified  
12 disability retirement allowance. ~~After receipt of a disability~~  
13 ~~retirement application from a member, the board shall mail an~~  
14 ~~acknowledgment notice to the member. A 30-day period shall~~  
15 ~~commence with the mailing of the acknowledgment, during which~~  
16 ~~time the member may change the option election made on the~~  
17 ~~disability retirement application.~~

18 (b) *For purposes of this section, the member shall designate an*  
19 *option beneficiary on a properly executed form prescribed by the*  
20 *system, which shall be filed with the system on or before the last*  
21 *day of the month of the member's disability retirement.* The option  
22 shall become effective on the effective date of the disability  
23 retirement allowance. The modification of the disability retirement  
24 allowance under the option elected shall be based on the ages of  
25 the retired member and the designated option beneficiary as of the  
26 effective date of the disability retirement. The modification shall  
27 be applicable only to the disability retirement allowance payable  
28 pursuant to subdivision (a) of Section 24106.

29 (c) Except as provided in Sections 24300, 24300.1, 24300.6,  
30 24305, 24305.5, and 24306, *a member may revoke or change an*  
31 *election of an option no later than 30 days from the date of the*  
32 *member's initial disability retirement benefit payment.* ~~the~~ The  
33 elected option may not be revoked or changed after the later of the  
34 effective date of the disability retirement allowance or 30 days  
35 after the mailing of the acknowledgment notice pursuant to this  
36 section.

37 (d) If a member dies prior to electing an unmodified allowance  
38 or an option, the death benefits shall be payable under Chapter 23  
39 (commencing with Section 23850), regardless of whether the  
40 disability retirement application is or would have been approved.

1 SEC. 36. Section 24306.5 of the Education Code is amended  
2 to read:

3 24306.5. (a) A member who retired for service under Option  
4 2 or Option 3 with an effective date prior to January 1, 1991, may  
5 elect to change Option 2 to Option 6 or Option 3 to Option 7 under  
6 all of the following conditions:

7 (1) The election is made during the six-month period  
8 commencing July 1, 1994, and ending December 31, 1994.

9 (2) The same beneficiary under Option 2 or Option 3 is named  
10 as beneficiary under Option 6 or Option 7.

11 (3) The change in options is consistent with Sections 22453 and  
12 24305.

13 (4) The option beneficiary is not afflicted with any known  
14 terminal illness and the retired member shall state under penalty  
15 of perjury that to the best of his or her knowledge the option  
16 beneficiary is not afflicted with any known terminal illness.

17 (5) The option beneficiary has not predeceased the retired  
18 member as of the effective date of the change in options.

19 (b) The change in options shall be effective on the date the  
20 election is signed, provided that the election is received at the  
21 system's headquarters office, ~~as established pursuant to Section~~  
22 ~~22375~~, within 30 days after the date of the signature.

23 (c) If an election to change options is made pursuant to this  
24 section, the modified allowance shall be reduced in a manner  
25 determined by the board to ensure that no additional liability shall  
26 be incurred by the plan pursuant to this section.

27 SEC. 37. Section 24306.7 of the Education Code is amended  
28 to read:

29 24306.7. (a) Any member who retired for service under Option  
30 4 or Option 5 with an effective date prior to January 1, 1991, may  
31 elect to change Option 4 to Option 6 or Option 5 to Option 7 if all  
32 of the following conditions are met:

33 (1) The election is made during the three-month period  
34 commencing January 1, 1999, and ending March 31, 1999.

35 (2) The same beneficiary under Option 4 or Option 5 is named  
36 as beneficiary under Option 6 or Option 7.

37 (3) The change in options is consistent with Sections 22453 and  
38 24305.

39 (4) The option beneficiary is not afflicted with any known  
40 terminal illness.

1 (5) The option beneficiary has not predeceased the retired  
2 member as of the effective date of the change in option.

3 (6) The election to change the option under this section is  
4 received at the system's headquarters office as described in Section  
5 22375 at least 30 days prior to the death of the option beneficiary.

6 (b) Failure to satisfy all of the conditions in subdivision (a) shall  
7 render the change of election invalid.

