

AMENDED IN SENATE JUNE 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1379

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

February 26, 2013

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, 24410, 24415, 24604, 24613, 24975, 25011.5, 25018.2, 25022, 25101, 25103, 25106, 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 amended, 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 *State Teachers' Retirement System* (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 Supplemental Benefit Maintenance Account, among other provisions, for the purpose of restoring the purchasing power of allowances.* 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 “*system's* 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 require an application for disability retirement to contain an election of an unmodified allowance or an optional modification, as specified.* 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. *The bill would establish the date to be used for the calculation of postrequirement benefits under specified circumstances.*

(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. *Existing law prescribes requirements and procedures for the purpose of making payments of STRS benefits.*

This bill would specify the method of paying the annuity if certain institutions or entities are the beneficiary of the annuity. *The bill would permit STRS to designate electronic delivery as the default method of delivery of specified benefit information, and permit affected parties to provide for delivery by mail, as specified.*

(6) *Existing law permits the Teachers' Retirement Board to establish deferred compensation plans under Section 457 of the Internal Revenue Code that employers may offer their employees. Existing law requires an employer that adopts a deferred compensation plan to enter into a contract for administration of the plan, one condition of which is that the initial contractual arrangement be for a term of 5 years.*

This bill would eliminate that requirement.

~~(6)~~

(7) 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) of Section 24300.1, subdivision
5 (d) of Section 25011.1, subdivision (c) of Section 25018.1,
6 subdivision (d) of Section 26807.5, and subdivision (c) of Section
7 26906.5, a person who is the registered domestic partner of a
8 member, as established pursuant to Section 297 or 299.2 of the
9 Family Code, shall be treated in the same manner as a “spouse,”
10 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
23 consecutive months, if the periods of service are consecutive except
24 for the breaks.

25 (c) The determination of final compensation of a member who
26 has concurrent membership in any other retirement system pursuant
27 to Section 22115.2 shall take into consideration the compensation
28 earnable while a member of any other system, provided that both
29 of the following exist:

30 (1) Service under any other system was not performed during
31 the same pay period with service under the Defined Benefit
32 Program.

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

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

1 (e) The board may specify a different final compensation with
2 respect to disability allowances, disability retirement allowances,
3 family allowances, and children's portions of survivor benefit
4 allowances payable on and after January 1, 1978. The compensation
5 earnable for periods of part-time service shall be adjusted by the
6 ratio that part-time service bears to full-time service.

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

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

10 (A) Section 22714.

11 (B) Section 22715.

12 (C) Section 22717, except as provided in subdivision (b) of
13 Section 22121.

14 (D) Section 22826.

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

19 SEC. 3. Section 22135 of the Education Code is amended to
20 read:

21 22135. (a) Notwithstanding subdivisions (a) and (b) of Section
22 22134, "final compensation" means the highest average annual
23 compensation earnable by an active member who is a classroom
24 teacher who retires, becomes disabled, or dies, after June 30, 1990,
25 during any period of 12 consecutive months during his or her
26 membership in the plan's Defined Benefit Program.

27 (b) Section 22134, except subdivision (a) of that section, shall
28 apply to classroom teachers who retire after June 30, 1990, and
29 any statutory reference to Section 22134 or "final compensation"
30 with respect to a classroom teacher who retires, becomes disabled,
31 or dies, after June 30, 1990, shall be deemed to be a reference to
32 this section.

33 (c) As used in this section, "classroom teacher" means any of
34 the following:

35 (1) All teachers and substitute teachers in positions requiring
36 certification qualifications who spend, during the last 10 years of
37 their employment with the same employer which immediately
38 precedes their retirement, 60 percent or more of their contract time
39 each year providing direct instruction. For the purpose of
40 determining continuity of employment within the meaning of this

1 subdivision, an authorized leave of absence for sabbatical or illness
2 or other collectively bargained or employer-approved leaves shall
3 not constitute a break in service.

4 (2) Other certificated personnel who spend, during the last 10
5 years of their employment with the same employer that
6 immediately precedes their retirement, 60 percent or more of their
7 contract time each year providing direct services to pupils,
8 including, but not limited to, librarians, counselors, nurses, speech
9 therapists, resource specialists, audiologists, audiometrists,
10 hygienists, optometrists, psychologists, driver safety instructors,
11 and personnel on special assignment to perform school attendance
12 and adjustment services.

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

15 (1) Certificated employees whose job descriptions require an
16 administrative credential.

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

19 (3) Certificated employees who serve as advisers, coordinators,
20 consultants, or developers or planners of curricula, instructional
21 materials, or programs, who spend, during the last 10 years of their
22 employment with the same employer that immediately precedes
23 their retirement, less than 60 percent of their contract time in direct
24 instruction.

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

28 (5) Classified employees.

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

35 (f) The written agreement shall include a mechanism to pay for
36 all increases in allowances provided for by this section through
37 employer contributions or employee contributions or both, which
38 shall be collected and retained by the employer in a trust fund to
39 be used solely and exclusively to pay the system for all increases
40 in allowances provided by this section and related administrative

1 costs; and a mechanism for disposition of the employee's
2 contributions if employment is terminated before retirement, and
3 for the establishment of a trust fund board. The trust fund board
4 shall administer the trust fund and shall be composed of an equal
5 number of members representing classroom teachers chosen by
6 the bargaining agent and the employer. If the employer agrees to
7 pay the total cost of increases in allowances, the establishment of
8 a trust fund and a trust fund board shall be optional to the employer.
9 The employer, within 30 days of receiving an invoice from the
10 system, shall reimburse the retirement fund the amount determined
11 by the Teachers' Retirement Board to be the actuarial equivalent
12 of the difference between the allowance the member or beneficiary
13 receives pursuant to this section and the allowance the member or
14 beneficiary would have received if the member's final
15 compensation had been computed under Section 22134 and the
16 proportionate share of the cost to the plan's Defined Benefit
17 Program, as determined by the Teachers' Retirement Board, of
18 administering this section. The payment shall include the cost of
19 all increases in allowances provided for by this section for all years
20 of service credited to the member as of the benefit effective date.
21 Interest shall be charged at the regular interest rate for any payment
22 not received within 30 days of receipt of the invoice. Payments
23 not received within 30 days after receipt of the invoice may be
24 collected pursuant to Section 23007.

25 (g) Upon the execution of the agreement, the employer shall
26 notify all certificated employees of the agreement and any
27 certificated employee of the employer, who is a member of the
28 Public Employees' Retirement System pursuant to Section 22508,
29 that he or she may, within 60 days following the date of
30 notification, elect to terminate his or her membership in the Public
31 Employees' Retirement System and become a member of this
32 plan's Defined Benefit Program. However, only service credited
33 under the Defined Benefit Program subsequent to the date of that
34 election shall be subject to this section.

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

1 (i) For a nonmember spouse, final compensation shall be
 2 determined pursuant to paragraph (5) of subdivision (c) of Section
 3 22664. The employer, within 30 days of receiving an invoice from
 4 the system, shall reimburse the retirement fund pursuant to
 5 subdivision (f). Interest shall be charged at the regular interest rate
 6 for payments not received within the prescribed timeframe.
 7 Payments not received within 30 days of invoicing may be
 8 collected pursuant to Section 23007.

9 SEC. 4. Section 22164.5 of the Education Code is amended to
 10 read:

11 22164.5. (a) “Retired member activities” means one or more
 12 activities identified in subdivision (a) or (b) of Section 22119.5 or
 13 subdivision (a) or (b) of Section 26113 within the California public
 14 school system and performed by a member retired for service under
 15 this part as one of the following:

- 16 (1) An employee of an employer.
- 17 (2) An employee of a third party, except as specified in
 18 subdivision (b).
- 19 (3) An independent contractor.

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

- 23 (1) The employee performs an assignment of 24 months or less.
- 24 (2) The third-party employer does not participate in a California
 25 public pension system.
- 26 (3) The activities performed by the individual are not normally
 27 performed by employees of an employer, as defined in Section
 28 22131.

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

30 22175. “System’s headquarters office” means the office
 31 building established as the permanent headquarters facility for the
 32 system, pursuant to Section 22375.

33 SEC. 6. Section 22303 of the Education Code is amended to
 34 read:

35 22303. (a) Due to an increase in the demand for retirement
 36 counseling services, the system, notwithstanding any other
 37 provision of law, may contract with a county superintendent or
 38 other employer to provide retirement counseling. Retired public
 39 employees may be employed on a part-time basis for that purpose,
 40 unless and until the study required by subdivision (b) of Section

1 7 of Chapter 1532 of the Statutes of 1985 recommends against the
2 employment of retired public employees for these purposes. This
3 authorization is subject to the availability of funds appropriated
4 for that purpose in the annual Budget Act.

5 (b) The board may, by resolution, designate one or more official
6 representatives who provide retirement counseling pursuant to
7 subdivision (a), or as an employee of the system, to receive
8 documents submitted pursuant to this part, Part 13.5 (commencing
9 with Section 25900), or Part 14 (commencing with Section 26000).
10 Notwithstanding any other provision of law, any document received
11 by a designated system representative during regular counseling
12 office business hours or in the course of performing counseling
13 services pursuant to this subdivision shall be deemed to have been
14 received by the system's headquarters office on the date received
15 by the officially designated system representative.

16 SEC. 7. Section 22461 of the Education Code is amended to
17 read:

18 22461. (a) Upon retaining the services of a retired member
19 under Section 24114, 24116, 24214, 24214.5, or 24215, the school
20 district, community college district, county superintendent of
21 schools, California State University, or other employing agency
22 shall do both of the following regardless of whether the retired
23 member performs the services as an employee of the employer,
24 an employee of a third party, or an independent contractor:

25 (1) Advise the retired member of the earnings limitation or
26 employment restriction set forth in ~~Section~~ Sections 22714, 24114,
27 24116, 24214, 24214.5, ~~or~~ and 24215.

28 (2) Maintain accurate records of the retired member's earnings
29 and report those earnings monthly to the system and the retired
30 member regardless of the method of payment or the fund from
31 which the payments were made.

32 (b) This section shall not be construed to make any school
33 district, community college district, county superintendent of
34 schools, the California State University, or other employing agency
35 liable for any amount paid to the retired member in excess of the
36 earnings limitation under any circumstance, including the failure
37 to inform the retired member that continuation of service would
38 exceed the limitations.

39 SEC. 8. Section 22662 of the Education Code is amended to
40 read:

1 22662. The nonmember spouse who is awarded a separate
2 account under the Defined Benefit Program may redeposit
3 accumulated retirement contributions previously refunded to the
4 member in accordance with the determination of the court pursuant
5 to Section 22652.

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

11 (b) The nonmember spouse shall inform the system in writing
12 of his or her intent to redeposit within 180 days after the judgment
13 or court order that specifies the redeposit rights of the nonmember
14 spouse is entered. The nonmember spouses' election to redeposit
15 shall be made on a form provided by the system within 30 days
16 after the system mails an election form and the billing.

