

AMENDED IN ASSEMBLY JUNE 12, 2014

SENATE BILL

No. 864

**Introduced by ~~Committee on Budget and Fiscal Review~~ Senator
Torres**

(Principal coauthor: Assembly Member Bonta)

January 9, 2014

An act relating to the ~~Budget Act of 2014~~. An act to amend Sections 22140, 22141, 22905, 22955, and 22955.5 of, to add Sections 22002.5, 22901.7, 22957, and 22958 to, and to add and repeal Sections 22311.9, 22950.5, and 22955.1 of, the Education Code, relating to state teachers' retirement, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 864, as amended, ~~Committee on Budget and Fiscal Review~~ Torres. ~~Budget Act of 2014~~. *State teachers' retirement: Defined Benefit Program: funding.*

The State Teacher's Retirement Law (STRL) creates the Defined Benefit Program of the State Teachers' Retirement Plan for the provision of benefits to members of the plan, which is administered by the Teachers' Retirement Board (board). The Defined Benefit Program is funded by employer and employee contributions as well as investment returns and state appropriations. Employee and employer contributions are deposited in the Teachers' Retirement Fund, which is continuously appropriated. The Defined Benefit Program provides for an improvement factor, as defined, to be applied to monthly allowances or benefits of retired members of the system, as specified. STRL specifies that the Legislature reserves the right to adjust the amount of the improvement factor as economic conditions dictate, provided that an

adjustment is prohibited from reducing the retirement allowance, annuity, or benefit below that which would have been payable to the recipient. Existing case law holds that the right to a pension is a contractually protected vested right and that the specific provisions of a pension system that a member earns through employment may be modified to the detriment of the member only if a comparable new advantage is provided.

This bill, beginning July 1, 2014, would vest the improvement factor, as described above, as a benefit for an active member in any calendar year in which active members paid increased member contributions, pursuant to specified provisions. The bill would condition this vesting on the increased member contributions and if those contributions cease to be required, the Legislature would reserve the right to adjust the improvement factor, as specified. The bill would state that the vesting of the improvement factor is a comparable new advantage provided in exchange for the contribution increases and is contractually enforceable.

The bill would also increase employer and state contributions to the Defined Benefit Program according to prescribed schedules, to be operative until July 1, 2046, or until the Director of Finance makes a certain determination of the status of these increases in connection with constitutionally required funding for schools or reimbursable mandates for local entities and provides notice of that determination, as specified. By increasing amounts deposited in a continuously appropriated fund, this bill would make an appropriation.

This bill would prescribe requirements for any action or proceeding challenging the validity of any matter authorized by its provisions, including that any challenge be filed within 60 days. The bill would require, until July 1, 2046, that the Teachers' Retirement Board report to the Legislature on or before July 1, 2019, and every 5 years thereafter, on the fiscal health of the Defined Benefit Program and the unfunded actuarial obligation with respect to the service of certain members and funding adjustments needed to eliminate by June 30, 2046, those obligations, among other things. The bill would prescribe how excess contributions to the Defined Benefit Supplement account are to be returned. The bill make certain findings and declarations and conforming changes. The bill would provide that its provisions are not severable.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2014.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 SECTION 1. Section 22002.5 is added to the Education Code,
2 to read:

3 22002.5. The Legislature finds and declares all of the
4 following:

5 (a) The current and projected assets of the State Teachers'
6 Retirement Plan administered by the State Teachers' Retirement
7 System with respect to the Defined Benefit Program are insufficient
8 to meet the obligations of that program already accrued or
9 projected to be accrued in the future with respect to service
10 credited to members of that program before July 1, 2014.

11 (b) Various legal rulings have determined that vested
12 contractual rights of existing members generally cannot be changed
13 without providing a comparable new advantage.

14 (c) The improvement factor currently provided under the Defined
15 Benefit Program pursuant to Sections 22140 and 22141, as those
16 sections read before July 1, 2014, is not a contractually enforceable
17 promise.

18 (d) The Legislature hereby increases the contributions of active
19 members by an amount not to exceed the normal cost of the
20 improvement factor, providing a comparable new advantage by
21 removing the statutory right to adjust the improvement factor, and
22 thereby establishing the improvement factor as a contractually
23 enforceable promise.