8 (c) The change in options under this section shall be effective  
9 on the date the election is signed, provided all the conditions set  
10 forth in subdivision (a) are satisfied and the election is received at  
11 the system's headquarters office, ~~as established pursuant to Section~~  
12 ~~22375~~, within 30 days after the date of the signature.

13 (d) The election of a new joint and survivor option under this  
14 section is subject to a further modification of the modified  
15 retirement allowance. In no event may a retired member elect a  
16 joint and survivor option that would result in any additional liability  
17 to the fund.

18 SEC. 38. Section 24307 of the Education Code is amended to  
19 read:

20 24307. (a) A member who qualifies to apply for retirement  
21 under Section 24201 or 24203 may make a preretirement election  
22 of an option, as provided in Section 24300.1 without right of  
23 revocation or change after the effective date of retirement, except  
24 as provided in this part. The preretirement election of an option  
25 shall become effective as of the date of the member's signature  
26 on a properly executed form prescribed by the system, subject to  
27 the following requirements:

28 (1) The form includes the signature of the member's spouse or  
29 registered domestic partner, if applicable, the signature is dated,  
30 and the date of the signature is within 30 days of the member's  
31 signature.

32 (2) The date the form is received at the system's headquarters  
33 office, ~~as established pursuant to Section 22375~~, is within 30 days  
34 of the date of the member's signature and within 30 days of the  
35 date of the spouse or registered domestic partner's signature, if  
36 applicable.

37 (b) A member who makes a preretirement election of an Option  
38 2, Option 3, Option 4, Option 5, Option 6, or Option 7 pursuant  
39 to Section 24300, or an election as described in paragraph (1), (2),  
40 or (3) of Section 24300.1 may subsequently make a preretirement

1 election of the compound option described in paragraph (4) of  
2 subdivision (a) of Section 24300.1. The member may retain the  
3 same option and the same option beneficiary as named in the prior  
4 preretirement election for a designated percentage within the  
5 compound option.

6 (c) Upon the member's death prior to the effective date of  
7 retirement, the beneficiary who was designated under the option  
8 elected and who survives shall receive an allowance calculated  
9 under the option, under the assumption that the member retired  
10 for service pursuant to Chapter 27 (commencing with Section  
11 24201) on the date of death. The payment of the allowance to the  
12 option beneficiary shall be in lieu of the family allowance provided  
13 in Section 23804, the payment provided in paragraph (1) of  
14 subdivision (a) of Section 23802, the survivor benefit allowance  
15 provided in Section 23854, and the payment provided in  
16 subdivisions (a) and (b) of Section 23852, except that if the  
17 beneficiary dies before all of the member's accumulated retirement  
18 contributions are paid, the balance, if any, shall be paid to the estate  
19 of the person last receiving or entitled to receive the allowance.  
20 The accumulated annuity deposit contributions and the death  
21 payment provided in Sections 23801 and 23851 shall be paid to  
22 the beneficiary in a lump sum.

23 (d) If the member subsequently retires for service, and the  
24 elected option has not been canceled pursuant to Section 24309,  
25 a modified service retirement allowance computed under Section  
26 24300 or 24300.1 and the option elected shall be paid.

27 (e) The amount of the service retirement allowance prior to  
28 applying the option factor shall be calculated as of the earlier of  
29 the member's age at death before retirement or age on the last day  
30 of the month in which the member requested service retirement  
31 be effective. The modification of the service retirement allowance  
32 by the option elected shall be based on the ages of the member  
33 and the beneficiary designated under the option, as of the date the  
34 election was signed.

35 (f) A member who terminates the service retirement allowance  
36 pursuant to Section 24208 shall not be eligible to file a  
37 preretirement election of an option until one calendar year elapses  
38 from the date the allowance is terminated.

1 (g) The system shall inform members who are qualified to make  
2 a preretirement election of an option, through the annual statements  
3 of account, that the election of an option can be made.

4 SEC. 39. Section 24309 of the Education Code is amended to  
5 read:

6 24309. (a) A member may change or cancel the election of an  
7 option made pursuant to Section 24307. The change or cancellation  
8 shall be on a properly executed form provided by the system and  
9 received at the system's headquarters office, ~~as established pursuant~~  
10 ~~to Section 22375~~, within 30 days of the date of the member's  
11 signature and, if applicable, the spouse's signature, and no later  
12 than 30 days from the date the member's initial benefit payment  
13 for the member's most recent retirement under the Defined Benefit  
14 Program is paid by the system. The change or cancellation shall  
15 become effective as of the date of the member's signature or the  
16 day prior to the member's retirement date, whichever is earlier.