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

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

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

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

39 SEC. 9. Section 22663 of the Education Code is amended to
40 read:

1 22663. The nonmember spouse who is awarded a separate
2 account under this part has the right to purchase additional service
3 credit in accordance with the determination of the court pursuant
4 to Section 22652.

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

8 (b) The nonmember spouse shall inform the system in writing
9 of his or her intent to purchase additional service credit within 180
10 days after the date the judgment or court order addressing the right
11 of the nonmember spouse to purchase additional service credit is
12 entered. The nonmember spouse shall elect to purchase additional
13 service credit on a form provided by the system within 30 days
14 after the system mails an election form and billing.

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

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

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

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

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

38 (d) The nonmember spouse does not have a right to purchase
39 additional service credit under this part after the effective date of

1 a refund of the accumulated retirement contributions in the separate
2 account of the nonmember spouse.

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

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

12 22664. The nonmember spouse who is awarded a separate
13 account shall have the right to a service retirement allowance and,
14 if applicable, a retirement benefit under this part.

15 (a) The nonmember spouse shall be eligible to retire for service
16 under this part if the following conditions are satisfied:

17 (1) The member had at least five years of credited service during
18 the period of marriage, at least one year of which had been
19 performed subsequent to the most recent refund to the member of
20 accumulated retirement contributions. The credited service may
21 include service credited to the account of the member as of the
22 date of the dissolution or legal separation, previously refunded
23 service, out-of-state service, and permissive service credit that the
24 member is eligible to purchase at the time of the dissolution or
25 legal separation.

26 (2) The nonmember spouse has at least two and one-half years
27 of credited service in his or her separate account.

28 (3) The nonmember spouse has attained 55 years of age or more.

29 (b) A service retirement allowance of a nonmember spouse
30 under this part shall become effective upon a date designated by
31 the nonmember spouse, provided:

32 (1) The requirements of subdivision (a) are satisfied.

33 (2) The nonmember spouse has filed an application for service
34 retirement on a properly executed form provided by the system,
35 that is executed no earlier than six months before the effective date
36 of the retirement allowance.

37 (3) The effective date is no earlier than the first day of the month
38 that the application is received at the system's headquarters office
39 and the effective date is after the date the judgment or court order
40 pursuant to Section 22652 was entered.

1 (c) (1) Upon service retirement at normal retirement age under
 2 this part, the nonmember spouse shall receive a retirement
 3 allowance that shall consist of an annual allowance payable in
 4 monthly installments equal to 2 percent of final compensation for
 5 each year of credited service.

6 (2) If the nonmember spouse’s retirement is effective at less
 7 than normal retirement age and between early retirement age under
 8 this part and normal retirement age, the retirement allowance shall
 9 be reduced by one-half of 1 percent for each full month, or fraction
 10 of a month, that will elapse until the nonmember spouse would
 11 have reached normal retirement age.

12 (3) If the nonmember spouse’s service retirement is effective
 13 at an age greater than normal retirement age and is effective on or
 14 after January 1, 1999, the percentage of final compensation for
 15 each year of credited service shall be determined pursuant to the
 16 following table:

17	Age at Retirement	Percentage
18	60¼	2.033
19	60½	2.067
20	60¾	2.10
21	61	2.133
22	61¼	2.167
23	61½	2.20
24	61¾	2.233
25	62	2.267
26	62¼	2.30
27	62½	2.333
28	62¾	2.367
29	63 and over	2.40
30		

31
 32 (4) In computing the retirement allowance of the nonmember
 33 spouse, the age of the nonmember spouse on the last day of the
 34 month that the retirement allowance begins to accrue shall be used.

35 (5) Final compensation, for purposes of calculating the service
 36 retirement allowance of the nonmember spouse under this
 37 subdivision, shall be calculated according to the definition of final
 38 compensation in Section 22134, 22134.5, 22135, or 22136,
 39 whichever is applicable, and shall be based on the member’s
 40 compensation earnable up to the date the parties separated, as

1 established in the judgment or court order pursuant to Section
2 22652. The nonmember spouse shall not be entitled to use any
3 other calculation of final compensation.

4 (d) Upon service retirement under this part, the nonmember
5 spouse shall receive a retirement benefit based on an amount equal
6 to the balance of credits in the nonmember spouse's Defined
7 Benefit Supplement account on the date the retirement benefit
8 becomes payable.

9 (1) A retirement benefit shall be a lump-sum payment, or an
10 annuity payable in monthly installments, or a combination of both
11 a lump-sum payment and an annuity, as elected by the nonmember
12 spouse on the application for a retirement benefit. A retirement
13 benefit paid as an annuity under this chapter shall be subject to
14 Sections 22660, 25011, and 25011.1.

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

19 (e) If the member is or was receiving a disability allowance
20 under this part with an effective date before or on the date the
21 parties separated as established in the judgment or court order
22 pursuant to Section 22652, or at any time applies for and receives
23 a disability allowance with an effective date that is before or
24 coincides with the date the parties separated as established in the
25 judgment or court order pursuant to Section 22652, the nonmember
26 spouse shall not be eligible to retire until after the disability
27 allowance of the member terminates. If the member who is or was
28 receiving a disability allowance returns to employment to perform
29 creditable service subject to coverage under the Defined Benefit
30 Program or has his or her allowance terminated under Section
31 24015, the nonmember spouse may not be paid a retirement
32 allowance until at least six months after termination of the disability
33 allowance and the return of the member to employment to perform
34 creditable service subject to coverage under the Defined Benefit
35 Program, or the termination of the disability allowance and the
36 employment or self-employment of the member in any capacity,
37 notwithstanding Section 22132. If at the end of the six-month
38 period, the member has not had a recurrence of the original
39 disability or has not had his or her earnings fall below the amounts

1 described in Section 24015, the nonmember spouse may be paid
2 a retirement allowance if all other eligibility requirements are met.

3 (1) The retirement allowance of the nonmember spouse under
4 this subdivision shall be calculated as follows: the disability
5 allowance the member was receiving, exclusive of the portion for
6 dependent children, shall be divided between the share of the
7 member and the share of the nonmember spouse. The share of the
8 nonmember spouse shall be the amount obtained by multiplying
9 the disability allowance, exclusive of the portion for dependent
10 children, by the years of service credited to the separate account
11 of the nonmember spouse, including service projected to the date
12 of separation, and dividing by the projected service of the member.
13 The nonmember spouse's retirement allowance shall be the lesser
14 of the share of the nonmember spouse under this subdivision or
15 the retirement allowance under subdivision (c).

16 (2) The share of the member shall be the total disability
17 allowance reduced by the share of the nonmember spouse. The
18 share of the member shall be considered the disability allowance
19 of the member for purposes of Section 24213.

20 (f) The nonmember spouse who receives a retirement allowance
21 is not a retired member under this part. However, the allowance
22 of the nonmember spouse shall be increased by application of the
23 improvement factor and shall be eligible for the application of
24 supplemental increases and other benefit maintenance provisions
25 under this part, including, but not limited to, Sections 24412 and
26 24415 based on the same criteria used for the application of these
27 benefit maintenance increases to the service retirement allowances
28 of members.

29 SEC. 11. Section 22717 of the Education Code is amended to
30 read:

31 22717. (a) A member shall be granted credit at service
32 retirement for each day of accumulated and unused sick leave days
33 for which full salary is allowed to which the member was entitled
34 on the member's final day of employment with the employer or
35 employers subject to coverage by the Defined Benefit Program
36 during the last school year in which he or she performed creditable
37 service. The system shall accept certification from each employer
38 with which the member has accumulated sick leave days for that
39 period, provided this leave has not been transferred to another
40 employer.

1 (b) The amount of service credit to be granted shall be
 2 determined by dividing the number of days of accumulated and
 3 unused sick leave days by the number of days of service the
 4 employer requires the member’s class of employees to perform in
 5 a school year during the member’s final year of creditable service
 6 subject to coverage by the Defined Benefit Program, which shall
 7 not be less than the minimum standard specified in Section
 8 22138.5. The number of days shall not include school and legal
 9 holidays. In no event shall the divisor be less than 175. For
 10 members employed less than full time, the standards identified in
 11 Section 22138.5 shall be considered as the minimum full-time
 12 equivalent. For those standards identified in Section 22138.5 that
 13 are applicable to teachers or instructors and that are expressed only
 14 in terms of hours or instructional hours, the number of hours or
 15 instructional hours shall be divided by six to determine the number
 16 of days.

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

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

27 SEC. 12. Section 22717.5 of the Education Code is amended
 28 to read:

29 22717.5. (a) A member shall be credited at service retirement
 30 for each day of accumulated and unused leave of absence for
 31 education for which full salary is allowed on the member’s final
 32 day of employment with the state.

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

35 (c) When the member has made application for service
 36 retirement under this part, the employer shall certify to the board,
 37 within 30 days following the effective date of the member’s service
 38 retirement or the date the application for retirement is received by
 39 the system’s headquarters~~office~~ *office*, whichever is later, the
 40 number of days of accumulated and unused leave of absence for

1 education that the member was entitled to on the final day of
2 employment. The board may assess a penalty on delinquent reports.

3 (d) This section shall apply to eligible state employees in state
4 bargaining units that have agreed to this section in a memorandum
5 of understanding, or as authorized by the Director of Human
6 Resources for classifications of state employees that are excluded
7 from the definition of “state employee” by paragraph (c) of Section
8 3513 of the Government Code.

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

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

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

33 (b) If the member is employed to perform creditable service
34 subject to coverage by the Defined Benefit Program on the date
35 of the request to purchase additional service credit, the
36 contributions shall be based upon the compensation earnable in
37 the current school year or either of the two immediately preceding
38 school years, whichever is highest.

39 (c) If the member is not employed to perform creditable service
40 subject to coverage by the Defined Benefit Program on the date

1 of the request to purchase additional service credit, the
2 contributions shall be based upon the compensation earnable in
3 the last school year of credited service or either of the two
4 immediately preceding school years, whichever is highest, and
5 additional regular interest shall be added to the contributions from
6 July 1 of the subsequent year in which the member last performed
7 creditable service subject to coverage by the Defined Benefit
8 Program to 20 days after the date of the request.

9 (d) The employer may pay the amount required as employer
10 contributions for additional service credited under paragraphs (7),
11 (8), (9), and (10) of subdivision (a) of Section 22803.

12 (e) The Public Employees' Retirement System shall transfer
13 the actuarial present value of the assets of a person who makes an
14 election pursuant to paragraph (11) of subdivision (a) of Section
15 22803.

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

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

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

38 SEC. 14. Section 22829 of the Education Code is amended to
39 read:

1 22829. (a) This section applies only to a member who elects
2 to receive out-of-state service credit pursuant to Section 22827.

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

6 (c) Contributions shall be based upon the member's age at the
7 date of the election and upon compensation earnable in the last
8 school year of credited service or either of the two immediately
9 preceding school years, whichever is highest.

