

Assembly Bill No. 1381

CHAPTER 559

An act to amend Sections 22115, 22119.2, 22134.5, 22135, 22148, 22327, 22664, 22826, 22901, 22905, 22909, 23855, 24202, 24202.5, 24202.6, 24202.7, 24203, 24205, 24206, 24209, 24210, 24214, 24214.5, 24600, 26139, 26503.5, 26504, 26800, 26810, 26812, and 26813 of, to add Sections 22109.8, 22146.2, 22160.5, 24252, 26132.5, 26135.5, 26135.7, and 26139.5 to, and to repeal and add Section 22119.3 of, the Education Code, relating to public employees' retirement.

[Approved by Governor October 4, 2013. Filed with
Secretary of State October 4, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1381, Committee on Public Employees, Retirement and Social Security. State Teachers' Retirement Law: pension reform.

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 defined benefit is based on final compensation, credited service, and age at retirement, subject to certain variations. The State Teachers' Retirement System (STRS) is administered by the Teachers' Retirement Board. Existing law establishes the Defined Benefit Supplement Program, which provides supplemental retirement, disability, and other benefits, payable either in a lump-sum payment, an annuity, or both to members of the State Teachers' Retirement Plan. Existing law establishes a program commonly referred to as the Replacement Benefits Program to provide benefit payments to members of STRS whose benefits exceed specified federal limits. 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.

The California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act, as specified. Among other things, PEPRA requires a public retirement system to modify its plan or plans to comply with the act and establishes new retirement formulas that a public employer offering a defined benefit pension plan may not exceed for new employees. PEPRA prohibits offering supplemental defined benefit plans for new employees. PEPRA defines pensionable compensation for the purposes of its provisions and requires new employees of specified public employers who participate in a defined benefit plan to have an initial contribution rate of at least 50% of the normal cost rate for

that defined benefit plan, rounded to the nearest $\frac{1}{4}$ of 1%, or the current contribution rate of similarly situated employees, whichever is greater. PEPRAs generally prohibits a retired person who retires from a public employer from serving, being employed by, or being employed through a contract directly by, a public employer in the same retirement system from which the retiree receives a pension benefit without reinstatement, subject to certain exceptions and limitations. The act prohibits reemployment of a retiree pursuant to these provisions for a period of 180 days following the date of retirement unless he or she falls within certain exceptions to the prohibition.

This bill would make various changes in the Teachers' Retirement Law to conform with the provisions of PEPRAs. The bill would revise the definition of creditable compensation and salary, and specify exclusions from the definition of creditable compensation and salary, for purposes of the Defined Benefit Program and the Cash Balance Benefit Program, as specified. The bill would define a member subject to PEPRAs and would except from that definition a member who is also a member in certain other retirement systems, prior to January 1, 2013, as specified. The bill would revise provisions prescribing the amounts that members are required to contribute to the retirement fund for the Defined Benefit Program, and that participants in the Cash Balance Benefit Program contribute, to reflect the requirements of PEPRAs. The bill would provide, consistent with provisions of PEPRAs, that the normal retirement age is 62 years of age for a new member of, or a participant in, these systems, with respect to various provisions of the programs, including those related to survivors' benefits, retirement for service following reinstatement, and performance of postretirement service. The bill would add new limitations on compensation that may be paid to a member of the Defined Benefit Program or a participant in the Cash Balance Benefit Program performing postretirement activities, as defined. The bill would prohibit application of the Replacement Benefits Program to employees subject to PEPRAs. The bill would define a participant in the Cash Balance Benefit Program who is subject to PEPRAs to account for concurrent membership in that program and other public retirement systems. The bill would prescribe new requirements applicable to participants in the Cash Balance Benefit Program who perform retired participant activities, including requirements imposed on governing bodies seeking to employ these participants. The bill would make additional conforming and technical changes.

The bill would also revise provisions that permit the use of a one-year period for the calculation of final compensation for members who are not subject to PEPRAs, subject to negotiation by a teacher employer and an exclusive classroom teacher representative, to require that a written agreement addressing this subject be entered into prior to January 1, 2014. The bill would prohibit an employer from paying member contributions for defined benefits for employees who are not subject to PEPRAs on or after January 1, 2014, as specified. The bill would provide that compensation for postretirement activities that are not supported by state, local, or federal

funds is not subject to postretirement earnings limitations. The bill would apply postretirement compensation limitations to employer payments for, among other things, deferred compensation plans, the purchase of annuities, and payments to various tax qualified retirement plans.

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

SECTION 1. The Legislature finds and declares that this act, as it applies to the State Teachers' Retirement Plan, clarifies the California Public Employees' Pension Reform Act of 2013, is declaratory of existing law, and is intended to apply concurrently with the initial operation of that act. The amendments made by this act, excluding those amendments made in Sections 4, 12, 28, 29, 30, and 36 shall be deemed to be operative January 1, 2013, unless otherwise stated.

SEC. 2. Section 22109.8 is added to the Education Code, to read:

22109.8. "California Public Employees' Pension Reform Act of 2013" means the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code).

SEC. 3. Section 22115 of the Education Code is amended to read:

22115. (a) "Compensation earnable" means the creditable compensation a person could earn in a school year for creditable service performed on a full-time basis, excluding service for which contributions are credited by the system to the Defined Benefit Supplement Program.

(b) The board may determine compensation earnable for persons employed on a part-time basis.

(c) If service credit for a school year is less than 1.000, compensation earnable shall be the quotient obtained when creditable compensation paid in that year is divided by the service credit for that year, except as provided in subdivision (d).

(d) If a member earns creditable compensation at multiple pay rates during a school year and service credit at the highest pay rate is at least 0.900 of a year, compensation earnable shall be determined as if all service credit for that year had been earned at the highest pay rate. This subdivision shall be applicable only for purposes of determining final compensation. If a member earns creditable compensation at multiple pay rates during a school year and service credit at the highest pay rate is less than 0.900 of a year, compensation earnable shall be determined pursuant to subdivision (c).

(e) (1) Except as provided in subdivision (f), for purposes of determining compensation earnable for a member employed by a community college prior to July 1, 1996, full time shall be defined pursuant to Section 22138.5 and pursuant to Section 20521 of Title 5 of the California Code of Regulations, as those provisions read on June 30, 1996, if application of that definition will increase the compensation earnable or otherwise enhance the benefits of the member.