17 (1) Any change to an election of an option shall be made  
18 according to Section 24307 and shall be considered a new  
19 preretirement election of an option.

20 (2) Regardless of how the member elects to receive his or her  
21 retirement allowance, a change made to an election of an option  
22 or a cancellation of an option shall result in the reduction of that  
23 allowance by an amount determined by the board to be the actuarial  
24 equivalent of the coverage the member received as a result of the  
25 preretirement election and that does not result in any adverse  
26 funding to the plan.

27 (b) If the option beneficiary designated in the preretirement  
28 election of an option pursuant to Section 24307 dies prior to the  
29 member's retirement, the preretirement election shall be canceled  
30 as of the day following the date of death and the member's  
31 subsequent retirement allowance under this part shall be subject  
32 to the allowance reduction prescribed in this section.

33 (c) If the option elected pursuant to Section 24307 is "Option  
34 8" as described in paragraph (7) of subdivision (a) of Section 24300  
35 or the compound option as described in paragraph (4) of  
36 subdivision (a) of Section 24300.1, a member may cancel the  
37 designation of an option beneficiary. If the member cancels the  
38 designation of the option beneficiary or the option beneficiary  
39 predeceases the member prior to the member's retirement, the  
40 member may elect to receive that portion of the retirement



1 allowance without modification for the option or elect one or  
2 multiple new or existing option beneficiaries as described in  
3 Section 24307. Any change or cancellation of the designation of  
4 the option beneficiary under this subdivision shall result in the  
5 allowance reduction prescribed in this section.

6 SEC. 40. Section 24311 of the Education Code is amended to  
7 read:

8 24311. (a) A member who has a preretirement election of an  
9 option in effect on December 31, 1990, may change his or her  
10 preretirement election of Option 2, Option 3, Option 4, or Option  
11 5, to either Option 6 or Option 7 without the allowance reduction  
12 prescribed in Sections 24309 and 24310, provided the change is  
13 made on or after January 1, 1991, and prior to the earlier of January  
14 1, 1992, or the member's retirement under this part.

15 (b) If the member elects to change his or her option under this  
16 section, then the member shall retain the same option beneficiary  
17 as named in the prior preretirement election. The election to change  
18 the preretirement election under this section shall be void if not  
19 received in the system's headquarters office, ~~as established pursuant~~  
20 ~~to Section 22375~~, at least 30 days prior to the death of the option  
21 beneficiary.

22 SEC. 41. Section 24312 of the Education Code is amended to  
23 read:

24 24312. (a) A member who has a preretirement election of an  
25 option in effect on December 31, 1999, may change his or her  
26 preretirement election of Option 2, Option 3, Option 4, Option 5,  
27 Option 6 or Option 7 to Option 8 without the allowance reduction  
28 prescribed in Sections 24309 and 24310, provided the change is  
29 made on or after January 1, 2000, and prior to the earlier of July  
30 1, 2000, or the member's effective date of retirement.

31 (b) If the member elects to change his or her option under this  
32 section then the member shall retain the same option and the same  
33 option beneficiary as named in the prior preretirement election of  
34 an option as one of the options under Option 8. The election to  
35 change the preretirement election under this section shall be void  
36 if not received in the system's headquarters office, ~~as established~~  
37 ~~pursuant to Section 22375~~, at least 30 days prior to the death of  
38 the option beneficiary.

39 (c) This section shall become operative on January 1, 2000.

1 SEC. 42. Section 24312.1 of the Education Code is amended  
2 to read:

3 24312.1. (a) A member who has a preretirement election of  
4 an option in effect on December 31, 2006, pursuant to paragraphs  
5 (1) to (6), inclusive, of subdivision (a) of Section 24300 may  
6 change his or her preretirement election to an option described in  
7 paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1  
8 without the allowance reduction described in Sections 24309 and  
9 24310, provided the change is made on or after January 1, 2007,  
10 and prior to July 1, 2007.