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

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

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

19 (g) If the payment election described in subdivision (b) is not
20 received at the system's headquarters office within 30 days of
21 receiving a bill for this purchase from the system, the election shall
22 be canceled.

23 (h) If the election to purchase out-of-state service is canceled
24 as described in subdivision (g), the member may, prior to June 30,
25 2009, make a new election to purchase out-of-state service pursuant
26 to this section.

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

29 23001. Each county superintendent, district superintendent,
30 chancellor of a community college district, or other employing
31 agency that reports directly to the system shall draw requisitions
32 for contributions required by Sections 22901 and 22950 in favor
33 of the State Teachers' Retirement System, and the requisitions,
34 when allowed and signed by the county auditor, shall constitute a
35 warrant against the county treasury. The county superintendent,
36 district superintendent, chancellor of a community college district,
37 or other employing agency thereupon shall forward the warrants
38 to the board in the system's headquarters ~~office~~ *office*. The
39 amounts received shall be deposited immediately in the State
40 Treasury to the Teachers' Retirement Fund.

1 SEC. 16. Section 23104 of the Education Code is amended to
2 read:

3 23104. (a) Deposit in the United States mail of an initial
4 warrant drawn as directed by the member as a refund of
5 contributions upon termination of employment, and addressed to
6 the address directed by the member, constitutes a return of the
7 member’s accumulated retirement contributions under this part.

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

16 (c) For refunds not involving direct trustee-to-trustee transfers,
17 if the member returns the total gross distribution amount to the
18 system’s headquarters office within 30 days from the mailing date,
19 the refund shall be canceled and the person shall be restored as a
20 member of the Defined Benefit Program with all the rights and
21 privileges under this part restored.

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

31 SEC. 17. Section 23202 of the Education Code is amended to
32 read:

33 23202. (a) An election pursuant to Section 23200 to redeposit
34 accumulated retirement contributions may be made by a member
35 anytime prior to the effective date of the member’s retirement
36 under this part.

37 (b) An election to redeposit accumulated retirement
38 contributions returned to the member shall be considered as an
39 election to repay accumulated retirement contributions previously
40 returned, up to but not exceeding the amount required to restore

1 the total service credit returned, under the provisions of this
2 chapter.

3 (c) If any payment due because of this election is not received
4 at the system's headquarters office within 120 days of its due date,
5 the election shall be canceled. Upon the cancellation of election,
6 the member shall receive credit for the payments made under the
7 election or, at the request of the member, those payments shall be
8 returned.

9 (d) If the election is canceled, the member may at any time prior
10 to the effective date of retirement under this part, again elect to
11 redeposit accumulated retirement contributions previously
12 withdrawn or returned, in accordance with Section 23200 and all
13 the laws, rules, and regulations pertaining thereto.

14 SEC. 18. Section 23300 of the Education Code is amended to
15 read:

16 23300. (a) A member of the Defined Benefit Program may
17 designate a beneficiary to receive benefits payable under this part
18 upon the member's death. A beneficiary designation may not be
19 made in derogation of a community property interest of a
20 nonmember spouse, as defined by Section 25000.9, with respect
21 to service or contributions credited under this part, unless the
22 nonmember spouse has previously obtained an alternative order
23 pursuant to Section 2610 of the Family Code.

24 (b) A member's beneficiary designation for benefits payable
25 under the Defined Benefit Program, including a designation made
26 pursuant to Section 24300 or 24300.1, shall also apply to benefits
27 payable under the Defined Benefit Supplement Program. A
28 beneficiary designation shall be in writing on a form prescribed
29 by the system and executed by the member.

30 (c) A beneficiary designation shall not be valid unless it is
31 received in the system's headquarters office prior to the member's
32 death.

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

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

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

1 SEC. 19. Section 24002 of the Education Code is amended to
2 read:

3 24002. (a) The board may authorize payment of a disability
4 allowance to any member who is qualified upon application under
5 this part by the member, the member’s guardian or conservator,
6 or the member’s employer, if the application is submitted on a
7 properly executed form prescribed by the system during any one
8 of the following periods:

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

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

16 (3) While the member is on a leave of absence without
17 compensation, granted for reason other than mental or physical
18 incapacity for performance of service, and within four months
19 after the last day of actual performance of service for which
20 compensation is payable to the member, or within 12 months of
21 that date if the member is on an employer-approved leave to study
22 at an approved college or university.

23 (4) Within four months after the termination of the member’s
24 employment subject to coverage under the Defined Benefit
25 Program, if the application was not made under paragraph (2) and
26 was not made more than four months after the last day of actual
27 performance of service for which compensation is payable to the
28 member.

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

34 SEC. 20. Section 24005 of the Education Code is amended to
35 read:

36 24005. (a) A disability allowance under this part shall become
37 effective upon any date designated by the member, provided all
38 of the following conditions are met:

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

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

3 (3) The effective date is no earlier than either the first day of
4 the month in which the application is received by the system's
5 headquarters office or the date upon and continuously after which
6 the member is determined to the satisfaction of the board to have
7 been mentally incompetent.

8 (b) If the member is employed to perform creditable service
9 subject to coverage under the Defined Benefit Program at the time
10 the disability allowance is approved under this part, the member
11 shall notify the system in writing, within 90 days, of the last day
12 on which the member will perform service. If the member does
13 not respond within 90 days, or if the last day on which service will
14 be performed is more than 90 days after the date the system notifies
15 the member of approval of the disability allowance, the member's
16 application for a disability allowance shall be rejected and a
17 disability allowance shall not be payable to the member.

18 SEC. 21. Section 24102 of the Education Code is amended to
19 read:

20 24102. (a) The board may authorize payment of a disability
21 retirement allowance under this part to any member who is
22 qualified upon application by the member, the member's guardian
23 or conservator, or the member's employer, if the application is
24 submitted on a properly executed form prescribed by the system
25 during any one of the following periods:

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

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

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

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

7 (b) The member is not qualified to receive a disability retirement
8 allowance if the member is applying because of a physical or
9 mental condition that existed at the time the most recent
10 membership in the Defined Benefit Program commenced and
11 which remains substantially unchanged at the time of application.

12 SEC. 22. Section 24105 of the Education Code is amended to
13 read:

14 24105. (a) A disability retirement allowance under this part
15 shall become effective upon any date designated by the member,
16 provided that all of the following conditions are met:

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

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

21 (3) The effective date is no earlier than either the first day of
22 the month in which the application is received at the system's
23 headquarters office or the date upon and continuously after which
24 the member is determined to the satisfaction of the board to have
25 been mentally incompetent.

26 (4) *The application for disability retirement contains an election*
27 *of either an unmodified allowance or an allowance modified under*
28 *an option as provided in Section 24301.*

29 ~~(b) If a member's application for disability retirement under~~
30 ~~this part does not contain an election of either an unmodified~~
31 ~~allowance or an allowance modified under an option and if the~~
32 ~~member subsequently submits an election, but not within the~~
33 ~~30-day period established pursuant to Section 24301, the board~~
34 ~~shall set a benefit effective date which is no earlier than the first~~
35 ~~day of the month in which the subsequent election is received by~~
36 ~~the system. If the member fails to submit an election pursuant to~~
37 ~~Section 24301 and within six months of the date the~~
38 ~~acknowledgment notice is mailed pursuant to Section 24301, the~~
39 ~~member's application for disability retirement under this part shall~~
40 ~~be rejected.~~

1 (e)

2 (b) If the member is employed to perform creditable service
3 subject to coverage under the Defined Benefit Program at the time
4 the disability retirement is approved, the member shall notify the
5 system in writing, within 90 days, of the last day on which the
6 member will perform service. If the member does not respond
7 within 90 days, or if the last day on which service will be
8 performed is more than 90 days after the date the system notifies
9 the member of the approval of disability retirement, the member's
10 application for disability retirement shall be rejected and a
11 disability retirement allowance shall not be payable to the member.

12 SEC. 23. Section 24201.5 of the Education Code is amended
13 to read:

14 24201.5. (a) A member who is eligible and applies for a
15 disability allowance or retirement pursuant to Section 24001 or
16 24101 may apply to receive a service retirement allowance pending
17 the determination of his or her application for disability, subject
18 to all of the following:

19 (1) The member is eligible to retire for service under Section
20 24201 or 24203.

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

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

26 (B) The effective date is no earlier than the first day of the month
27 in which the application for disability benefits is received at the
28 system's headquarters office, unless the application for disability
29 benefits is denied or canceled and the member has indicated an
30 earlier service retirement date on the application to use if denied
31 or canceled. If the application for disability benefits is denied or
32 canceled, the service retirement date of a member retiring on or
33 after January 1, 2014, shall be no earlier than January 1, 2014.

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

36 (D) The effective date is no earlier than ~~one day after~~ *year*
37 *following* the date on which a retirement allowance was terminated
38 pursuant to Section 24208, unless the application for disability
39 benefits is denied or canceled and the member has indicated an
40 earlier service retirement date on the application to use if denied

1 or canceled. If the application for disability benefits is denied or
2 canceled, the service retirement date is no earlier than one day
3 after the date on which a retirement allowance was terminated
4 pursuant to Section 24208, provided that the retirement allowance
5 is terminated on or after January 1, 2014.

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

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

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

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

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

24 (B) If the application for disability is denied or canceled, the
25 member's service retirement allowance shall be adjusted to the
26 effective date of the service retirement to include service credited
27 pursuant to Section 22717 or 22717.5.

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

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

35 (B) If the member receives a modified service retirement
36 allowance based on the election of an option pursuant to Section
37 24300.1 or 24307, that modified service retirement allowance shall
38 continue in effect and unchanged.

39 (C) If the member did not elect an option pursuant to Section
40 24300.1 or 24307 and receives an unmodified service retirement

1 allowance, that unmodified service retirement allowance shall
2 continue in effect and unchanged.

3 (b) A member who applies for service retirement under this
4 section may change or cancel his or her service retirement
5 application pursuant to Section 24204, or may terminate his or her
6 service retirement allowance pursuant to Section 24208.

7 (c) A member may not cancel his or her application for disability
8 prior to a determination of that application unless he or she submits
9 a written request to the system's headquarters office. If a member
10 elects to cancel his or her service retirement application or elects
11 to terminate his or her service retirement allowance as described
12 in subdivision (b), that election shall not cancel the application for
13 disability.

14 (d) (1) Subparagraph (C) of paragraph (1) of subdivision (a)
15 of Section 24001 and paragraph (3) of subdivision (a) of Section
16 24101 shall not apply to a member who cancels an application for
17 service retirement pursuant to Section 24204 or who terminates a
18 service retirement allowance pursuant to Section 24208, if all of
19 the following apply:

20 (A) The member earned at least one year of credited service
21 subsequent to the most recent terminated service retirement
22 allowance.

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

25 (2) If the member's application for disability under this section
26 is denied or canceled, subparagraph (C) of paragraph (1) of
27 subdivision (a) of Section 24001 and paragraph (3) of subdivision
28 (a) of Section 24101 shall apply if the member submits a new
29 application for disability.