(2) For purposes of administering this subdivision, the board shall have the authority to do both of the following:

(A) Establish and implement factors and assumptions necessary to calculate and compare the benefits payable under the definition of compensation earnable described in this subdivision. Those factors and assumptions may be based on information reported by the employer, including, but not limited to, all of the following:

- (i) Base hours.
- (ii) Actual earnings.
- (iii) Compensation earnable.

(B) Review member benefit calculations that were performed using the factors and assumptions described in subparagraph (A). If the board determines that an employer failed to identify part-time service performed, the board shall consider that part-time service to be performed in a part-time lecture assignment as defined by the employer. If the board determines by the review of the member benefit calculations that the required information reported by the employer is inaccurate, incomplete, or the factors and assumptions were applied incorrectly, the board may recalculate member benefits using additional factors and assumptions that may include, but are not limited to, all of the following:

- (i) Base hours.
- (ii) Actual earnings.
- (iii) Compensation earnable.

(3) This subdivision shall apply to a member employed by a community college prior to July 1, 1996, if the community college subsequently acts to reduce the minimum standard for full time as described in subdivision (c) of Section 22138.5 for the class of employees, and that community college provides written notice to the system of the act of the community college to reduce that minimum standard.

(4) This subdivision shall not apply to a member employed by a community college that has not reduced the minimum standard as described in subdivision (c) of Section 22138.5.

(f) Subdivision (e) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 4. Section 22119.2 of the Education Code is amended to read:

22119.2. (a) "Creditable compensation" means remuneration that is paid in cash by an employer to all persons in the same class of employees for performing creditable service in that position. Creditable compensation shall include:

(1) Salary or wages paid in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement.

(2) Remuneration that is paid in addition to salary or wages, provided it is paid to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed.

(3) Remuneration that is paid for the use of sick leave, vacation, and other employer-approved leave, except as provided in paragraph (4) of subdivision (c).

(4) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(5) Amounts that are deducted from a member's remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(6) Any other payments the board determines to be "creditable compensation."

(b) Any creditable compensation determined by the system to have been paid to enhance a member's benefits shall not be credited under the Defined Benefit Program. Contributions on that compensation shall be credited to the Defined Benefit Supplement Program. A presumption by the system that creditable compensation was paid to enhance a member's benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the system that creditable compensation was paid to enhance the member's benefits may be reversed.

(c) "Creditable compensation" does not mean and shall not include:

(1) Remuneration that is not paid in cash or is not paid to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5.

(3) Remuneration that is paid in addition to salary or wages if it is not paid to all persons in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed pursuant to paragraph (2) of subdivision (a).

(4) Remuneration that is paid in exchange for the relinquishment of unused accumulated leave.

(5) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer and is not deducted from the member's salary.

(6) Fringe benefits provided by an employer.

(7) Expenses paid or reimbursed by an employer.

(8) Severance pay, including lump-sum and installment payments, or money paid in excess of salary or wages to a member as compensatory damages or as a compromise settlement.

(9) Any other payments the board determines not to be "creditable compensation."

(d) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a) or (c) may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(e) For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

(f) This definition of “creditable compensation” reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member’s career, consistent treatment of compensation among an entire class of employees, consistent treatment of compensation for the position, preventing adverse selection, and excluding from compensation earnable remuneration that is paid to enhance a member’s benefits. The system shall determine the appropriate crediting of contributions between the Defined Benefit Program and the Defined Benefit Supplement Program according to these principles, to the extent not otherwise specified pursuant to this part.

(g) The section shall become operative on July 1, 2002.

(h) This section shall not apply to a member subject to the California Public Employees’ Pension Reform Act of 2013.

SEC. 5. Section 22119.3 of the Education Code is repealed.

SEC. 6. Section 22119.3 is added to the Education Code, to read:

22119.3. (a) “Creditable compensation” for members who are subject to the California Public Employees’ Pension Reform Act of 2013 means remuneration that is paid each pay period in which creditable service is performed for that position. Creditable compensation shall be paid in cash by an employer to all persons in the same class of employees in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement. Creditable compensation shall include:

(1) Remuneration that is paid for the use of sick leave, vacation, and other employer-approved leave, except as provided in paragraph (4) of subdivision (b).

(2) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(3) Amounts that are deducted from a member’s remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(4) Notwithstanding paragraphs (6) and (8) of subdivision (c) of Section 7522.34 of the Government Code, remuneration that is paid for creditable service that exceeds one year in a school year.

(b) “Creditable compensation” does not mean and shall not include:

(1) Remuneration that is not paid in cash or is not paid to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5.

(3) Remuneration that is not paid each pay period in which creditable service is performed for that position.

(4) Remuneration that is paid in exchange for the relinquishment of unused accumulated leave.

(5) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(6) Fringe benefits provided by an employer.

(7) Expenses paid or reimbursed by an employer.

(8) Severance pay, including lump-sum and installment payments, or money paid in excess of salary or wages to a member as compensatory damages or as a compromise settlement.

(9) Creditable compensation determined by the system to have been paid to enhance a member’s benefit.

(10) Compensation paid to the member in lieu of benefits provided to the member by the employer or paid directly by the employer to a third party other than the system for the benefit of the member.

(11) Any one-time or ad hoc payments made to a member.

(12) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniform.

(13) Any bonus paid in addition to compensation described in subdivision (a).

(14) Any other payments the board determines not to be “creditable compensation.”

(c) (1) Except for purposes of calculating credited service in the Defined Benefit Program and for reporting compensation earnable on or after January 1, 2013, creditable compensation in any fiscal year shall not exceed:

(A) One hundred twenty percent of the “contribution and benefit base,” as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is not included in the federal system.

(B) One hundred percent of the “contribution and benefit base,” as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is included in the federal system pursuant to any changes in state or federal law enacted on or after January 1, 2013.

(2) The system shall adjust the limit in paragraph (1) based on the annual changes to the Consumer Price Index for All Urban Consumers: City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: City Average for the month of February in the fiscal year preceding the adjustment by the Consumer Price Index for All Urban Consumers: City Average for the month of February of the previous year rounded to the nearest thousandth. Notwithstanding paragraph (1) of subdivision (d) of Section 7522.10 of the Government Code, the adjustment shall be effective annually on July 1, beginning July 1, 2014.

(3) The Legislature reserves the right to modify the requirements of this subdivision with regard to all members subject to this subdivision, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(4) This subdivision shall apply to compensation paid during the 2013–14 fiscal year and each fiscal year thereafter.