24 (e) The statutory changes adopted by the act that added this
25 section address the long-term funding needs of the Defined Benefit
26 Program in a manner that allocates increased contributions among
27 members of the system and school employers, consistent with the
28 contractual rights of existing members.

29 (f) The provisions of the act that added this section were based
30 on various legal understandings and would not have been adopted
31 without those understandings. The new obligations and benefits
32 provided in Sections 7 and 9 of the act adding this section are
33 contingent on those legal understandings being accurate. Thus if

1 *there is a final unappealable judicial decision that holds that the*
2 *increased contributions in Section 22950.5 constitute a new*
3 *functional responsibility for schools and community colleges*
4 *pursuant to subdivision (c) of Section 41204, and correspondingly*
5 *require an adjustment pursuant to subdivision (b) of Section 8 of*
6 *Article XVI of the California Constitution, or a final unappealable*
7 *administrative or judicial decision that holds that the increased*
8 *contributions in Section 22950.5 constitutes a reimbursable*
9 *mandate pursuant to Article XIII B of the California Constitution,*
10 *then it is the intent of the Legislature that the provisions added by*
11 *the act adding this section shall cease to be effective.*

12 *(g) It is in the public interest and a matter of urgency to*
13 *authorize, and to implement as soon as possible, a remedy to the*
14 *funding problem of the system. This remedy is necessary to ensure*
15 *that funds will be available to support a pension system upon which*
16 *hundreds of thousands of teachers rely and for which the current*
17 *funding structure raises significant fiscal policy concerns.*

18 *(h) It is of great importance to the state, the system, and school*
19 *districts that there not be long term doubt about the feasibility of*
20 *the solutions provided in the act that added this section. In order*
21 *to fulfill the important objective of facilitating the system's and*
22 *school districts' financial transactions the legality of the act that*
23 *added this section must be quickly affirmed. The system, school*
24 *districts, and teachers need to settle promptly all questions about*
25 *the validity of each other's duties and obligations under this*
26 *statute.*

27 *(i) It is well-established that the terms and conditions of public*
28 *retirement plans generally are established by statute or other*
29 *comparable enactment rather than by contract. Statutes governing*
30 *the terms of compensation and deferred compensation of public*
31 *employees are thus significant financial obligations contemplated*
32 *and covered by Chapter 9 (commencing with Section 860) of Title*
33 *10 of Part 2 of the Code of Civil Procedure.*

34 *SEC. 2. Section 22140 of the Education Code is amended to*
35 *read:*

36 22140. (a) "Improvement factor," with respect to the Defined
37 Benefit Program, means an increase of 2 percent in monthly
38 allowances. The improvement factor shall be added to a monthly
39 allowance each year on September 1, commencing on September
40 1 following the first anniversary of the effective date of retirement,

1 or the date on which the monthly allowance commenced to accrue
2 to any beneficiary, or other periods specifically stated in this part.

3 (b) The improvement factor may not be compounded nor shall
4 it be applicable to annuities payable from the accumulated annuity
5 deposit contributions or the accumulated tax-sheltered annuity
6 contributions. ~~The~~

7 (c) *Beginning July 1, 2014, the improvement factor shall vest*
8 *for an active member in any calendar year in which active members*
9 *paid increased member contributions pursuant to Section 22901.7.*

10 (d) *If, for any reason, the increased employee contribution*
11 *referenced in subdivision (c), and as required by subdivisions (a)*
12 *and (b) of Section 22901.7, ceases to be legally required to be*
13 *made pursuant to the act that added this subdivision, then the*
14 *Legislature reserves the right to adjust the amount of the*
15 *improvement factor up or down as the economic conditions dictate*
16 *for all members who retire on or after January 1, 2014. No*
17 *adjustments of the improvement factor shall reduce the monthly*
18 *retirement allowance or benefit below that which would be payable*
19 *to the recipient under this part had this section not been enacted.*