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

34 (2) If the board approves the application for disability and the
35 member has received service retirement allowance payments under
36 this part, the effective date for the disability allowance or disability
37 retirement shall be the same as the effective date of the service
38 retirement allowance.

39 (f) If a member who applies for service retirement under this
40 section dies prior to a determination by the board on the application

1 for disability, the member shall be considered retired for service
2 at the time of death, and any subsequent benefits shall be paid
3 accordingly.

4 (g) If a member who applies for service retirement under this
5 section dies after the board has approved the member's application
6 for disability, the member shall be considered a disabled member,
7 or retired for disability, at the time of death, and any subsequent
8 benefits shall be paid accordingly, even if the member died prior
9 to receiving notification of the approval of his or her application
10 for disability.

11 (h) If the member changes or cancels his or her service
12 retirement application or terminates his or her service retirement
13 allowance as described in subdivision (b), the system shall make
14 appropriate adjustments to the applicable service retirement
15 allowance, disability allowance, or disability retirement allowance,
16 retroactive to the effective date of the disability allowance or
17 disability retirement allowance. Subdivision (a) of Section 24617
18 shall not apply.

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

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

25 SEC. 24. Section 24203.5 of the Education Code is amended
26 to read:

27 24203.5. (a) The percentage of final compensation used to
28 compute the allowance pursuant to Section 24202.5, 24203, or
29 24205 of a member retiring on or after January 1, 1999, who has
30 30 or more years of credited service, shall be increased by
31 two-tenths of 1 percentage point, provided that the sum of the
32 percentage of final compensation used to compute the allowance,
33 including any adjustments for retiring before the normal retirement
34 age, and the additional percentage provided by this section does
35 not exceed 2.40 percent.

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

39 (1) Section 22714.

40 (2) Section 22715.

1 (3) Section 22717, except as provided in subdivision (b) of
2 Section 22121.

3 (4) Section 22717.5.

4 (c) For purposes of establishing eligibility for the increased
5 allowance pursuant to this section only, credited service shall
6 include credited service that a court has ordered be awarded to a
7 nonmember spouse pursuant to Section 22652. A nonmember
8 spouse shall also be eligible for the increased allowance pursuant
9 to this section if the member had 30 or more years of credited
10 service on the date the parties separated, as established in the
11 judgment or court order pursuant to Section 22652.

12 (d) Nonqualified service credit for which contributions pursuant
13 to Section 22826 were made in a lump sum on or after January 1,
14 2000, or for which the first installment was made on or after
15 January 1, 2000, may not be included in determining the eligibility
16 for an increased allowance pursuant to this section.

17 SEC. 25. Section 24203.6 of the Education Code is amended
18 to read:

19 24203.6. (a) In addition to the amount otherwise payable
20 pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209,
21 24209.3, 24210, 24211, and 24212, a member shall receive an
22 increase in the monthly allowance, prior to any modification
23 pursuant to Sections 24300, 24300.1, and 24309, in the amount
24 identified in subdivision (b), if the member meets all of the
25 following criteria:

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

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

31 (A) Section 22714.

32 (B) Section 22715.

33 (C) Section 22717, except as provided in subdivision (b) of
34 Section 22121.

35 (D) Section 22717.5.

36 (E) Section 22826.

37 (3) The member is receiving an allowance subject to Section
38 24203.5.

1 (b) The amount of the increase in the monthly allowance shall
2 be based on the member’s years of credited service at the time of
3 retirement as follows:

4		
5	30 years of credited service	\$200
6	31 years of credited service	\$300
7	32 or more years of credited service	\$400

8
9 (c) This section also applies to a nonmember spouse, if all of
10 the following conditions are satisfied:

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

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

- 17 (A) Section 22714.
- 18 (B) Section 22715.
- 19 (C) Section 22717, except as provided in subdivision (b) of
20 Section 22121.
- 21 (D) Section 22717.5.
- 22 (E) Section 22826.

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

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

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

37 24204. (a) A service retirement allowance under this part shall
38 become effective upon any date designated by the member,
39 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 (b) A member who files an application for service retirement
21 may change or cancel his or her retirement application, as long as
22 the form provided by the system is received in the system's
23 headquarters office no later than 30 days from the date the
24 member's initial benefit payment for the member's most recent
25 retirement under the Defined Benefit Program is paid by the
26 system. If a member cancels his or her retirement application, the
27 member shall return the total gross distribution amount of all
28 payments for the canceled retirement benefit to the system's
29 headquarters office no later than 45 days from the date of the
30 member's initial benefit payment and shall be liable for any adverse
31 tax consequences that may result from these actions.

32 (c) The retirement date of a member retiring on or after January
33 1, 2012, shall be no earlier than January 1, 2012.

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

37 SEC. 27. Section 24208 of the Education Code is amended to
38 read:

39 24208. (a) A member retired for service under this part may
40 terminate the retirement allowance payable under this part and

1 applicable to his or her credited service upon written request to
 2 the system effective upon a date designated by the member, subject
 3 to the following conditions:

4 (1) The request for termination of the retirement allowance is
 5 filed on a form provided by the system, and the form is executed
 6 no earlier than six months before the effective date of the
 7 termination.

8 (2) The effective date of the termination of the retirement
 9 allowance is no earlier than the first day of the month in which the
 10 request for termination is received in the system’s headquarters
 11 office or no earlier than one day after the benefit effective date of
 12 the most recent retirement, whichever is later.

13 (b) A member who files a request for termination of the
 14 retirement allowance may cancel the termination upon written
 15 request to the system, provided that the cancellation request is
 16 received in the system’s headquarters office, as established pursuant
 17 to Section 22375, office no later than the last day of the month in
 18 which the termination is effective.

19 (c) A member whose retirement allowance is terminated
 20 pursuant to this section may apply for retirement pursuant to
 21 Section 24209 or Section 24209.3, in accordance with Section
 22 24204.

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

29 (e) A member whose retirement allowance is terminated
 30 pursuant to this section and retires pursuant to Section 24209 with
 31 a benefit effective date within one year of reinstatement shall elect
 32 the same option and beneficiary or beneficiaries that were in effect
 33 at the time the retirement allowance was terminated.

34 SEC. 28. Section 24209 of the Education Code is amended to
 35 read:

36 24209. (a) Upon retirement for service following reinstatement,
 37 the member shall receive a service retirement allowance equal to
 38 the sum of both of the following:

39 (1) An amount equal to the monthly allowance the member was
 40 eligible to receive immediately preceding reinstatement, exclusive

1 of any amounts payable pursuant to Section 22714, or 22715,
2 increased by the improvement factor that would have been applied
3 to the allowance if the member had not reinstated.

4 (2) An amount calculated pursuant to Section 24202, 24202.5,
5 24203, 24203.5, or 24206 on service credited subsequent to the
6 most recent reinstatement, the member's age at retirement, and
7 final compensation.

8 (b) If the total amount of credited service, other than that accrued
9 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,
10 is equal to or greater than 30 years, the amounts identified in
11 paragraphs (1), for members who initially retired on or after
12 January 1, 1999, and (2) of subdivision (a) shall be calculated
13 pursuant to Section 24203.5.

14 (c) If the total amount of credited service, other than that accrued
15 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,
16 is equal to or greater than 30 years, upon retirement for service
17 following reinstatement, a member who retired pursuant to Section
18 24213, and received the terminated disability allowance for the
19 prior retirement, shall receive a service retirement allowance equal
20 to the sum of the following:

21 (1) An amount based on the service credit accrued prior to the
22 effective date of the disability allowance, the member's age at the
23 prior retirement increased by the factor provided in Section
24 24203.5, and projected final compensation.

25 (2) An amount calculated pursuant to Section 24202, 24202.5,
26 24203.5, or 24206 on service credited subsequent to the
27 reinstatement, the member's age at retirement, and final
28 compensation.

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

32 SEC. 29. Section 24209.3 of the Education Code is amended
33 to read:

34 24209.3. (a) Notwithstanding subdivision (a) of Section 24209
35 , and exclusive of any amounts payable during the prior retirement
36 for service pursuant to Section 22714, or 22715:

37 (1) A member who retired, other than pursuant to Section 24210,
38 24211, 24212, or 24213, and who reinstates and performs creditable
39 service, as defined in Section 22119.5, after the most recent
40 reinstatement, in an amount equal to two or more years of credited

1 service, shall, upon retirement for service on or after the effective
2 date of this section, receive a service retirement allowance equal
3 to the sum of the following:

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

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

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

19 (A) An amount calculated pursuant to this chapter based on
20 service credit accrued prior to the effective date of the disability
21 retirement, using the member's age at the subsequent service
22 retirement, from which age shall be deducted the total time during
23 which the member was retired for service, and indexed final
24 compensation to the effective date of the initial service retirement.

25 (B) An amount calculated pursuant to this chapter based on the
26 service credit accrued after termination of the disability retirement,
27 using the member's age at the subsequent service retirement, from
28 which age shall be deducted the total time during which the
29 member was retired for service, and final compensation.

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

34 (3) A member who retired pursuant to Section 24211 and who
35 reinstates and performs creditable service, as defined in Section
36 22119.5, after the most recent reinstatement, in an amount equal
37 to two or more years of credited service, shall, upon retirement for
38 service on or after the effective date of this section, receive a
39 service retirement allowance equal to the sum of the following:

1 (A) The greater of (i) the disability allowance the member was
2 receiving immediately prior to termination of that allowance,
3 excluding the children's portion, or (ii) an amount calculated
4 pursuant to this chapter based on service credit accrued prior to
5 the effective date of the disability allowance, using the member's
6 age at the subsequent service retirement, from which age shall be
7 deducted the total time during which the member was retired for
8 service, and final compensation using compensation earnable or
9 projected final compensation or a combination of both.

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

11 (i) For a member who was receiving a benefit pursuant to
12 subdivision (a) of Section 24211, the member's credited service
13 at the time of the retirement pursuant to Section 24211, excluding
14 service credited pursuant to Section 22717 or 22717.5 or Chapter
15 14 (commencing with Section 22800) or Chapter 14.2
16 (commencing with Section 22820) or Chapter 19 (commencing
17 with Section 23200).

18 (ii) For a member who was receiving a benefit pursuant to
19 subdivision (b) of Section 24211, the member's projected service,
20 excluding service credited pursuant to Section 22717 or 22717.5
21 or Chapter 14 (commencing with Section 22800) or Chapter 14.2
22 (commencing with Section 22820) or Chapter 19 (commencing
23 with Section 23200).

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

29 (D) An amount based on any service credited pursuant to
30 Chapter 14 (commencing with Section 22800) or Chapter 14.2
31 (commencing with Section 22820) or Chapter 19 (commencing
32 with Section 23200) or, for credited service performed during the
33 most recent reinstatement, Section 22714, 22715, 22717, or
34 22717.5, 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 final compensation
37 using compensation earnable, or projected final compensation, or
38 a combination of both.