(d) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a) or (b) may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(e) For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

(f) This definition of “creditable compensation” reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member’s career, consistent treatment of compensation among an entire class of employees, consistent treatment of compensation for the position, preventing adverse selection, and excluding from creditable compensation remuneration that is paid to enhance a member’s benefits. The system shall determine the appropriate crediting of contributions according to these principles, to the extent not otherwise specified pursuant to this part. A presumption by the system that creditable compensation was paid to enhance the member’s benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the system that creditable compensation was paid to enhance the member’s benefits may be reversed.

SEC. 7. Section 22134.5 of the Education Code is amended to read:

22134.5. (a) Notwithstanding Section 22134, “final compensation” means the highest average annual compensation earnable by a member during any period of 12 consecutive months while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit

Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of 12 consecutive months, if the periods of service are consecutive except for the breaks.

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

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

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

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

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

(f) This section shall apply to the following:

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

(A) Section 22714.

(B) Section 22715.

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

(D) Section 22826.

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

(3) This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 8. Section 22135 of the Education Code is amended to read:

22135. (a) Notwithstanding subdivisions (a) and (b) of Section 22134, "final compensation" means the highest average annual compensation earnable by an active member who is a classroom teacher not subject to the California Public Employees' Pension Reform Act of 2013 and who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the plan's Defined Benefit Program.

(b) Section 22134, except subdivision (a) of that section, shall apply to classroom teachers who retire after June 30, 1990, and any statutory reference to Section 22134 or "final compensation" with respect to a classroom teacher

who retires, becomes disabled, or dies, after June 30, 1990, shall be deemed to be a reference to this section.

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

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

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

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

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

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

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

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

(5) Classified employees.

(e) This section shall apply only to teachers employed by an employer that has, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, entered into, extended, renewed, or amended a written agreement with an exclusive representative, prior to January 1, 2014, that makes this section applicable to all of its classroom teachers, as defined in subdivision (c).

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

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

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

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

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

SEC. 9. Section 22146.2 is added to the Education Code, to read:

22146.2. (a) Notwithstanding subdivision (f) of Section 7522.04 of the Government Code, "member subject to the California Public Employees' Pension Reform Act of 2013" means a person who first becomes employed to perform creditable service subject to coverage under the Defined Benefit Program on or after January 1, 2013.

(b) A member as defined in subdivision (a) does not include a person who was a member on or before December 31, 2012, of the California Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, a county retirement system established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco Employees' Retirement System, and the person performed service in the other retirement system within the six months prior to the commencement of creditable service under the Defined Benefit Program.

(c) This section shall be deemed to have become operative on January 1, 2013.

SEC. 10. Section 22148 of the Education Code is amended to read:

22148. "Normal retirement" and "normal retirement age" mean 60 years of age, or 62 years of age for a member subject to the California Public Employees' Pension Reform Act of 2013, which is the age upon attainment of which the member becomes eligible under the Defined Benefit Program for a service retirement allowance without reduction because of age and without special qualifications.

SEC. 11. Section 22160.5 is added to the Education Code, to read:

22160.5. "Public employer" means a public employer as defined in subdivision (i) of Section 7522.04 of the Government Code.

SEC. 12. Section 22327 of the Education Code is amended to read:

22327. Notwithstanding any other provision of law, the Employment Development Department shall disclose to the system information in its possession relating to the earnings of any person who is a member of the Defined Benefit Program, if the member is receiving a disability benefit or performing retired member activities. The earnings information shall be released to the system only upon written request from the system specifying that the person is a member of the Defined Benefit Program and is receiving a disability benefit or performing retired member activities. The system shall use the information obtained pursuant to this section only for purposes of Chapter 25 (commencing with Section 24001), Chapter 26 (commencing with the Section 24100), Section 24214, or Section 24214.5. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing. The system shall notify members receiving a disability benefit or performing retired member activities that earnings information shall be obtained from the Employment Development Department upon request by the system. The system shall not release any earnings information received from the Employment Development Department to any person, agency, or other entity. The system shall reimburse the Employment Development Department for all reasonable administrative expenses incurred pursuant to this section.

SEC. 13. Section 22664 of the Education Code is amended to read:

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

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

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

(2) The nonmember spouse has at least 2 ½ years of credited service in his or her separate account.

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

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

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

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

(3) The effective date is no earlier than the first day of the month that the application is received at the system’s headquarters office as described in Section 22375, and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

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

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

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

Age at Retirement	Percentage
60¼	2.033
60½	2.067
60¾	2.10
61	2.133
61¼	2.167
61½	2.20
61¾	2.233
62	2.267

62¼	2.30
62½	2.333
62¾	2.367
63 and over	2.40

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

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

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

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

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

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

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

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

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

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

(g) Paragraphs (1) through (3), inclusive, of subdivision (c) shall not apply to a nonmember spouse of a member subject to the California Public Employees' Pension Reform Act of 2013. For a person who is a nonmember spouse of a member subject to the California Public Employees' Pension Reform Act of 2013 and is awarded a separate account, the retirement allowance shall equal the percentage of final compensation for each year of credited service that is equal to the percentage specified in Section 24202.6 based on the age of the nonmember spouse on the effective date of the allowance.

SEC. 14. Section 22826 of the Education Code is amended to read:

22826. (a) A member, other than a retired member, may request to purchase up to five years of nonqualified service credit provided the member is vested in the Defined Benefit Program as provided in Section 22156.

(b) A member who requests to purchase nonqualified service credit as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the plan with respect to the Defined Benefit Program in effect on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801.

(c) This section shall apply only to an application to purchase nonqualified service credit on a properly executed form provided by the system and

received at the system's headquarters office, as established pursuant to Section 22375, prior to January 1, 2013, that is subsequently approved by the system.

SEC. 15. Section 22901 of the Education Code is amended to read:

22901. (a) Each member of the Defined Benefit Program shall contribute to the retirement fund an amount equivalent to 8 percent of the member's creditable compensation, unless he or she is a member subject to the California Public Employees' Pension Reform Act of 2013.

(b) Each member subject to the California Public Employees' Pension Reform Act of 2013 shall contribute to the retirement fund an amount equivalent to the percentage of the member's creditable compensation calculated as follows:

(1) An initial percentage equal to 50 percent of the normal cost rate of benefits applicable to members subject to the California Public Employees' Pension Reform Act of 2013, rounded to the nearest quarter of 1 percent. The normal cost rate shall be adopted by the board.

(2) Notwithstanding paragraph (1), once established, the percentage described in paragraph (1) shall not be adjusted on account of a change to the normal cost rate, as adopted by the board, unless the normal cost rate increases or decreases by more than 1 percent of payroll above or below the normal cost rate in effect at the time the percentage is first established or, if later, the normal cost rate in effect at the time of the last adjustment.