20 (e) *For members who retired before the calendar year in which*
21 *Section 22901.7 was added the Legislature reserves the right to*
22 *adjust the amount of the improvement factor up or down as*
23 *economic conditions dictate. Any adjustment of the improvement*
24 *factor may not reduce the monthly retirement allowance or annuity*
25 *below that which would be payable to the recipient under this part*
26 *had this section not been enacted.*

27 *SEC. 3. Section 22141 of the Education Code is amended to*
28 *read:*

29 22141. (a) Notwithstanding Section 22140, “improvement
30 factor” means an increase of 2 percent in benefits provided under
31 Sections 24408 and 24409 for each year commencing on September
32 1, 1981, and under Section 24410.5 for each year commencing
33 September 1, 2001, and under Sections 24410.6 and 24110.7 for
34 each year commencing September 1, 2002. The factor shall not
35 be compounded nor shall it be applicable to annuities payable from
36 the accumulated annuity deposit contributions or the accumulated
37 tax-sheltered annuity contributions. The Legislature reserves the
38 right to adjust the amount of the improvement factor up or down
39 as the economic conditions dictate. No adjustments of the
40 improvement factor shall reduce the monthly retirement allowance

1 or benefit below that which would be payable to the recipient under
2 this part had this section not been enacted.

3 *(b) Beginning July 1, 2014, the improvement factor shall vest*
4 *for an active member in any calendar year in which active members*
5 *paid increased member contributions pursuant to Section 22901.7.*

6 *(c) If, for any reason, the increased employee contribution*
7 *referenced in subdivision (b), and as required by subdivisions (a)*
8 *and (b) of Section 22901.7, ceases to be legally required to be*
9 *made pursuant to the act that added this subdivision, then the*
10 *Legislature reserves the right to adjust the amount of the*
11 *improvement factor up or down as the economic conditions dictate*
12 *for all members who retire on or after January 1, 2014. No*
13 *adjustments of the improvement factor shall reduce the monthly*
14 *retirement allowance or benefit below that which would be payable*
15 *to the recipient under this part had this section not been enacted.*

16 *(d) For members who retired before the calendar year in which*
17 *Section 22901.7 was added, the Legislature reserves the right to*
18 *adjust the amount of the improvement factor up or down as the*
19 *economic conditions dictate. No adjustments of the improvement*
20 *factor shall reduce the monthly retirement allowance or benefit*
21 *below that which would be payable to the recipient under this part*
22 *had this section not been enacted.*

23 SEC. 4. Section 22311.9 is added to the Education Code, to
24 read:

25 22311.9. *(a) The board shall report to the Legislature on or*
26 *before July 1, 2019, and every five years thereafter, on the fiscal*
27 *health of the Defined Benefit Program and the unfunded actuarial*
28 *obligation with respect to service credited to members of that*
29 *program before July 1, 2014. The first report shall include the*
30 *unfunded actuarial obligation and funded ratio as of the date of*
31 *enactment of this section and compare that with the unfunded*
32 *actuarial obligation and funded ratio as of June 30, 2018, and the*
33 *projected unfunded actuarial obligation and funded ratio as of*
34 *June 30, 2046, based on contributions, and economic and*
35 *demographic assumptions identified in the June 30, 2018, actuarial*
36 *valuation. The report shall also identify adjustments required in*
37 *contribution rates in order to eliminate by June 30, 2046, the*
38 *unfunded actuarial obligation of the Defined Benefit Program with*
39 *respect to service credited to members of that program before July*
40 *1, 2014. Subsequent reports shall include the unfunded actuarial*

1 obligation and the funded ratio of the Defined Benefit Program
2 based on the actuarial valuation of the preceding year, and shall
3 identify adjustments required in contribution rates in order to
4 eliminate by June 30, 2046, the unfunded actuarial obligation of
5 the Defined Benefit Program with respect to service credited to
6 members of that program before July 1, 2014. These reports shall
7 be provided consistent with the requirements of Section 9795 of
8 the Government Code.

9 (b) This section shall become inoperative on July 1, 2046, and
10 as of January 1, 2047, is repealed.