39 (4) A member who retired pursuant to Section 24212 or 24213
40 and who reinstates and performs creditable service, as defined in

1 Section 22119.5, after the most recent reinstatement, in an amount
2 equal to two or more years of credited service, shall, upon
3 retirement for service on or after the effective date of this section,
4 receive a service retirement allowance equal to the sum of the
5 following:

6 (A) An amount calculated pursuant to this chapter based on the
7 member's projected service credit, excluding service credited
8 pursuant to Section 22717, 22717.5, or Chapter 14 (commencing
9 with Section 22800) or Chapter 14.2 (commencing with Section
10 22820) or Chapter 19 (commencing with Section 23200), using
11 the member's age at the subsequent service retirement, from which
12 age shall be deducted the total time during which the member was
13 retired for service, and final compensation using compensation
14 earnable or projected final compensation or a combination of both.

15 (B) An amount calculated pursuant to this chapter based on
16 credited service performed subsequent to the most recent
17 reinstatement, using the member's age at the subsequent service
18 retirement, and final compensation, using compensation earnable
19 or projected final compensation or a combination of both.

20 (C) An amount based on any service credited pursuant to
21 Chapter 14 (commencing with Section 22800) or Chapter 14.2
22 (commencing with Section 22820) or Chapter 19 (commencing
23 with Section 23200) or, for credited service performed during the
24 most recent reinstatement, Section 22714, 22715, 22717, or
25 22717.5, using the member's age at the subsequent service
26 retirement, from which age shall be deducted the total time during
27 which the member was retired for service, and final compensation
28 using compensation earnable, or projected final compensation, or
29 a combination of both.

30 (b) If the total amount of credited service, other than that accrued
31 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,
32 is equal to or greater than the number of years required to be
33 eligible for an increased allowance pursuant to this chapter or
34 Section 22134.5, the amounts identified in this section shall be
35 calculated pursuant to the section authorizing the increased benefit.

36 (c) For members receiving an allowance pursuant to Section
37 24410.5 or 24410.6, the amount payable pursuant to this section
38 shall not be less than the amount payable to the member as of the
39 effective date of reinstatement.

1 (d) The amount payable pursuant to this section shall not be
2 less than the amount that would be payable to the member pursuant
3 to Section 24209.

4 (e) For purposes of determining an allowance increase pursuant
5 to Sections 24415 and 24417, the calendar year of retirement shall
6 be the year of the subsequent retirement if the final compensation
7 used to calculate the allowance pursuant to this section is higher
8 than the final compensation used to calculate the allowance for
9 the prior retirement.

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

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

16 SEC. 30. Section 24211 of the Education Code is amended to
17 read:

18 24211. When a member who has been granted a disability
19 allowance under this part after June 30, 1972, returns to
20 employment subject to coverage under the Defined Benefit
21 Program and performs:

22 (a) Less than three years of creditable service after termination
23 of the disability allowance, the member shall receive a retirement
24 allowance which is the sum of the allowance calculated on service
25 credit accrued after the termination date of the disability allowance,
26 the age of the member on the last day of the month in which the
27 retirement allowance begins to accrue, and final compensation
28 using compensation earnable or projected final compensation, or
29 a combination of both, plus the greater of either of the following:

30 (1) A service retirement allowance calculated on service credit
31 accrued as of the effective date of the disability allowance, the age
32 of the member on the last day of the month in which the retirement
33 allowance begins to accrue, and projected final compensation
34 excluding service credited pursuant to Sections 22717 and 22717.5
35 or Chapter 14 (commencing with Section 22800) or Chapter 14.2
36 (commencing with Section 22820) or Chapter 19 (commencing
37 with Section 23200), to the termination date of the disability
38 allowance.

1 (2) The disability allowance the member was eligible to receive
2 immediately prior to termination of that allowance, excluding
3 children's portions.

4 (b) Three or more years of creditable service after termination
5 of the disability allowance, the member shall receive a retirement
6 allowance that is the greater of the following:

7 (1) A service retirement allowance calculated on all actual and
8 projected service excluding service credited pursuant to Sections
9 22717 and 22717.5 or Chapter 14 (commencing with Section
10 22800) or Chapter 14.2 (commencing with Section 22820) or
11 Chapter 19 (commencing with Section 23200), the age of the
12 member on the last day of the month in which the retirement
13 allowance begins to accrue, and final compensation using
14 compensation earnable, or projected final compensation, or a
15 combination of both.

16 (2) The disability allowance the member was receiving
17 immediately prior to termination of that allowance, excluding
18 children's portions.

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

26 (d) If the total amount of credited service, other than projected
27 service or service that accrued pursuant to Sections 22714, 22715,
28 22717, 22717.5, and 22826, is equal to or greater than 30 years,
29 the amounts identified in subdivisions (a) and (b) shall be
30 calculated pursuant to Sections 24203.5 and 24203.6.

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

34 SEC. 31. Section 24212 of the Education Code is amended to
35 read:

36 24212. (a) If a disability allowance granted under this part
37 after June 30, 1972, is terminated for reasons other than those
38 specified in Section 24213 and the member does not return to
39 employment subject to coverage under the Defined Benefit
40 Program, the member's service retirement allowance, when

1 payable, shall be based on projected service, excluding service
2 credited pursuant to Sections 22717 and 22717.5 or Chapter 14
3 (commencing with Section 22800) or Chapter 14.2 (commencing
4 with Section 22820), projected final compensation, and the age of
5 the member on the last day of the month in which the retirement
6 allowance begins to accrue. The allowance payable under this
7 section, excluding annuities payable from accumulated annuity
8 deposit contributions, shall not be greater than the terminated
9 disability allowance excluding children's portions.

10 (b) The allowance shall be increased by an amount based on
11 any service credited pursuant to Sections 22714, 22715, 22717,
12 and 22717.5 or Chapter 14 (commencing with Section 22800) or
13 Chapter 14.2 (commencing with Section 22820) or Chapter 19
14 (commencing with Section 23200) and final compensation using
15 compensation earnable, or projected final compensation, or a
16 combination of both.

17 SEC. 32. Section 24213 of the Education Code is amended to
18 read:

19 24213. (a) When a member who has been granted a disability
20 allowance under this part after June 30, 1972, attains normal
21 retirement age, or at a later date when there is no dependent child,
22 the disability allowance shall be terminated and the member shall
23 be eligible for service retirement. The retirement allowance shall
24 be calculated on the projected final compensation and projected
25 service to normal retirement age, excluding service credited
26 pursuant to Section 22717 or 22717.5, or Chapter 14 (commencing
27 with Section 22800) or Chapter 14.2 (commencing with Section
28 22820). The allowance payable under this section, excluding
29 annuities payable from accumulated annuity deposit contributions,
30 shall not be greater than the terminated disability allowance. The
31 allowance shall be increased by an amount based on any service
32 credited pursuant to Section 22714, 22715, 22717, or 22717.5, or
33 Chapter 14 (commencing with Section 22800), Chapter 14.2
34 (commencing with Section 22820), or Chapter 19 (commencing
35 with Section 23200) and projected final compensation to normal
36 retirement age.

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

1 SEC. 33. Section 24214.5 of the Education Code is amended
2 to read:

3 24214.5. (a) Notwithstanding subdivision (f) of Section 24214,
4 the postretirement compensation limitation shall be zero dollars
5 (\$0) in either of the following circumstances:

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

8 (2) During the first 180 calendar days after the most recent
9 retirement if the member received additional service credit pursuant
10 to Section 22714 or 22715 or received from any public employer
11 any financial inducement to retire, as defined by subdivision (j)
12 of Section 24214.

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

28 (1) The nature of the employment.

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

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

33 (4) A finding that the termination of employment of the retired
34 member with the employer is not the basis for the need to acquire
35 the services of the member.

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

39 (d) Subdivision (b) shall not apply if the member received
40 additional service credit pursuant to Section 22714 or 22715 or

1 received from any public employer any financial inducement to
2 retire.

3 (e) The Superintendent, the county superintendent of schools,
4 or the chief executive officer of a community college shall submit
5 all documentation required by the system to substantiate the
6 eligibility of the retired member for application of subdivision (b),
7 including, but not limited to, the resolution adopted pursuant to
8 that subdivision.

9 (f) If a member will be receiving compensation for performance
10 of retired member activities before 180 calendar days after the
11 most recent retirement, the Superintendent, the county
12 superintendent of schools, or the chief executive officer of a
13 community college shall submit all documentation required by the
14 system that certifies that the member did not receive from any
15 public employer any financial inducement to retire.

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

19 (h) Within 30 calendar days after the receipt of all
20 documentation required by the system pursuant to this section, the
21 system shall inform the entity seeking application of the exemption
22 specified in subdivision (b), or seeking to employ a retired member
23 pursuant to subdivision (f), and the retired member whether the
24 compensation paid to the member will be subject to the limitation
25 specified in subdivision (a).

26 (i) If a member retired for service under this part earns
27 compensation for performing retired member activities in excess
28 of the limitation specified in subdivision (a), the member's
29 retirement allowance shall be reduced by the amount of the excess
30 compensation. The amount of the reduction may be equal to the
31 monthly allowance payable but may not exceed the amount of the
32 allowance payable during the first 180 calendar days, in accordance
33 with subdivision (a), after a member retired for service under this
34 part.

35 SEC. 34. Section 24300.2 of the Education Code is amended
36 to read:

37 24300.2. (a) A member who retired and elected an option
38 pursuant to Section 24300 may elect to change options, subject to
39 all of the following:

1 (1) A member who elected Option 2 may elect to change to the
2 100-percent beneficiary option described in paragraph (1) or the
3 75-percent beneficiary option described in paragraph (2) of
4 subdivision (a) of Section 24300.1.

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

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

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

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

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

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

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

28 (b) The change in the option by the member shall be effective
29 on the date the election is signed, provided that the election is on
30 a properly executed form provided by the system and that election
31 is received at the system's headquarters office within 30 days after
32 the date the election is signed.

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

36 (d) If the member and the option beneficiary are alive and not
37 afflicted with a known terminal illness, a member may cancel the
38 election to change options and elect to receive the benefit according
39 to the preexisting option election. After cancellation, the member
40 may elect to make a one-time change from the preexisting option

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

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

27 (f) If the member elects to change his or her option as described
28 in subdivision (a), the retirement allowance of the member shall
29 be modified in a manner determined by the board to prevent any
30 additional liability to the plan.

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

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

36 24301. (a) A member upon application for a disability
37 retirement pursuant to Chapter 26 (commencing with Section
38 24100), may elect, as provided in Section 24300 or 24300.1 to
39 receive an actuarially modified disability retirement allowance.

1 (b) For purposes of this section, the member shall *either elect*
2 *to receive an unmodified allowance or* designate an option
3 beneficiary on a properly executed form prescribed by the system,
4 *either of which shall be filed with the system on or before the last*
5 *day of the month of in which the member's disability retirement*
6 *is approved by the system.* The option shall become effective on
7 the effective date of the disability retirement allowance. The
8 modification of the disability retirement allowance under the option
9 elected shall be based on the ages of the retired member and the
10 designated option beneficiary as of the effective date of the
11 disability retirement. The modification shall be applicable only to
12 the disability retirement allowance payable pursuant to subdivision
13 (a) of Section 24106.