(3) Notwithstanding subdivision (e) of Section 7522.30 of the Government Code, this subdivision shall not be subject to the collective bargaining process.

(c) Notwithstanding Section 22905, any member contributions for service performed during the 2010–11 school year with a service period ending after December 31, 2010, shall be credited pursuant to subdivision (a).

SEC. 16. Section 22905 of the Education Code is amended to read:

22905. (a) Member contributions pursuant to Section 22901, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Except as provided in subdivision (f), member and employer contributions, exclusive of contributions pursuant to Section 22951, on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for creditable service that exceeds one year in a school year.

(2) Compensation that is consistent with subdivision (b) of Section 22119.2.

(3) Compensation that is paid for a limited number of times as specified by law, a collective bargaining agreement, or an employment agreement.

(c) A member may not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program, except as provided in

subdivision (d), nor may a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Member and employer contributions pursuant to paragraph (1) of subdivision (b) under the Defined Benefit Supplement Program shall be credited to the accounts of members as of July 1 each year following a determination by the system under the provisions of this part that those contributions should be credited to the Defined Benefit Supplement Program. Any other contributions under the Defined Benefit Supplement Program pursuant to paragraph (2) or (3) of subdivision (b), shall be credited to the individual account of the member upon receipt by the system. Contributions to a member's Defined Benefit Supplement account shall be identified separately from the member's contributions credited under the Defined Benefit Program.

(e) The provisions of this section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

(f) Paragraphs (2) and (3) of subdivision (b) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 17. Section 22909 of the Education Code is amended to read:

22909. (a) Notwithstanding Sections 22901, 22956, and 23000, an employer may pay all or a portion of the contributions required to be paid by a member of the Defined Benefit Program. Where the member is included in a group or class of employment in which no members are subject to the California Public Employees' Pension Reform Act of 2013, the payment shall be for all members in the group or class of employment. The payments shall be credited to member accounts pursuant to Section 22905. The employer shall report contributions to the system as if the member and the employer were paying the contributions in accordance with this part, notwithstanding this section. For purposes of this chapter, the member's contributions shall be considered to be the percentage of the member's creditable compensation that would have been paid pursuant to this chapter, notwithstanding this section. Notwithstanding Section 22119.2, contributions paid pursuant to this section may not be included in creditable compensation.

(b) Nothing in this section shall be construed to limit the authority of an employer to periodically increase, reduce, or eliminate the payment by the employer of all or a portion of the contributions required to be paid by members of the Defined Benefit Program, as authorized by this section.

(c) This section shall only apply to an employer that is picking up members' contributions pursuant to Section 22903 or 22904.

(d) As of January 1, 2013, this section shall not apply if the group or class of employment includes members who are subject to the Public Employees' Pension Reform Act of 2013. If the terms of a written agreement with an exclusive representative that is in effect on January 1, 2013, would be impaired by this subdivision, this subdivision shall not apply to the employer and members subject to that written agreement until the expiration of that written agreement. A renewal, amendment, or any other extension

of that written agreement shall be subject to the requirements of this subdivision.

(e) As of January 1, 2014, this section shall not apply if the group or class of employment does not include members who are subject to the Public Employees' Pension Reform Act 2013. If the terms of a written agreement with an exclusive representative that is in effect on January 1, 2014, would be impaired by this subdivision, this subdivision shall not apply to the employer and members subject to that written agreement until the expiration of that written agreement. A renewal, amendment, or any other extension of that written agreement shall be subject to the requirements of this subdivision.

SEC. 18. Section 23855 of the Education Code is amended to read:

23855. (a) The survivor benefit allowance is a monthly allowance equal to one-half of the modified retirement allowance the member would have received at normal retirement age, if the member had retired and elected Option 3 pursuant to Section 24300, as that section read on December 31, 2006, naming the spouse as the option beneficiary.

(b) The allowance payable under this subdivision shall be based on the member's actual service credit and final compensation as of the date of his or her death, the retirement factor at normal retirement age, and the member's and spouse's ages as of the date the member would have attained normal retirement age. If the member's death occurs after he or she attains normal retirement age, his or her actual final compensation, the retirement factor at normal retirement age, and the member's and spouse's ages as of the date of the member's death shall be used in the allowance calculation.

(c) The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of unused sick leave service credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) (1) The allowance calculation shall not include either of the following:

(A) The increase in the percentage of final compensation pursuant to Section 24203.5.

(B) The increase of the monthly allowance pursuant to Section 24203.6.

(2) The amendments to this section made by the act adding this paragraph do not constitute a change in, but are declaratory of, existing law.

(e) The surviving spouse may elect to begin receiving the survivor benefit allowance immediately as of the date of the member's death or to defer receipt of the allowance to the date the member would have attained normal retirement age. If allowance payments to the surviving spouse commence prior to the date the member would have attained normal retirement age, the allowance payable shall be actuarially reduced.

(f) If the spouse elects, pursuant to Section 23852, to receive the survivor benefit allowance, an additional 10 percent of final compensation shall be payable for each dependent child who is under 21 years of age, up to a maximum of 50 percent of final compensation. The child's portion shall begin to accrue on the day following the member's date of death and shall

be payable even if the spouse elects to postpone receipt of the spouse’s survivor benefit allowance until the date the member would have attained normal retirement age.

(g) If there is no surviving spouse, an allowance in an amount equal to 10 percent of the deceased member’s final compensation shall be paid to each dependent child who is under 21 years of age, up to a maximum of 50 percent of final compensation. If there are more than five dependent children, they shall receive allowances in equal shares of the 50 percent of final compensation. A child’s portion of the survivor benefit allowance shall begin to accrue on the day following the member’s date of death.

SEC. 19. Section 24202 of the Education Code is amended to read:

24202. (a) A member who retires for service after June 30, 1972, shall receive a retirement allowance consisting of both of the following:

(1) An annual allowance payable in monthly installments, upon retirement at normal retirement age but less than age 60 ¼, equal to 2 percent of the final compensation for each year of credited service. If the member’s retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the member’s allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member’s account at the time of retirement.

(b) In computing the amounts described in subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to accrue or such later date as provided in Section 24204 shall be used.

(c) The amendments to this section during the 1997–98 Regular Session of the Legislature shall not apply to state employees.

(d) This section shall not apply to a member subject to the California Public Employees’ Pension Reform Act of 2013.