11 SEC. 5. Section 22901.7 is added to the Education Code, to
12 read:

13 22901.7. (a) Commencing July 1, 2014, the amount of
14 contributions required under subdivision (a) of Section 22901 and
15 Section 22901.3 as it applies to a member who is not subject to
16 the Public Employees' Pension Reform Act of 2013 shall increase
17 by the percentage of the member's compensation that is creditable
18 to the Defined Benefit Program as follows:

19 (1) On July 1, 2014, by 0.15 percent.

20 (2) On July 1, 2015, by 1.20 percent.

21 (3) On July 1, 2016, by 2.25 percent.

22 (b) Commencing July 1, 2014, the amount of contributions
23 required under subdivision (b) of Section 22901 and Section
24 22901.3 as it applies to members who are subject to the Public
25 Employees' Pension Reform Act of 2013 shall increase by the
26 following percentages of the member's compensation that is
27 creditable to the Defined Benefit Program as follows:

28 (1) On July 1, 2014, by 0.15 percent.

29 (2) On July 1, 2015, by 0.56 percent.

30 (3) On July 1, 2016, by 1.205 percent.

31 (c) The act adding this section establishes the improvement
32 factor provided pursuant to Sections 22140 and 22141 as a vested
33 benefit pursuant to a contractually enforceable promise and a
34 comparable new advantage in exchange for the contribution
35 increases made pursuant to this section.

36 SEC. 6. Section 22905 of the Education Code is amended to
37 read:

38 22905. (a) Member contributions pursuant to ~~Section~~ Sections
39 22901, 22901.3, and 22901.7, employer contributions pursuant to
40 Section 22903 or 22904, and member contributions made by an

1 employer pursuant to Section 22909 shall be credited to the
2 member's individual account under the Defined Benefit Program
3 or the Defined Benefit Supplement Program, whichever is
4 applicable pursuant to the provisions of this part.

5 (b) Except as provided in subdivision ~~(f)~~, (g), member and
6 employer contributions, exclusive of contributions pursuant to
7 ~~Section~~ Sections 22901.7, 22950.5, and 22951, on a member's
8 compensation under the following circumstances shall be credited
9 to the member's Defined Benefit Supplement account:

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

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

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

17 (c) A member may not make voluntary pretax or posttax
18 contributions under the Defined Benefit Supplement Program,
19 except as provided in subdivision (d), nor may a member redeposit
20 amounts previously distributed based on the balance in the
21 member's Defined Benefit Supplement account.

22 (d) Member and employer contributions pursuant to paragraph
23 (1) of subdivision (b) under the Defined Benefit Supplement
24 Program shall be credited to the accounts of members as of July
25 1 each year following a determination by the system under the
26 provisions of this part that those contributions should be credited
27 to the Defined Benefit Supplement Program. Any other
28 contributions under the Defined Benefit Supplement Program
29 pursuant to paragraph (2) or (3) of subdivision (b), shall be credited
30 to the individual account of the member upon receipt by the system.
31 Contributions to a member's Defined Benefit Supplement account
32 shall be identified separately from the member's contributions
33 credited under the Defined Benefit Program.

34 (e) *Any contributions on compensation that is creditable to the*
35 *Defined Benefit Supplement account shall be limited to the*
36 *contributions made pursuant to Sections 22901, 22901.3, 22950,*
37 *and 22951. Any excess member contributions, as determined by*
38 *the system, shall be returned to the member through the employer*
39 *and any excess employer contributions shall be returned to the*
40 *employer.*

1 (e)

2 (f) The provisions of this section shall become operative on July
3 1, 2002, if the revenue limit cost-of-living adjustment computed
4 by the Superintendent of Public Instruction for the 2001–02 fiscal
5 year is equal to or greater than 3.5 percent. Otherwise this section
6 shall become operative on July 1, 2003.

7 (f)

8 (g) Paragraphs (2) and (3) of subdivision (b) shall not apply to
9 a member subject to the California Public Employees’ Pension
10 Reform Act of 2013.