14 (c) Except as provided in Sections 24300, 24300.1, 24300.6,
15 24305, 24305.5, and 24306, a member may revoke or change an
16 election of an option no later than 30 days from the date of the
17 member's initial disability retirement benefit payment. ~~The elected~~
18 ~~option may not be revoked or changed after the later of the effective~~
19 ~~date of the disability retirement allowance or 30 days after the~~
20 ~~mailing of the acknowledgment notice pursuant to this section.~~

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

25 SEC. 36. Section 24306.5 of the Education Code is amended
26 to read:

27 24306.5. (a) A member who retired for service under Option
28 2 or Option 3 with an effective date prior to January 1, 1991, may
29 elect to change Option 2 to Option 6 or Option 3 to Option 7 under
30 all of the following conditions:

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

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

35 (3) The change in options is consistent with Sections 22453 and
36 24305.

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

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

3 (b) The change in options shall be effective on the date the
4 election is signed, provided that the election is received at the
5 system's headquarters office within 30 days after the date of the
6 signature.

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

11 SEC. 37. Section 24306.7 of the Education Code is amended
12 to read:

13 24306.7. (a) Any member who retired for service under Option
14 4 or Option 5 with an effective date prior to January 1, 1991, may
15 elect to change Option 4 to Option 6 or Option 5 to Option 7 if all
16 of the following conditions are met:

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

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

21 (3) The change in options is consistent with Sections 22453 and
22 24305.

23 (4) The option beneficiary is not afflicted with any known
24 terminal illness.

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

27 (6) The election to change the option under this section is
28 received at the system's headquarters office as described in Section
29 22375 at least 30 days prior to the death of the option beneficiary.

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

32 (c) The change in options under this section shall be effective
33 on the date the election is signed, provided all the conditions set
34 forth in subdivision (a) are satisfied and the election is received at
35 the system's headquarters office within 30 days after the date of
36 the signature.

37 (d) The election of a new joint and survivor option under this
38 section is subject to a further modification of the modified
39 retirement allowance. In no event may a retired member elect a

1 joint and survivor option that would result in any additional liability
2 to the fund.

3 SEC. 38. Section 24307 of the Education Code is amended to
4 read:

5 24307. (a) A member who qualifies to apply for retirement
6 under Section 24201 or 24203 may make a preretirement election
7 of an option, as provided in Section 24300.1 without right of
8 revocation or change after the effective date of retirement, except
9 as provided in this part. The preretirement election of an option
10 shall become effective as of the date of the member's signature
11 on a properly executed form prescribed by the system, subject to
12 the following requirements:

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

17 (2) The date the form is received at the system's headquarters
18 office is within 30 days of the date of the member's signature and
19 within 30 days of the date of the spouse or registered domestic
20 partner's signature, if applicable.

21 (b) A member who makes a preretirement election of an Option
22 2, Option 3, Option 4, Option 5, Option 6, or Option 7 pursuant
23 to Section 24300, or an election as described in paragraph (1), (2),
24 or (3) of Section 24300.1 may subsequently make a preretirement
25 election of the compound option described in paragraph (4) of
26 subdivision (a) of Section 24300.1. The member may retain the
27 same option and the same option beneficiary as named in the prior
28 preretirement election for a designated percentage within the
29 compound option.

30 (c) Upon the member's death prior to the effective date of
31 retirement, the beneficiary who was designated under the option
32 elected and who survives shall receive an allowance calculated
33 under the option, under the assumption that the member retired
34 for service pursuant to Chapter 27 (commencing with Section
35 24201) on the date of death. The payment of the allowance to the
36 option beneficiary shall be in lieu of the family allowance provided
37 in Section 23804, the payment provided in paragraph (1) of
38 subdivision (a) of Section 23802, the survivor benefit allowance
39 provided in Section 23854, and the payment provided in
40 subdivisions (a) and (b) of Section 23852, except that if the

1 beneficiary dies before all of the member's accumulated retirement
2 contributions are paid, the balance, if any, shall be paid to the estate
3 of the person last receiving or entitled to receive the allowance.
4 The accumulated annuity deposit contributions and the death
5 payment provided in Sections 23801 and 23851 shall be paid to
6 the beneficiary in a lump sum.

7 (d) If the member subsequently retires for service, and the
8 elected option has not been canceled pursuant to Section 24309,
9 a modified service retirement allowance computed under Section
10 24300 or 24300.1 and the option elected shall be paid.

11 (e) The amount of the service retirement allowance prior to
12 applying the option factor shall be calculated as of the earlier of
13 the member's age at death before retirement or age on the last day
14 of the month in which the member requested service retirement
15 be effective. The modification of the service retirement allowance
16 by the option elected shall be based on the ages of the member
17 and the beneficiary designated under the option, as of the date the
18 election was signed.

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

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

26 SEC. 39. Section 24309 of the Education Code is amended to
27 read:

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

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

4 (2) Regardless of how the member elects to receive his or her
5 retirement allowance, a change made to an election of an option
6 or a cancellation of an option shall result in the reduction of that
7 allowance by an amount determined by the board to be the actuarial
8 equivalent of the coverage the member received as a result of the
9 preretirement election and that does not result in any adverse
10 funding to the plan.

11 (b) If the option beneficiary designated in the preretirement
12 election of an option pursuant to Section 24307 dies prior to the
13 member's retirement, the preretirement election shall be canceled
14 as of the day following the date of death and the member's
15 subsequent retirement allowance under this part shall be subject
16 to the allowance reduction prescribed in this section.

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

30 SEC. 40. Section 24311 of the Education Code is amended to
31 read:

32 24311. (a) A member who has a preretirement election of an
33 option in effect on December 31, 1990, may change his or her
34 preretirement election of Option 2, Option 3, Option 4, or Option
35 5, to either Option 6 or Option 7 without the allowance reduction
36 prescribed in Sections 24309 and 24310, provided the change is
37 made on or after January 1, 1991, and prior to the earlier of January
38 1, 1992, or the member's retirement under this part.

39 (b) If the member elects to change his or her option under this
40 section, then the member shall retain the same option beneficiary

1 as named in the prior preretirement election. The election to change
2 the preretirement election under this section shall be void if not
3 received in the system's headquarters office at least 30 days prior
4 to the death of the option beneficiary.

5 SEC. 41. Section 24312 of the Education Code is amended to
6 read:

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

14 (b) If the member elects to change his or her option under this
15 section then the member shall retain the same option and the same
16 option beneficiary as named in the prior preretirement election of
17 an option as one of the options under Option 8. The election to
18 change the preretirement election under this section shall be void
19 if not received in the system's headquarters office at least 30 days
20 prior to the death of the option beneficiary.

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

22 SEC. 42. Section 24312.1 of the Education Code is amended
23 to read:

24 24312.1. (a) A member who has a preretirement election of
25 an option in effect on December 31, 2006, pursuant to paragraphs
26 (1) to (6), inclusive, of subdivision (a) of Section 24300 may
27 change his or her preretirement election to an option described in
28 paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1
29 without the allowance reduction described in Sections 24309 and
30 24310, provided the change is made on or after January 1, 2007,
31 and prior to July 1, 2007.

32 (b) A member who has a preretirement election of Option 8 as
33 described in Section 24300 in effect on December 31, 2006, and
34 in that Option 8 election has an option pursuant to paragraphs (1)
35 to (6), inclusive, of subdivision (a) of Section 24300, may change
36 any of the options under paragraphs (1) to (6), inclusive, of
37 subdivision (a) of Section 24300 to an option described in
38 paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1
39 without the allowance reduction described in Sections 24309 and
40 24310, if change is made on or after January 1, 2007, and prior to

1 July 1, 2007. A member may not change the portion of the
2 unmodified benefit that would be modified pursuant to that prior
3 option.

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

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

8 (2) The change in options under this section shall be effective
9 on the date the election is signed, provided that the election is on
10 a properly executed form provided by the system and received at
11 the system’s headquarters office within 30 days of the date of the
12 signature.

13 (d) If the member elects to change options as described in this
14 section, the age of the member and the option beneficiary on the
15 effective date of the prior preretirement option election shall be
16 the age used to calculate the member’s benefit at the time of
17 retirement.

18 *SEC. 43. Section 24410 of the Education Code is amended to*
19 *read:*

20 24410. (a) If projected final compensation is used to calculate
21 the service retirement allowance following the termination of the
22 disability allowance or if the disability allowance is continued as
23 the lesser of the two allowance calculations under Section 24212
24 or 24213, then the original disability allowance effective date shall
25 be retained as the base date for purposes of determining
26 postretirement benefit increases.

27 (b) *If the disability allowance effective date is used pursuant to*
28 *subdivision (a), then the original disability allowance the member*
29 *was eligible to receive on that date shall be used for the purpose*
30 *of determining postretirement benefit increases.*

31 ~~(b)~~

32 (c) This section shall be applicable for determining the base
33 date for applicable postretirement increases made on or after
34 January 1, 1982.

35 ~~(e)~~

36 (d) This section shall only apply to service retirements effective
37 the day after the termination date of the disability allowance.

38 *SEC. 44. Section 24415 of the Education Code is amended to*
39 *read:*

1 24415. (a) The proceeds of the Supplemental Benefit
2 Maintenance Account shall be distributed annually in quarterly
3 supplemental payments commencing on September 1, 1990, to
4 retired members, disabled members, and beneficiaries, as defined
5 in subdivision (a) of Section 22107. The amount available for
6 distribution in any fiscal year shall not exceed the amount necessary
7 to restore purchasing power up to 85 percent of the purchasing
8 power of the initial monthly allowance, after the application of all
9 allowance increases authorized by this part, including those
10 specified in Section 24412, and excluding those provided pursuant
11 to Sections 24410.5, 24410.6, and 24410.7.

12 (b) The net revenues to be distributed shall be allocated among
13 those retired members, disabled members, and beneficiaries, as
14 defined in subdivision (a) of Section 22107, whose allowances,
15 after sequentially applying the annual improvement factor as
16 defined in Sections 22140 and 22141, and the annual supplemental
17 payment as specified in Section 24412, have the lowest purchasing
18 power percentage. The purchasing power calculation for each
19 individual shall be based on the change in the All Urban California
20 Consumer Price Index between June of the calendar year of
21 retirement and June of the fiscal year preceding the fiscal year of
22 distribution. In any year in which the purchasing power of the
23 allowances of all retired members, disabled members, and
24 beneficiaries, as defined in subdivision (a) of Section 22107, equals
25 not less than 85 percent and additional funds remain from the
26 allocation authorized by this section, those funds shall remain in
27 the Supplemental Benefit Maintenance Account for allocation in
28 future years.

29 (c) The allowance increase shall not be applicable to annuities
30 payable from the accumulated annuity deposit contributions or the
31 accumulated tax-sheltered annuity contributions.