SEC. 20. Section 24202.5 of the Education Code is amended to read:

24202.5. (a) A member who retires for service on or after January 1, 1999, shall receive a retirement allowance consisting of all of the following:

(1) An annual allowance payable in monthly installments, upon retirement equal to the percentage of the final compensation set forth opposite the member’s age at retirement in the following table multiplied by each year of credited service:

Age at Retirement	Percentage
60	2.00
60¼	2.033
60½	2.067
60¾	2.10
61	2.133
61¼	2.167
61½	2.20

61¾	2.233
62	2.267
62¼	2.30
62½	2.333
62¾	2.367
63 and over	2.40

If the member’s retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the member’s allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the member’s accumulated annuity deposit contributions at the time of retirement.

(3) An annuity based on the balance of credits in the member’s Defined Benefit Supplement account, pursuant to Section 25012, if elected by the member pursuant to Section 25011 or 25011.1.

(b) In computing the amounts described in paragraph (1) of subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to accrue or the later date as described in Section 24204 shall be used.

(c) This section shall not apply to a member subject to the California Public Employees’ Pension Reform Act of 2013.

SEC. 21. Section 24202.6 of the Education Code is amended to read:

24202.6. (a) A member subject to the California Public Employees’ Pension Reform Act of 2013 shall receive a retirement allowance consisting of all of the following:

(1) An annual allowance payable in monthly installments upon retirement equal to the percentage of the final compensation set forth opposite the member’s age at retirement in the following table multiplied by each year of credited service:

Age at Retirement	Percentage
62.....	2.000
62 ¼.....	2.033
62 ½.....	2.067
62 ¾.....	2.100
63.....	2.133
63 ¼.....	2.167
63 ½.....	2.200
63 ¾.....	2.233
64.....	2.267
64 ¼.....	2.300
64 ½.....	2.333
64 ¾.....	2.367
65.....	2.400

(2) If a member retires after attaining early retirement age but before attaining normal retirement age, the member's allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the member will attain normal retirement age.

(b) In computing the amounts described in paragraph (1) of subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to be payable or the later date as described in Section 24204 shall be used.

(c) Creditable compensation used to calculate the defined benefit shall be limited as described in Section 22119.3.

SEC. 22. Section 24202.7 of the Education Code is amended to read:

24202.7. Notwithstanding any other provision of this part, for a member subject to the California Public Employees' Pension Reform Act of 2013, the minimum retirement age shall be 55 years of age, the early retirement age shall be 55 years of age, and the normal retirement age shall be 62 years of age.

SEC. 23. Section 24203 of the Education Code is amended to read:

24203. (a) A member who has 30 years of credited service under this part may retire at age 50 years or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service. If the member has attained age 50 years, but has not attained early retirement age, the allowance shall be reduced by one-quarter of 1 percent for each full month or fraction of a month that will elapse until the member will attain early retirement age and one-half of 1 percent for each full month, or fraction of a month between early retirement age and normal retirement age.

(b) In computing the amounts described in subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to accrue or any later date provided in Section 24204 shall be used.

(c) This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 24. Section 24205 of the Education Code is amended to read:

24205. A member retiring prior to 60 years of age, and who has attained 55 years of age, may elect to receive one-half of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age.

(a) The retirement allowance shall be based on service credit and final compensation as of the date of retirement for service and shall be calculated with the factor for normal retirement age.

(b) If the member elects a joint and survivor option under Section 24300 or 24300.1, the actuarial reduction shall be based on the member's and beneficiary's ages as of the effective date of the early retirement. If the member elected a preretirement option under Section 24307, the actuarial reduction shall be based on the member's and beneficiary's ages as determined by the provisions of that section.

(c) One-half of the retirement allowance as of 60 years of age shall be paid for a period of time equal to twice the elapsed time between the effective date of retirement and the date of the retired member's 60th birthday.

(d) The full retirement allowance as calculated under subdivision (a) or (b) shall begin to accrue as of the first of the month following the reduction period as specified in subdivision (c). The full retirement allowance shall not begin to accrue prior to this time under any circumstances, including, but not limited to, divorce or death of the named beneficiary.

(e) The annual improvement factor provided for in Sections 22140 and 22141 shall be based upon the retirement allowance as calculated under subdivision (a) or (b). The improvement factor shall begin to accrue on September 1 following the retired member's 60th birthday. These increases shall be accumulated and shall become payable when the full retirement allowance for normal retirement age first becomes payable.

(f) Any ad hoc benefit increase with an effective date prior to the retired member's 60th birthday shall not affect an allowance payable under this section. Only those ad hoc improvements with effective dates on or after the retired member's 60th birthday shall be accrued and accumulated and shall first become payable when the full retirement allowance for normal retirement age becomes payable.

(g) The cancellation of an option election in accordance with Section 24305 shall not cancel the election under this section. Upon cancellation of the joint and survivor option, one-half of the retired member's retirement allowance as calculated under subdivision (a) shall become payable for the balance of the reduction period specified in subdivision (c).

(h) If a retired member who has elected a joint and survivor option dies during the period when the reduced allowance is payable, the beneficiary shall receive one-half of the allowance payable to the beneficiary until the date when the retired member would have received the full retirement allowance for normal retirement age. At that time, the beneficiary's allowance shall be increased to the full amount payable to the beneficiary plus the appropriate annual improvement factor increases and ad hoc increases.

(i) This section shall not apply to a member who retires for service pursuant to Section 24201.5, 24209, 24209.3, 24210, 24211, or 24212.

(j) This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 25. Section 24206 of the Education Code is amended to read:

24206. The minimum unmodified allowance for service retirement under the Defined Benefit Program, exclusive of annuities payable from accumulated annuity deposit contributions and exclusive of the balance of credits in the member's Defined Benefit Supplement account, shall not be less than ten dollars (\$10) per month multiplied by the member's years of credited service. This guaranteed amount shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited under the Defined Benefit Program. If the retirement is effective at less than normal retirement age this allowance shall be reduced by one-half

of 1 percent for each full month or fraction of a month that will elapse until the member would have reached normal retirement age.

SEC. 26. Section 24209 of the Education Code is amended to read:

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

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

(2) An amount calculated pursuant to Section 24202, 24202.5, 24202.6, 24203, 24203.5, or 24206 on service credited subsequent to the most recent reinstatement, the member's age at retirement, and final compensation.

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

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

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

(2) An amount calculated pursuant to Section 24202, 24202.5, 24202.6, 24203.5, or 24206 on service credited subsequent to the reinstatement, the member's age at retirement, and final compensation.