11 (b) A member who has a preretirement election of Option 8 as  
12 described in Section 24300 in effect on December 31, 2006, and  
13 in that Option 8 election has an option pursuant to paragraphs (1)  
14 to (6), inclusive, of subdivision (a) of Section 24300, may change  
15 any of the options under paragraphs (1) to (6), inclusive, of  
16 subdivision (a) of Section 24300 to an option described in  
17 paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1  
18 without the allowance reduction described in Sections 24309 and  
19 24310, if change is made on or after January 1, 2007, and prior to  
20 July 1, 2007. A member may not change the portion of the  
21 unmodified benefit that would be modified pursuant to that prior  
22 option.

23 (c) The election to change the option by a member as described  
24 in this section shall be subject to all of the following:

25 (1) The member may not change the option beneficiary that was  
26 designated in the prior preretirement option election.

27 (2) The change in options under this section shall be effective  
28 on the date the election is signed, provided that the election is on  
29 a properly executed form provided by the system and received at  
30 the system’s headquarters office, ~~as described in Section 22375,~~  
31 within 30 days of the date of the signature.

32 (d) If the member elects to change options as described in this  
33 section, the age of the member and the option beneficiary on the  
34 effective date of the prior preretirement option election shall be  
35 the age used to calculate the member’s benefit at the time of  
36 retirement.

37 SEC. 43. Section 24613 of the Education Code is amended to  
38 read:

39 24613. (a) Payment pursuant to the board’s determination in  
40 good faith of the existence, identity, or other facts relating to

1 entitlement of persons under this part constitutes a complete  
2 discharge and release of the board, system, and plan from liability  
3 for that payment.

4 (b) Notwithstanding Sections 751 and 1100 of the Family Code  
5 relating to community property interests, whenever payment or  
6 refund is made by this system to a member, former member, or  
7 beneficiary of a member pursuant to this part, the payment shall  
8 fully discharge the board, system, and plan from all adverse claims  
9 thereto unless, before payment is made, a written notice of adverse  
10 claim is received at the system's headquarters office, ~~as established~~  
11 ~~pursuant to Section 22375.~~

12 SEC. 44. Section 25011.5 of the Education Code is amended  
13 to read:

14 25011.5. (a) A member who retired and elected an annuity  
15 pursuant to Section 25011 may elect to change annuities, subject  
16 to all of the following:

17 (1) A member who elected a single life annuity with or without  
18 a cash refund feature or elects a period certain annuity may not  
19 change his or her annuity.

20 (2) A member who elected an annuity under paragraph (3) or  
21 (4) of subdivision (a) of Section 25011 may elect an annuity under  
22 paragraph (3) of subdivision (a) of Section 25011.1.

23 (3) The election by the member under this section is made on  
24 or after January 1, 2007, and prior to July 1, 2007.

25 (4) The member designates the same beneficiary that was  
26 designated under the prior annuity election by the member, if the  
27 annuity and annuity designation was effective on December 31,  
28 2006.

29 (5) The member and the annuity beneficiary are not afflicted  
30 with a known terminal illness and the member declares, under  
31 penalty of perjury under the laws of this state, that to the best of  
32 his or her knowledge, he or she and the annuity beneficiary are  
33 not afflicted with a known terminal illness.

34 (6) The annuity beneficiary has not predeceased the member as  
35 of the effective date of the change in the annuity by the member.

36 (b) The change in the annuity by the member shall be effective  
37 on the date the election is signed, provided that the election is on  
38 a properly executed form provided by the system and that election  
39 is received at the system's headquarters office ~~as described in~~  
40 ~~Section 22375~~ within 30 days after the date the election is signed.

1 (c) After receipt of a member's election document, the system  
2 shall mail an acknowledgment notice to the member that sets forth  
3 the new annuity elected by the member.