32 (d) The increases provided by subdivision (b) are not cumulative,
33 not part of the base allowance, and will be payable only to the
34 extent that funds are available from the Supplemental Benefit
35 Maintenance Account. The board shall inform each recipient of
36 the contents of this subdivision.

37 (e) The adjustments authorized by this section are vested only
38 up to the amount payable as a result of the annual appropriation
39 made pursuant to Section 22954 and the adjustments made by the
40 board pursuant to Section 24415.5. The adjustments authorized

1 by this section shall not be included in the base allowance for
2 purposes of calculating the annual improvement defined by
3 Sections 22140 and 22141.

4 (f) Notwithstanding subdivision (b), for purposes of restoring
5 the purchasing power of benefits provided pursuant to Section
6 24410.5 for members and beneficiaries receiving benefits pursuant
7 to subdivision (b), the purchasing power calculation shall be based
8 on 85 percent of the change in the All Urban California Consumer
9 Price Index between January 2000 and June of the fiscal year
10 preceding the fiscal year of distribution, after the application of
11 increases authorized by Section 24412 that are made to the
12 allowances provided pursuant to Section 24410.5.

13 (g) Notwithstanding subdivision (b), for purposes of restoring
14 the purchasing power of benefits provided pursuant to Sections
15 24410.6 and 24410.7 for members and beneficiaries receiving
16 benefits pursuant to subdivision (b), the purchasing power
17 calculation shall be based on 85 percent of the change in the All
18 Urban California Consumer Price Index between January 2001
19 and June of the fiscal year preceding the fiscal year of distribution,
20 after the application of increases authorized by Section 24412 that
21 are made to the allowances provided pursuant to Sections 24410.6
22 and 24410.7.

23 *SEC. 45. Section 24604 of the Education Code is amended to*
24 *read:*

25 24604. (a) A member, nonmember spouse, or beneficiary
26 under this part shall specify whether monthly benefit payments
27 are to be disbursed by: ~~(1) direct by one of the following:~~

28 ~~(1) Direct deposit (electronic funds transfer); (2) direct transfer).~~

29 ~~(2) Direct mail to a financial or other institution; or (3) mailing~~
30 ~~institution.~~

31 ~~(3) Mailing to a payment address provided by the member,~~
32 ~~nonmember spouse, or beneficiary.~~

33 (b) A member, nonmember spouse, or beneficiary under this
34 part to whom a lump-sum payment or benefit is to be disbursed,
35 and who is receiving payment for an ongoing benefit by electronic
36 funds transfer, may have the lump-sum payment disbursed by
37 electronic funds transfer to the financial institution on file for
38 payment of the ongoing benefit.

39 (c) A member, nonmember spouse, or beneficiary under this
40 part who is not receiving payment for an ongoing benefit by

1 electronic funds transfer and to whom a lump-sum payment or
2 benefit is to be disbursed shall specify the address to which the
3 payment shall be mailed.

4 (d) ~~(4)~~The system shall make available an electronic copy of
5 the benefit payment information to any member, nonmember
6 spouse, or beneficiary under this part who receives a monthly
7 benefit payment.

8 (e) (1) *The system may designate electronic delivery the default*
9 *method of delivery of the benefit payment information, unless a*
10 *member, nonmember spouse, or beneficiary under this part submits*
11 *a written request as described in paragraphs (3) and (4).*

12 (2) ~~The board~~ system shall notify the member, nonmember
13 spouse, or beneficiary that he or she has the right to request that a
14 copy of the benefit payment information be mailed. ~~The board~~

15 (3) *If the system has received a written request from any*
16 *member, nonmember spouse, or beneficiary under this part, the*
17 *system shall send mail a copy of the monthly benefit payment*
18 *information if the system has received a written request from to*
19 *that person.*

20 ~~(3) The~~

21 (4) *If the system has received a written request from any*
22 *member, nonmember spouse, or beneficiary under this part, the*
23 *system shall send mail a copy of the benefit payment information*
24 *to any member, nonmember spouse, or beneficiary under this part*
25 *that person, only when there is an adjustment in the allowance due*
26 *to an annual benefit enhancement, pursuant to Sections 22140 and*
27 *24402, or a change in any amount deducted from the allowance*
28 *due to an adjustment to an income tax withholding tax table made*
29 *by the Internal Revenue Service or the Franchise Tax Board, unless*
30 *the person has notified the system that he or she does not want to*
31 *receive a copy of the benefit payment information Board.*

32 (e)

33 (f) A payment disbursed as specified by the member,
34 nonmember spouse, or beneficiary under this part shall fully
35 discharge the board, system, and plan from any claim resulting
36 from actions taken under this section.

37 ~~SEC. 43.~~

38 *SEC. 46.* Section 24613 of the Education Code is amended to
39 read:

1 24613. (a) Payment pursuant to the board’s determination in
2 good faith of the existence, identity, or other facts relating to
3 entitlement of persons under this part constitutes a complete
4 discharge and release of the board, system, and plan from liability
5 for that payment.

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

13 *SEC. 47. Section 24975 of the Education Code is amended to*
14 *read:*

15 24975. (a) The board may develop one or more deferred
16 compensation plans under Section 457 of the Internal Revenue
17 Code that an employer may choose to establish and offer to its
18 employees who are members or participants of the plan under this
19 part or Part 14 (commencing with Section 26000) or any employee
20 of a local public agency or political subdivision of this state that
21 employs persons to perform creditable service subject to coverage
22 by the plan under this part.

23 (b) If an employer adopts a deferred compensation plan
24 described in subdivision (a):

25 (1) The employer shall enter into a written contractual
26 arrangement with the system under which the system, or a
27 third-party administrator acting on behalf of the system, shall
28 provide investment, recordkeeping, and administrative services
29 for the deferred compensation plan.

30 ~~(2) The initial period of the contractual arrangement described~~
31 ~~in paragraph (1) shall be for a term of five years.~~

32 ~~(3)~~

33 (2) The deferred compensation plan shall continue to constitute
34 a separate plan established and maintained by the adopting
35 employer.

36 ~~(4)~~

37 (3) The system shall be treated as acting on behalf of the
38 employer in administering the deferred compensation plan.

39 ~~(5)~~

1 (4) The terms and administration of the deferred compensation
2 plan shall be in accordance with the applicable provisions of
3 Section 457 of the Internal Revenue Code.

4 ~~(6)~~

5 (5) In administering the deferred compensation plan on behalf
6 of the employer, the board shall have the same investment authority
7 and discretion and be subject to the same fiduciary standards
8 pursuant to Chapter 4 (commencing with Section 22250), with
9 respect to amounts deferred under the deferred compensation plan
10 as applied by the system with respect to the Teachers' Retirement
11 Fund.

12 (c) If an employer establishes and maintains a deferred
13 compensation plan described in subdivision (a), the deferred
14 compensation plan shall be offered to all of its employees who are
15 eligible to participate pursuant to this section.

16 (d) An employee participating in a deferred compensation plan
17 established by an employer under this section shall enter into a
18 written agreement with the employer for the deferral of
19 compensation prior to the performance of the services to which
20 that compensation relates.

21 (e) If an employer chooses to establish and maintain a deferred
22 compensation plan described in subdivision (a) that is to be
23 administered by the system, the employer shall take all necessary
24 or appropriate action to implement this section in cooperation with
25 the system.

26 ~~SEC. 44.~~

27 *SEC. 48.* Section 25011.5 of the Education Code is amended
28 to read:

29 25011.5. (a) A member who retired and elected an annuity
30 pursuant to Section 25011 may elect to change annuities, subject
31 to all of the following:

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

35 (2) A member who elected an annuity under paragraph (3) or
36 (4) of subdivision (a) of Section 25011 may elect an annuity under
37 paragraph (3) of subdivision (a) of Section 25011.1.

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

1 (4) The member designates the same beneficiary that was
2 designated under the prior annuity election by the member, if the
3 annuity and annuity designation was effective on December 31,
4 2006.

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

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

12 (b) The change in the annuity by the member shall be effective
13 on the date the election is signed, provided that the election is on
14 a properly executed form provided by the system and that election
15 is received at the system's headquarters office within 30 days after
16 the date the election is signed.

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

20 (d) If the member and the annuity beneficiary are alive and not
21 afflicted with a known terminal illness, a member may cancel the
22 election to change annuities and elect to receive the benefit
23 according to the preexisting annuity election. After cancellation,
24 the member may elect to make a one-time change from the
25 preexisting annuity to any other annuity provided by and subject
26 to the restrictions of paragraph (1), (2), (3), or (4) of subdivision
27 (a). The cancellation or the cancellation and one-time change shall
28 be made on a properly executed form provided by the system and
29 shall be received at the system's headquarters office no later than
30 30 calendar days following the date of mailing of the
31 acknowledgment notice. If the member elects to make the one-time
32 change provided by this subdivision, the change shall be effective
33 as of the member's signature date on the initial election to change.

34 (e) If the system is unable to mail an acknowledgment notice
35 to the member on or before June 1, 2007, or prior to the end of the
36 election period, provided that the member and the annuity
37 beneficiary are alive and not afflicted with a known terminal
38 illness, the system shall allow a member to cancel the election to
39 change annuities and elect to receive the benefit according to the
40 preexisting annuity election. After cancellation, the member may

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

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

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

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

21 ~~SEC. 45.~~

22 *SEC. 49.* Section 25018.2 of the Education Code is amended
23 to read:

24 25018.2. (a) A member who is disabled and elected an annuity
25 pursuant to Section 25018 may elect to change annuities, subject
26 to all of the following:

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

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

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

35 (4) The member designates the same annuity beneficiary that
36 was designated under the prior annuity election by the member, if
37 the annuity and the annuity designation were effective on December
38 31, 2006.

39 (5) The member and the annuity beneficiary are not afflicted
40 with a known terminal illness and the member declares, under

1 penalty of perjury under the laws of this state, that to the best of
2 his or her knowledge, he or she and the annuity beneficiary are
3 not afflicted with a known terminal illness.

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

6 (b) The change in the annuity by the member shall be effective
7 on the date the election is signed, provided that the election is on
8 a properly executed form provided by the system and that election
9 is received at the system's headquarters office within 30 days after
10 the date the election is signed.

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

14 (d) If the member and the annuity beneficiary are alive and not
15 afflicted with a known terminal illness, a member may cancel the
16 election to change annuities and elect to receive the benefit
17 according to the preexisting annuity election. After cancellation,
18 the member may elect to make a one-time change from the
19 preexisting annuity to any other annuity provided by and subject
20 to the restrictions of paragraph (1), (2), (3), or (4) of subdivision
21 (a). The cancellation or the cancellation and one-time change shall
22 be made on a properly executed form provided by the system and
23 shall be received at the system's headquarters office no later than
24 30 calendar days following the date of mailing of the
25 acknowledgment notice. If the member elects to make the one-time
26 change provided by this subdivision, the change shall be effective
27 as of the member's signature date on the initial election to change.