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

SEC. 27. Section 24210 of the Education Code is amended to read:

24210. Upon retirement for service following a prior disability retirement granted pursuant to Chapter 26 (commencing with Section 24100) that was terminated, the member shall receive a service retirement allowance calculated pursuant to Section 24202, 24202.5, 24202.6, 24203, 24203.5, or 24206 and equal to the sum of both of the following:

(a) An amount based on service credit accrued prior to the effective date of the disability retirement, the member's age as of the effective date of the service retirement, and indexed final compensation to the effective date of the service retirement.

(b) An amount based on the service credit accrued after termination of the disability retirement, the member's age as of the effective date of service retirement, and final compensation.

SEC. 28. Section 24214 of the Education Code, as amended by Section 6 of Chapter 296 of the Statutes of 2012, is amended to read:

24214. (a) A member retired for service under this part may perform retired member activities, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the annualized rate of pay for retired member activities, performed by that member shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing retired member activities.

(d) A member retired for service under this part may earn compensation for performing retired member activities in any one school year up to the limitation specified in subdivision (f) without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of retired member activities that are not wholly or in part supported by state, local, or federal funds.

(f) (1) The limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member in which payment of the expenses by the member is substantiated, shall, in any one school year, be an amount calculated by the system each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(g) If a member retired for service under this part earns compensation for performing retired member activities, in excess of the limitation specified in subdivision (f), and if that compensation is not exempt from that limitation under subdivision (e) or (h) or any other law, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable

but shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (h) of Section 24214.5.

(h) The limitation specified in this section is not applicable to compensation paid to a member retired for service under this part who has returned to work after the date of retirement:

(1) As a trustee appointed by the Superintendent of Public Instruction pursuant to Section 41320.1.

(2) As a fiscal adviser or fiscal expert appointed by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24 of Division 3 of Title 2.

(3) As a receiver or trustee appointed by the State Board of Education pursuant to Article 3.1 (commencing with Section 52055.57) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

(4) As a special trustee appointed by the Board of Governors of the California Community Colleges pursuant to Section 84040.

(i) The Superintendent of Public Instruction, the Executive Director of the State Board of Education, the Chancellor of the California Community Colleges, or the county superintendent of schools exercising the exemption pursuant to subdivision (h) shall submit all documentation required by the system to substantiate the eligibility of the retired member for the exemption, including compliance with subdivisions (j) and (k). The documentation shall be received by the system prior to the retired member's performance of retired member activities.

(j) Subdivision (h) shall not apply to a retired member who has not attained normal retirement age at the time the compensation is earned by the member, received additional service credit pursuant to Section 22714 or 22715, or received from any public employer any financial inducement to retire in the previous six months. For purposes of this section and Section 24214.5, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the member retires for service on or before a specific date or specific range of dates established by the public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature's intent to make subdivision (h) inapplicable to members if the member received a financial incentive from any public employer to retire or otherwise terminate employment with the public employer.

(k) The documentation required for subdivision (i) shall include certification of the following:

(1) The position was first advertised for appointment to current active or inactive members of the program with the necessary qualifications to perform the requirements of the position and no qualified current active or inactive member was available to be appointed.

(2) The appointing authority made a good faith effort to hire a retired member who reinstated to active membership for the position at the same salary that was offered as first advertised pursuant to paragraph (1).

(3) The appointing authority, having tried and failed to hire a current active or inactive member or a reinstated retired member, hired a retired member and the salary offered to the retired member subject to this paragraph does not exceed the salary that was offered as first advertised pursuant to paragraph (1).

(4) The salary paid shall be no greater than the salary offered to current active members for the appointed position.

(l) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

(m) The amendments to this section enacted during the second year of the 2011–12 Regular Session shall apply to compensation paid during the 2012–13 and 2013–14 fiscal years.

(n) The amendments to this section enacted during the first year of the 2013–14 Regular Session shall apply to compensation paid on or after January 1, 2014.

(o) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 29. Section 24214 of the Education Code, as amended by Section 7 of Chapter 296 of the Statutes of 2012, is amended to read:

24214. (a) A member retired for service under this part may perform retired member activities, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the annualized rate of pay for retired member activities performed by that member shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing retired member activities.

(d) A member retired for service under this part may earn compensation for performing retired member activities in any one school year up to the limitation specified in subdivision (f) without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of retired member activities that are not wholly or in part supported by state, local, or federal funds.

(f) (1) The limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member

in which payment of the expenses by the member is substantiated, shall, in any one school year, be an amount calculated by the system each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(g) If a member retired for service under this part earns compensation for performing retired member activities, in excess of the limitation specified in subdivision (f), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (h) of Section 24214.5.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on July 1, 2014.

SEC. 30. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) (1) Notwithstanding subdivision (f) of Section 24214, the postretirement compensation limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member, in which payment of the expenses by the member is substantiated, shall be zero dollars (\$0) during the first 180 calendar days after the most recent retirement of a member retired for service under this part.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(b) If the retired member has attained normal retirement age at the time the compensation is earned, subdivision (a) shall not apply and Section 24214 shall apply if the appointment has been approved by the governing body of the employer in a public meeting, as reflected in a resolution adopted

by the governing body of the employer prior to the performance of retired member activities, expressing its intent to seek an exemption from the limitation specified in subdivision (a). Approval of the appointment may not be placed on a consent calendar. Notwithstanding any other provision of Article 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code or any state or federal law incorporated by subdivision (k) of Section 6254 of the Government Code, the resolution shall be subject to disclosure by the entity adopting the resolution and the system. The resolution shall include the following specific information and findings:

(1) The nature of the employment.

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

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

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

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

(d) Subdivision (b) shall not apply if the retired member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, “financial inducement to retire” includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature’s intent to make subdivision (b) inapplicable to members if the member received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

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

(f) The documentation required by this section shall be received by the system prior to the retired member’s performance of retired member activities.

(g) Within 30 calendar days after the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (b), and the retired member whether the compensation paid to the member will be subject to the limitation specified in subdivision (a).

(h) If a member retired for service under this part earns compensation for performing retired member activities in excess of the limitation specified in subdivision (a), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the allowance payable during the first 180 calendar days, after a member retired for service under this part.

(i) The amendments to this section enacted during the first year of the 2013–14 Regular Session shall apply to compensation paid on or after January 1, 2014.