4 (d) If the member and the annuity beneficiary are alive and not  
5 afflicted with a known terminal illness, a member may cancel the  
6 election to change annuities and elect to receive the benefit  
7 according to the preexisting annuity election. After cancellation,  
8 the member may elect to make a one-time change from the  
9 preexisting annuity to any other annuity provided by and subject  
10 to the restrictions of paragraph (1), (2), (3), or (4) of subdivision  
11 (a). The cancellation or the cancellation and one-time change shall  
12 be made on a properly executed form provided by the system and  
13 shall be received at the system's headquarters office ~~as described~~  
14 ~~in Section 22375~~ no later than 30 calendar days following the date  
15 of mailing of the acknowledgment notice. If the member elects to  
16 make the one-time change provided by this subdivision, the change  
17 shall be effective as of the member's signature date on the initial  
18 election to change.

19 (e) If the system is unable to mail an acknowledgment notice  
20 to the member on or before June 1, 2007, or prior to the end of the  
21 election period, provided that the member and the annuity  
22 beneficiary are alive and not afflicted with a known terminal  
23 illness, the system shall allow a member to cancel the election to  
24 change annuities and elect to receive the benefit according to the  
25 preexisting annuity election. After cancellation, the member may  
26 elect to make a one-time change from the preexisting annuity to  
27 any other annuity provided by and subject to the restrictions of  
28 paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation  
29 or the cancellation and one-time change may be made after the  
30 end of the election period if it is made on a properly executed form  
31 provided by the system and is received at the system's headquarters  
32 office ~~as described in Section 22375~~ no later than 30 calendar days  
33 following the date of mailing of the acknowledgment notice. If  
34 the member elects to make the one-time change provided by this  
35 subdivision, the change shall be effective as of the member's  
36 signature date on the initial election to change.

37 (f) If the member elects to change his or her annuity as described  
38 in subdivision (a), the annuity of the member shall be modified in  
39 a manner determined by the board to prevent any additional liability  
40 to the plan.

1 (g) References to a “member” in paragraph (1) of subdivision  
2 (a) shall apply to the nonmember spouse.

3 (h) The member shall not change annuities in derogation of a  
4 spouse’s or former spouse’s community property rights as specified  
5 in a court order.

6 SEC. 45. Section 25018.2 of the Education Code is amended  
7 to read:

8 25018.2. (a) A member who is disabled and elected an annuity  
9 pursuant to Section 25018 may elect to change annuities, subject  
10 to all of the following:

11 (1) A member who elected a single life annuity with or without  
12 a cash refund feature or elected a period certain annuity may not  
13 change his or her annuity.

14 (2) A member who elected an annuity under paragraph (3) or  
15 (4) of subdivision (b) of Section 25018 may elect an annuity under  
16 paragraph (3) of subdivision (a) of Section 25018.1.

17 (3) The election by the member under this section is made on  
18 or after January 1, 2007, and prior to July 1, 2007.

19 (4) The member designates the same annuity beneficiary that  
20 was designated under the prior annuity election by the member, if  
21 the annuity and the annuity designation were effective on December  
22 31, 2006.

23 (5) The member and the annuity beneficiary are not afflicted  
24 with a known terminal illness and the member declares, under  
25 penalty of perjury under the laws of this state, that to the best of  
26 his or her knowledge, he or she and the annuity beneficiary are  
27 not afflicted with a known terminal illness.

28 (6) The annuity beneficiary has not predeceased the member as  
29 of the effective date of the change in the annuity by the member.

30 (b) The change in the annuity by the member shall be effective  
31 on the date the election is signed, provided that the election is on  
32 a properly executed form provided by the system and that election  
33 is received at the system’s headquarters office ~~as described in~~  
34 ~~Section 22375~~ within 30 days after the date the election is signed.

35 (c) After receipt of a member’s election document, the system  
36 shall mail an acknowledgment notice to the member that sets forth  
37 the new annuity elected by the member.

38 (d) If the member and the annuity beneficiary are alive and not  
39 afflicted with a known terminal illness, a member may cancel the  
40 election to change annuities and elect to receive the benefit

1 according to the preexisting annuity election. After cancellation,  
2 the member may elect to make a one-time change from the  
3 preexisting annuity to any other annuity provided by and subject  
4 to the restrictions of paragraph (1), (2), (3), or (4) of subdivision  
5 (a). The cancellation or the cancellation and one-time change shall  
6 be made on a properly executed form provided by the system and  
7 shall be received at the system's headquarters office ~~as described~~  
8 ~~in Section 22375~~ no later than 30 calendar days following the date  
9 of mailing of the acknowledgment notice. If the member elects to  
10 make the one-time change provided by this subdivision, the change  
11 shall be effective as of the member's signature date on the initial  
12 election to change.