28 (e) If the system is unable to mail an acknowledgment notice
29 to the member on or before June 1, 2007, or prior to the end of the
30 election period, provided that the member and the annuity
31 beneficiary are alive and not afflicted with a known terminal
32 illness, the system shall allow a member to cancel the election to
33 change annuities and elect to receive the benefit according to the
34 preexisting annuity election. After cancellation, the member may
35 elect to make a one-time change from the preexisting annuity to
36 any other annuity provided by and subject to the restrictions of
37 paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation
38 or the cancellation and one-time change may be made after the
39 end of the election period if it is made on a properly executed form
40 provided by the system and is received at the system's headquarters

1 office no later than 30 calendar days following the date of mailing
2 of the acknowledgment notice. If the member elects to make the
3 one-time change provided by this subdivision, the change shall be
4 effective as of the member's signature date on the initial election
5 to change.

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

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

13 ~~SEC. 46.~~

14 *SEC. 50.* Section 25022 of the Education Code is amended to
15 read:

16 25022. (a) If the death of a member occurs while the member
17 is receiving an annuity under the Defined Benefit Supplement
18 Program, the final benefit shall be payable in accordance with the
19 terms of the annuity elected by the member.

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

25 (c) If the member was receiving a single life annuity with a cash
26 refund feature, the final benefit shall be payable in a lump sum to
27 the beneficiary designated by the member pursuant to Section
28 23300 or 23301.

29 (d) If the member was receiving a joint and survivor annuity,
30 the annuity shall continue to be paid to the surviving designated
31 annuity beneficiary. If the designated annuity beneficiary
32 predeceases the member, a final benefit is not payable.

33 (e) If the member was receiving a period certain annuity, the
34 remaining balance of payments shall be paid to the beneficiary
35 designated by the member.

36 (1) If the beneficiary is designated pursuant to Section 23300,
37 the remaining period certain annuity payments shall be made over
38 the amount of time remaining in the period originally elected by
39 the deceased member and shall be made in payments equal to the

1 amount of the annuity payments previously received by the
2 deceased member.

3 (2) If the beneficiary is designated pursuant to Section 23301,
4 the remaining balance of period certain annuity payments shall be
5 made in a lump-sum payment equal to the present value of the
6 balance of payments due over the time remaining in the period
7 originally elected by the deceased member.

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

11 *SEC. 51. Section 25101 of the Education Code is amended to*
12 *read:*

13 25101. A prospective vendor of 403(b) products that offers
14 those products, or the products of other 403(b) vendors, to
15 employers and their eligible employees, shall register those
16 products with the board pursuant to this chapter. Registered vendors
17 shall offer only registered 403(b) products as funding vehicles for
18 403(b) plans.

19 (a) Prospective vendors shall be registered with the board based
20 upon a complete response to the disclosures required by this
21 subdivision. This information shall be included in the impartial
22 investment information bank established pursuant to Section 25104.

23 The prospective vendors shall provide the following information:

24 (1) A statement of experience in California and in other states
25 in providing retirement annuities, custodial account mutual fund
26 arrangements, or other retirement products and related financial
27 services under public employer retirement plans.

28 (2) A characterization by the vendor of its offering as either an
29 annuity or custodial account, as defined under Sections 403(b)(1)
30 and 403(b)(7) of the Internal Revenue Code, respectively.

31 (3) A disclosure of all expenses paid directly or indirectly by
32 retirement plan participants, including, but not limited to, penalties
33 for early withdrawals, declining or fixed withdrawal charges,
34 surrender or deposit charges, management fees, and annual fees,
35 supported by documentation as required for prospectus disclosure
36 by the ~~National Association of Securities Dealers~~ *Financial*
37 *Industry Regulatory Authority* and the Securities and Exchange
38 Commission. Vendors shall be required to provide information
39 regarding the impact of product fees upon a hypothetical
40 investment, as described in Section 25104.

1 (4) The types of products, product features, including presence
2 of two tier annuity features, services offered to participants, and
3 information about how to access product prospectuses or other
4 relevant product information.

5 (5) A discussion of the ability, experience, and commitment of
6 the vendor to provide retirement counseling and education services,
7 including, but not limited to, access to group meetings and
8 individual counseling by various means, including telephone and
9 telecommunications devices for the deaf (TDD), Internet, and
10 face-to-face consultations by registered representatives.

11 (6) A statement of the financial strength and stability of the
12 vendor, as may be applicable, by identifying its ratings assigned
13 by nationally recognized rating services that evaluate the financial
14 strength of life insurance, mutual funds, and other similar
15 companies.

16 (7) The location of offices and counselors, or method of
17 distribution, of the vendor relative to serving employers and their
18 eligible employees in California.

19 (8) A description of the ability of the vendor to comply with all
20 applicable provisions of federal and state law governing retirement
21 plans, including minimum distribution requirements and
22 contribution limits.

23 (9) To the extent applicable, the demonstrated ability of the
24 vendor to offer an appropriate array of accumulation funding
25 options, including, but not limited to, a diversified mix of value,
26 growth, growth and income, hybrid and index funds or accounts
27 across large, mid, and small capitalization asset classes, both
28 domestic and international. These investment products may include
29 mutual funds, group or individual annuity contracts, fixed or
30 variable annuity contracts, individual retirement annuities, interests
31 in trust and collective trusts, separate accounts, and other financial
32 instruments.

33 (10) A discussion of the range of administrative and customer
34 services provided, including asset allocation, accounting and
35 administration of benefits for individual participants, recordkeeping
36 for individual participants, asset purchase, control, and safekeeping,
37 execution of a participant's instructions as to asset and contribution
38 allocation, calculation of daily net asset values, direct access for
39 participants to their account information, periodic reporting to
40 active participants, not less than quarterly, on their account

1 balances and transactions, and compliance with the standard of
2 care applicable in the provision of investment services and
3 consistent with federal law.

4 (11) Certification by the vendor that the information provided
5 to the board accurately reflects the provisions of the Section 403(b)
6 products they register pursuant to this chapter.

7 (b) Registration may not be conditioned upon the content of the
8 information.

9 (c) Vendors shall supply information and data in the format
10 required by the board.

11 *SEC. 52. Section 25103 of the Education Code is amended to*
12 *read:*

13 25103. (a) The board may remove a vendor from the registry
14 if the vendor submits materially inaccurate information to the
15 board, does not remit assessed fees within 60 days, or fails to
16 submit notice of material changes to its registered investment
17 products, pursuant to Section 25102. Vendors found to have
18 submitted materially inaccurate information to the board shall be
19 allowed 60 days to correct the information. The board may refer
20 vendors that submit information required under Section 25102 that
21 is materially inaccurate and may constitute conduct prohibited by
22 the ~~National Association of Securities Dealers~~ *Financial Industry*
23 *Regulatory Authority* and the California Department of Insurance
24 to those entities.

25 (b) The board shall remove a vendor from the registry if the
26 vendor is not licensed or has had its license revoked by the ~~National~~
27 ~~Association of Securities Dealers~~ *Financial Industry Regulatory*
28 *Authority* or the California Department of Insurance for engaging
29 in conduct prohibited by those entities.

30 (c) The board shall establish an appeals process pursuant to
31 Section 22219 for vendors that are denied registration or removed
32 from the registry.

33 *SEC. 53. Section 25106 of the Education Code is amended to*
34 *read:*

35 25106. The board shall design the information bank Internet
36 Web site and include retirement investment product plan
37 information and education materials taken from and referenced to
38 the Internal Revenue Service, the Securities and Exchange
39 Commission, the National Association of Insurance
40 Commissioners, and other applicable governmental or regulatory

1 agencies. Information shall be presented and used in a manner that
2 is consistent with the rules of those agencies and with rules of the
3 ~~National Association of Securities Dealers~~ *Financial Industry*
4 *Regulatory Authority*. The information shall be offered as a preface
5 to the vendor information required in Section 25101. The preface
6 shall include, but shall not be limited to, the following information:

7 (a) An explanation of Section 403(b) of the Internal Revenue
8 Code of 1986.

9 (b) The retirement investment products that may be purchased
10 under Section 403(b) of the Internal Revenue Code of 1986, and
11 with definitions of those products.

12 (c) Definitions or explanations of all fees referred to in the
13 investment information bank.

14 ~~SEC. 47.~~

15 *SEC. 54.* Section 25940 of the Education Code is amended to
16 read:

17 25940. (a) Effective July 1, 2001, the system shall pay to the
18 federal Centers for Medicare and Medicaid Services or a successor
19 agency the premiums associated with Medicare Part A for retired
20 or disabled members described in this section.

21 (b) This section shall apply only to a retired member of the
22 Defined Benefit Program who meets all of the following
23 requirements:

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

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

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

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

31 (c) The board may extend eligibility for the payments described
32 in this section to members of the Defined Benefit Program who
33 meet the requirements of subdivision (d) and who retire or begin
34 receiving a disability allowance on or after January 1, 2001, within
35 a school year specified by the board, if the board finds that the
36 cost of the payments for members who retire or begin receiving a
37 disability allowance during the specified school year may be paid
38 within the anticipated resources available in the fund, as determined
39 by the actuarial valuation of the program established by this
40 chapter. Any extension of eligibility to members who retire or

1 begin receiving a disability allowance on or after January 1, 2001,
2 shall be provided equally to any member who meets the
3 requirements of subdivision (d) and retires or begins receiving a
4 disability allowance during the school year specified by the board.

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

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

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

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

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

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

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

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

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

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

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

16 (f) For the purposes of this section, if a retirement date is used
17 to determine eligibility pursuant to subdivisions (b) and (c), the
18 system shall use the member's most recent retirement date for
19 eligibility purposes.

20 ~~SEC. 48:~~

21 *SEC. 55.* Section 26911 of the Education Code is amended to
22 read:

23 26911. If a participant who is receiving a disability annuity
24 under this part becomes reemployed to perform creditable service
25 subject to coverage by the Cash Balance Benefit Program or the
26 Defined Benefit Program, the disability annuity shall be terminated.
27 The participant's employee account and employer account shall
28 be credited with the actuarial equivalent of the participant's annuity
29 as of the date of reemployment and the Annuitant Reserve shall
30 be reduced by the amount credited to those accounts.

31 ~~SEC. 49:~~

32 *SEC. 56.* Any section of any other act enacted by the
33 Legislature during the 2013 calendar year that takes effect on or
34 before January 1, 2014, and that amends, amends and renumbers,
35 adds, repeals and adds, or repeals a section that is amended,
36 amended and renumbered, added, repealed and added, or repealed
37 by this act, shall prevail over this act, whether that act is enacted
38 prior to or subsequent to the enactment of this act. The repeal, or
39 repeal and addition, of any article, chapter, part, title, or division
40 of any code by this act shall not become operative if any section

- 1 of any other act that is enacted by the Legislature during the 2013
- 2 calendar year and takes effect on or before January 1, 2014,
- 3 amends, amends and renumbers, adds, repeals and adds, or repeals
- 4 any section contained in that article, chapter, part, title, or division.

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