SEC. 31. Section 24252 is added to the Education Code, to read:

24252. This chapter shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 32. Section 24600 of the Education Code is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained normal retirement age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) (1) Except as provided in paragraph (2), a child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(2) A child's portion of a disability retirement allowance under Chapter 26 (commencing with Section 24100) ceases on the earlier of either:

(A) The termination date of the child's eligibility.

(B) The termination of the allowance for reasons other than death.

(g) Supplemental payments issued under this part pursuant to Sections 24412 and 24415 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24412 and 24415 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986 and related regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38 (commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

SEC. 33. Section 26132.5 is added to the Education Code, to read:

26132.5. (a) "Participant subject to the California Public Employees' Pension Reform Act of 2013" means, notwithstanding subdivision (f) of Section 7522.04 of the Government Code, a person who first becomes employed to perform creditable service subject to coverage under the Cash Balance Benefit Program on or after January 1, 2013.

(b) A participant as defined in subdivision (a) does not include a person who was a member on or before December 31, 2012, of the California Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco

Employees' Retirement System, and the person performed service in the other retirement system within the six months prior to the commencement of creditable service under the Cash Balance Benefit Program.

(c) This section shall be deemed to have become operative on January 1, 2013.

SEC. 34. Section 26135.5 is added to the Education Code, to read:

26135.5. "Public employer" means a public employer as defined by subdivision (i) of Section 7522.04 of the Government Code.

SEC. 35. Section 26135.7 is added to the Education Code, to read:

26135.7. (a) "Retired participant activities" means one or more activities identified in subdivision (a) or (b) of Section 22119.5 or (a) or (b) of Section 26113 within the California public school system and performed by a participant retired for service under this part as one of the following:

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

(b) The activities of an employee of a third party shall not be included in the definition of "retired participant activities" if all of the following conditions apply:

- (1) The employee performs an assignment of 24 months or less.
- (2) The third-party employer does not participate in a California public pension system.

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

SEC. 36. Section 26139 of the Education Code is amended to read:

26139. (a) "Salary" means remuneration paid in cash by an employer to a participant for creditable service performed in that position subject to coverage under the Cash Balance Benefit Program. Salary shall include:

(1) Money paid in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule, based on years of training and years of experience as specified in Section 45028 for creditable service performed.

(2) For participants not paid according to a salary schedule, money paid for creditable service performed in accordance with a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement.

(3) Money paid for the participant's absence from performance of creditable service as approved by an employer, except as provided in paragraph (5) of subdivision (b).

(4) Employee contributions picked up by an employer pursuant to Section 26502.

(5) Amounts deducted by an employer from the participant's salary, including, but not limited to, deductions for participation in a deferred compensation plan; deductions for the purchase of an annuity contract, tax-deferred retirement plan, or other insurance program; and deductions for participation in a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(6) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(7) Any other payments the board determines by plan amendment to be “salary.”

(b) “Salary” does not mean and shall not include:

(1) Money paid for service that is not creditable service.

(2) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if not paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(3) Fringe benefits provided by an employer.

(4) Expenses paid or reimbursed by an employer.

(5) Money paid in exchange for the relinquishment of unused accumulated leave.

(6) Severance pay, including lump-sum and installment payments, or money paid in excess of salary or wages to a participant as compensatory damages or as a compromise settlement.

(7) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement program, or other insurance program; and for participation in a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code that are purchased by an employer for a participant.

(8) Any payments determined by the system to have been made by an employer to enhance a participant’s benefits.

(9) Any other payments the board determines by plan amendment not to be “salary.”

(c) Any employer or person who knowingly or willfully reports salary in a manner inconsistent with the provisions of subdivisions (a) or (b) may be subject to prosecution for fraud, theft, or embezzlement in accordance with provisions of the Penal Code. The system may establish procedures to ensure that salary reported by an employer is in compliance with this section.

(d) For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

(e) This section shall be deemed to have become operative on July 1, 1996.

(f) This section shall not apply to a participant subject to the California Public Employees’ Pension Reform Act of 2013.

SEC. 37. Section 26139.5 is added to the Education Code, to read:

26139.5. (a) “Salary,” for participants subject to the California Public Employees’ Pension Reform Act of 2013, means remuneration paid each

pay period in cash by an employer to a participant for creditable service performed in that position subject to coverage under the Cash Balance Benefit Program in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement, based on years of training and years of experience as specified in Section 45028. Salary shall include:

(1) Money paid for the participant's absence from performance of creditable service as approved by an employer, except as provided in paragraph (5) of subdivision (b).

(2) Employee contributions picked up by an employer pursuant to Section 26502.

(3) Amounts deducted by an employer from the participant's salary, including, but not limited to, deductions for participation in a deferred compensation plan; deductions for the purchase of an annuity contract, tax-deferred retirement plan, or other insurance program; and deductions for participation in a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(4) Any other payments the board determines by plan amendment to be "salary."

(b) "Salary" does not mean and shall not include:

(1) Money paid for service that is not creditable service.

(2) Money not paid each pay period in which creditable service is performed for that position.

(3) Fringe benefits provided by an employer.

(4) Expenses paid or reimbursed by an employer.

(5) Money paid in exchange for the relinquishment of unused accumulated leave.

(6) Severance pay, including lump-sum and installment payments, or money paid in excess of salary to a participant as compensatory damages or as a compromise settlement.

(7) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement program, or other insurance program; and for participation in a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code that are purchased by an employer for a participant.

(8) Any payments determined by the system to have been made by an employer to enhance a participant's benefits under the plan.

(9) Money paid to the participant in lieu of benefits provided to the participant by the employer or paid directly by the employer to a third party other than the system for the benefit of the participant.

(10) Any one-time or ad hoc payments made to a participant.

(11) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniform.

(12) Any bonus paid in addition to compensation described in subdivision (a).

(13) Any other payments the board determines by plan amendment not to be “salary.”

(c) (1) Salary in any fiscal year shall not exceed:

(A) One hundred twenty percent of the “contribution and benefit base,” as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a participant whose service is not included in the federal system.

(B) One hundred percent of the “contribution and benefit base,” as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a participant whose service is included in the federal system pursuant to any changes in state or federal law enacted on or after January 1, 2013.

(2) The system shall adjust the limit in paragraph (1) based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February in the fiscal year preceding the adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February of the previous year rounded to the nearest thousandth. Notwithstanding paragraph (1) of subdivision (d) of Section 7522.10 of the Government Code, the adjustment shall be effective annually on July 1, beginning July 1, 2014.