13 (e) If the system is unable to mail an acknowledgment notice  
14 to the member on or before June 1, 2007, or prior to the end of the  
15 election period, provided that the member and the annuity  
16 beneficiary are alive and not afflicted with a known terminal  
17 illness, the system shall allow a member to cancel the election to  
18 change annuities and elect to receive the benefit according to the  
19 preexisting annuity election. After cancellation, the member may  
20 elect to make a one-time change from the preexisting annuity to  
21 any other annuity provided by and subject to the restrictions of  
22 paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation  
23 or the cancellation and one-time change may be made after the  
24 end of the election period if it is made on a properly executed form  
25 provided by the system and is received at the system's headquarters  
26 office ~~as described in Section 22375~~ no later than 30 calendar days  
27 following the date of mailing of the acknowledgment notice. If  
28 the member elects to make the one-time change provided by this  
29 subdivision, the change shall be effective as of the member's  
30 signature date on the initial election to change.

31 (f) If the member elects to change his or her annuity as described  
32 in subdivision (a), (d), or (e), the annuity of the member shall be  
33 modified in a manner determined by the board to prevent any  
34 additional liability to the plan.

35 (g) The member shall not change annuities in derogation of a  
36 spouse's or former spouse's community property rights as specified  
37 in a court order.

38 SEC. 46. Section 25022 of the Education Code is amended to  
39 read:

1 25022. (a) If the death of a member occurs while the member  
2 is receiving an annuity under the Defined Benefit Supplement  
3 Program, the final benefit shall be payable in accordance with the  
4 terms of the annuity elected by the member.

5 (b) If the member was receiving a single life annuity without a  
6 cash refund feature, a final benefit is not payable other than the  
7 accrued annuity for the month in which the member's death  
8 occurred, which shall be paid in a lump sum to the beneficiary  
9 designated by the member pursuant to Section 23300 *or* 23301.

10 (c) If the member was receiving a single life annuity with a cash  
11 refund feature, the final benefit shall be payable in a lump sum to  
12 the beneficiary designated by the member pursuant to Section  
13 23300 *or* 23301.

14 (d) If the member was receiving a joint and survivor annuity,  
15 the annuity shall continue to be paid to the surviving designated  
16 annuity beneficiary. If the designated annuity beneficiary  
17 predeceases the member, a final benefit is not payable.

18 (e) If the member was receiving a period certain annuity, the  
19 remaining balance of payments shall be paid to the beneficiary  
20 designated by the member pursuant to Section 23300.

21 *(1) If the beneficiary is designated pursuant to Section 23300,*  
22 *the remaining period certain annuity payments shall be made over*  
23 *the amount of time remaining in the period originally elected by*  
24 *the deceased member and shall be made in payments equal to the*  
25 *amount of the annuity payments previously received by the*  
26 *deceased member.*

27 *(2) If the beneficiary is designated pursuant to Section 23301,*  
28 *the remaining balance of period certain annuity payments shall*  
29 *be made in a lump-sum payment equal to the present value of the*  
30 *balance of payments due over the time remaining in the period*  
31 *originally elected by the deceased member.*

32 (f) A member may designate a beneficiary who would, upon  
33 the death of the member, be entitled to the member's accrued  
34 annuity allowance.

35 SEC. 47. Section 25940 of the Education Code is amended to  
36 read:

37 25940. (a) Effective July 1, 2001, the system shall pay to the  
38 federal Centers for Medicare and Medicaid Services or a successor  
39 agency the premiums associated with Medicare Part A for retired  
40 or disabled members described in this section.

1 (b) This section shall apply only to a retired member of the  
2 Defined Benefit Program who meets all of the following  
3 requirements:

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

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

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

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

11 (c) The board may extend eligibility for the payments described  
12 in this section to members of the Defined Benefit Program who  
13 meet the requirements of subdivision (d) and who retire or begin  
14 receiving a disability allowance on or after January 1, 2001, within  
15 a school year specified by the board, if the board finds that the  
16 cost of the payments for members who retire or begin receiving a  
17 disability allowance during the specified school year may be paid  
18 within the anticipated resources available in the fund, as determined  
19 by the actuarial valuation of the program established by this  
20 chapter. Any extension of eligibility to members who retire or  
21 begin receiving a disability allowance on or after January 1, 2001,  
22 shall be provided equally to any member who meets the  
23 requirements of subdivision (d) and retires or begins receiving a  
24 disability allowance during the school year specified by the board.