(3) The Legislature reserves the right to modify the requirements of this subdivision with regard to all participants subject to this subdivision, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(d) Any employer or person who knowingly or willfully reports salary in a manner inconsistent with the provisions of subdivisions (a) or (b) may be subject to prosecution for fraud, theft, or embezzlement in accordance with provisions of the Penal Code. The system may establish procedures to ensure that salary reported by an employer is in compliance with this section.

(e) For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

SEC. 38. Section 26503.5 of the Education Code is amended to read:

26503.5. If a person elects, pursuant to Section 26403, to participate in the Cash Balance Benefit Program, his or her employer shall make contributions, as provided in Section 26503, based on the salary or other compensation paid for trustee service. For a participant subject to the California Public Employees’ Pension Reform Act of 2013, other compensation paid for trustee service is subject to the same requirements as “salary” as defined in Section 26139.5.

SEC. 39. Section 26504 of the Education Code is amended to read:

26504. The employer may enter into a collective bargaining agreement to pay a different employer contribution rate and a different employee contribution rate, provided all of the following conditions are met:

(a) The sum of the employee contributions and employer contributions for each participant shall equal or exceed 8 percent of salary.

(b) The employee contribution rate may exceed the employer contribution rate but in no event shall the employer contribution rate be less than 4 percent.

(c) The employee contribution rate shall not be less than the employer contribution rate. If the terms of a collective bargaining agreement that is in effect on January 1, 2014, would be impaired by this subdivision, this subdivision shall not apply to the employer and participants subject to that contract until the expiration of that contract. A renewal, amendment, or any other extension of that contract shall be subject to the requirements of this subdivision.

(d) The employee contribution rate and employer contribution rate shall be the same for each participant employed by the employer.

(e) The employee contribution rate and employer contribution rate shall be in one-quarter percent increments.

(f) The employee contribution rate and employer contribution rate as determined under the collective bargaining agreement shall become effective on the first day of the plan year following notification to the system and shall remain in effect for at least one plan year. However, the employee contribution rate and the employer contribution rate as determined under the collective bargaining agreement may become effective as of the first day of the plan year in which notice is given if it is so provided in the collective bargaining agreement and if a lump-sum contribution is made to the plan equal to the additional employee and employer contributions, if any, that would have been required if the contribution rates had been in effect on the first day of the plan year. Interest shall be credited at the minimum interest rate with respect to the lump-sum contribution commencing with the first month after the contribution is made.

(g) The employer has filed notice of the employee contribution rate and the employer contribution rate on a form prescribed by the system.

SEC. 40. Section 26800 of the Education Code is amended to read:

26800. The normal retirement age for the Cash Balance Benefit Program is 60 years of age, or 62 years of age for a participant subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 41. Section 26810 of the Education Code is amended to read:

26810. (a) A participant who is employed to perform creditable service subject to coverage by the Cash Balance Benefit Program while receiving an annuity under the program may voluntarily terminate the annuity upon employment and make contributions to the program based on salary paid by the employer for the employment, provided the participant has attained normal retirement age and has been receiving a retirement annuity for at least one year. The participant shall continue to be subject to Section 26808.

(b) The participant shall request in writing within 60 days of employment that the annuity be terminated. Termination of the participant's annuity shall become effective on the first day of the month following the month in which verification of the participant's employment is received by the system from the participant's employer.

(c) Upon voluntary termination of the annuity, the employee and employer account of the participant shall be credited with respective balances that reflect the actuarial equivalent of the participant's retirement benefit as of the date the participant terminates the annuity and the Annuitant Reserve shall be reduced by the amount of the credits.

(d) The portion of the annuity derived from the amounts credited to the employee account and employer account, as of the date the participant terminates the annuity, shall be calculated using the actuarial assumptions in effect on the initial retirement date using the age of the participant and, if the participant elected a joint and survivor option the age of the beneficiary on the current retirement date.

(e) Upon election of a subsequent annuity, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

SEC. 42. Section 26812 of the Education Code is amended to read:

26812. (a) A participant retired for service under this part may perform retired participant activities, but the participant shall not make contributions to the plan or accrue service credit under the Defined Benefit Program based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired participant and report those earnings monthly to the system and retired participant.

(b) If a participant is retired for service under this part, the annualized rate of pay for retired participant activities performed by that participant shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A participant retired for service under this part shall not be required to reinstate for performing retired participant activities.

(d) (1) If all of the following apply to a participant retired for service under this part, the participant's annuity shall be reduced by the amount of the compensation:

(A) The participant is receiving an annuity under the Cash Balance Benefit Program.

(B) The participant is below normal retirement age or retired on or after January 1, 2014.

(C) The participant earns compensation paid in cash for performing retired participant activities, excluding reimbursements paid by an employer for expenses incurred by the participant in which payment of the expenses by the participant is substantiated.

(2) The reduction in paragraph (1) shall only be made for compensation paid in cash during the first 180 calendar days after a participant retired for service under this part. The amount of the reduction may be equal to the monthly annuity payable but shall not exceed the amount of the annuity

payable during the first 180 calendar days after a participant retired for service under this part. For written agreements pertaining to the performance of retired participant activities entered into, extended, renewed, or amended on or after January 1, 2014, the reduction in paragraph (1) shall also be made for payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

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

- (1) The nature of the employment.
- (2) A finding that the appointment is necessary to fill a critically needed position before 180 calendar days has passed.
- (3) A finding that the participant is not ineligible for application of this subdivision pursuant to subdivision (g).
- (4) A finding that the termination of employment of the retired participant with the employer is not the basis for the need to acquire the services of the participant.

(f) Subdivision (e) shall not apply to a retired participant whose termination of employment with the employer is the basis for the need to acquire the services of the participant.

(g) Subdivision (e) shall not apply if the participant received additional service credit pursuant to Sections 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, “financial inducement to retire” includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the participant, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature’s intent to make subdivision (e) inapplicable to participants if the participant received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

(h) The superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system to substantiate the eligibility of the retired participant for application of subdivision (e), including, but not limited to, the resolution adopted pursuant to that subdivision.

(i) The documentation required by this section shall be received by the system prior to the retired participant's performance of retired participant activities.

(j) Within 30 calendar days of the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (e) and the retired participant whether the compensation paid to the participant will be subject to the limitation specified in subdivision (d).

SEC. 43. Section 26813 of the Education Code is amended to read:

26813. A member retired for service under the Defined Benefit Program may perform retired participant activities in any one school year up to the limitation specified in Sections 24214 and 24214.5, but the member shall not make contributions to the fund. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.