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

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

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

31 (ii) Completed or is conducting a division pursuant to Section  
32 22156 of the Government Code on or after January 1, 2001, and,  
33 if the member was less than 58 years of age at the time of the  
34 division, the member elected to be covered by Medicare.

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

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



1 (ii) Completed or is conducting a division pursuant to Section  
2 22156 of the Government Code on or after January 1, 2001, and,  
3 if the member was still actively employed and less than 58 years  
4 of age at the time of the division, the member elected to be covered  
5 by Medicare.

6 (iii) Completed or is conducting a division pursuant to Section  
7 22156 of the Government Code on or after January 1, 2001, and,  
8 if the member is no longer actively employed, the division was  
9 completed prior to the time the member reached normal retirement  
10 age.

11 (2) For purposes of paragraph (1), a division occurs during the  
12 10-day period during which the member has the opportunity to  
13 elect to be covered by Medicare pursuant to Section 22156 of the  
14 Government Code.

15 (3) This subdivision does not apply to a member who retires  
16 from a district, or is receiving a disability allowance and the  
17 member was last employed in a district, that either as of January  
18 1, 2001, had no members who were less than 58 years of age and  
19 who were hired prior to April 1, 1986, or was created pursuant to  
20 a formation or a reorganization on or after April 1, 1986, and prior  
21 to January 1, 2001.

22 (e) The amount paid to the federal Centers for Medicare and  
23 Medicaid Services or a successor agency pursuant to this section  
24 shall include any surcharges applicable to enrollment in Medicare  
25 Part A or Part B by members who retired prior to January 1, 2001,  
26 and who enrolled in Medicare Parts A and B after the age of 65  
27 years and prior to July 1, 2001. If the system pays the Part A  
28 premium and Part B surcharges on behalf of a member and that  
29 member later becomes eligible for Part A coverage without  
30 payment of a premium, the system shall continue to pay any  
31 applicable Part B surcharges on behalf of that member. The board  
32 may require a member on whose behalf a surcharge would be paid  
33 pursuant to this subdivision to authorize the system to deduct the  
34 Part B premium from the member's retirement allowance as a  
35 condition of having the system pay the Part A premium pursuant  
36 to this section.

37 (f) *For the purposes of this section, if a retirement date is used*  
38 *to determine eligibility pursuant to subdivisions (b) and (c), the*  
39 *system shall use the member's most recent retirement date for*  
40 *eligibility purposes.*

1 SEC. 48. Section 26911 of the Education Code is amended to  
2 read:

3 26911. If a participant who is receiving a disability annuity  
4 under this part becomes reemployed ~~prior to 60 years of age~~ to  
5 perform creditable service subject to coverage by the Cash Balance  
6 Benefit Program or the Defined Benefit Program, the disability  
7 annuity shall be terminated. The participant's employee account  
8 and employer account shall be credited with the actuarial equivalent  
9 of the participant's annuity as of the date of reemployment and  
10 the Annuitant Reserve shall be reduced by the amount credited to  
11 those accounts.

12 SEC. 49. Any section of any other act enacted by the  
13 Legislature during the 2013 calendar year that takes effect on or  
14 before January 1, 2014, and that amends, amends and renumbers,  
15 adds, repeals and adds, or repeals a section that is amended,  
16 amended and renumbered, added, repealed and added, or repealed  
17 by this act, shall prevail over this act, whether that act is enacted  
18 prior to or subsequent to the enactment of this act. The repeal, or  
19 repeal and addition, of any article, chapter, part, title, or division  
20 of any code by this act shall not become operative if any section  
21 of any other act that is enacted by the Legislature during the 2013  
22 calendar year and takes effect on or before January 1, 2014,  
23 amends, amends and renumbers, adds, repeals and adds, or repeals  
24 any section contained in that article, chapter, part, title, or division.