11 *SEC. 7. Section 22950.5 is added to the Education Code, to*
12 *read:*

13 *22950.5. (a) Commencing July 1, 2014, the amount of*
14 *contributions required under subdivision (a) of Section 22950*
15 *shall increase by the following percentages of the creditable*
16 *compensation upon which members’ contributions under the*
17 *Defined Benefit Program are based:*

18 (1) *On July 1, 2014, by 0.63 percent.*

19 (2) *On July 1, 2015, by 2.48 percent.*

20 (3) *On July 1, 2016, by 4.33 percent.*

21 (4) *On July 1, 2017, by 6.18 percent.*

22 (5) *On July 1, 2018, by 8.03 percent.*

23 (6) *On July 1, 2019, by 9.88 percent.*

24 (7) *On July 1, 2020, by 10.85 percent.*

25 (b) (1) *For fiscal year 2021–22 and each fiscal year thereafter,*
26 *the board shall increase or decrease the percentages paid specified*
27 *in this section from the percentage paid during the prior fiscal*
28 *year to reflect the contribution required to eliminate by June 30,*
29 *2046, the remaining unfunded actuarial obligation with respect*
30 *to service credited to members before July 1, 2014, as determined*
31 *by the board based upon a recommendation from its actuary.*

32 (2) *If a rate adjustment is required, the percentages authorized*
33 *in paragraph (1) shall not change in any single fiscal year by more*
34 *than 1.00 percent of the creditable compensation upon which*
35 *members’ contributions to the Defined Benefit Program are based.*
36 *The percentages described in subdivision (a) and as may be*
37 *adjusted pursuant to this subdivision shall not exceed 12.00 percent*
38 *of the creditable compensation upon which members’ contributions*
39 *to the Defined Benefit Program are based, inclusive of the*
40 *percentages identified in subdivision (a).*

1 (3) *The board shall not increase the rates in order to supplant*
2 *the state's obligation pursuant to Section 22955.1.*

3 (c) (1) *Except as described in paragraph (2), this section shall*
4 *become inoperative on July 1, 2046, and as of January 1, 2047,*
5 *is repealed.*

6 (2) *Notwithstanding paragraph (1), on July 1 of the first fiscal*
7 *year after a 30-day notice has been sent to the Joint Legislative*
8 *Budget Committee and the Controller in compliance with*
9 *subdivision (d) of Section 22957, this section shall become*
10 *inoperative and, as of the following January 1, is repealed.*

11 SEC. 8. *Section 22955 of the Education Code is amended to*
12 *read:*

13 22955. (a) Notwithstanding Section 13340 of the Government
14 Code, commencing July 1, 2003, a continuous appropriation is
15 hereby annually made from the General Fund to the Controller,
16 pursuant to this section, for transfer to the Teachers' Retirement
17 Fund. The total amount of the appropriation for each year shall be
18 equal to 2.017 percent of the total of the creditable compensation
19 of the fiscal year ending in the immediately preceding calendar
20 year upon which members' contributions are based, as reported
21 annually to the Director of Finance, the Chairperson of the Joint
22 Legislative Budget Committee, and the Legislative Analyst
23 pursuant to Section 22955.5, and shall be divided into four equal
24 payments. The payments shall be made on, or the following
25 business day after, July 1, October 1, December 15, and April 15
26 of each fiscal year.

27 (b) Notwithstanding Section 13340 of the Government Code,
28 commencing October 1, 2003, a continuous appropriation, in
29 addition to the appropriation made by subdivision (a), is hereby
30 annually made from the General Fund to the Controller for transfer
31 to the Teachers' Retirement Fund. The total amount of the
32 appropriation for each year shall be equal to 0.524 percent of the
33 total of the creditable compensation of the fiscal year ending in
34 the immediately preceding calendar year upon which members'
35 contributions are based, as reported annually to the Director of
36 Finance, the Chairperson of the Joint Legislative Budget
37 Committee, and the Legislative Analyst pursuant to Section
38 22955.5, and shall be divided into four equal quarterly payments.
39 The percentage shall be adjusted to reflect the contribution required
40 to fund the normal cost deficit or the unfunded obligation as

1 determined by the board based upon a recommendation from its
2 actuary. If a rate increase is required, the adjustment may be for
3 no more than 0.25 percent per year and in no case may the transfer
4 made pursuant to this subdivision exceed 1.505 percent of the total
5 of the creditable compensation of the fiscal year ending in the
6 immediately preceding calendar year upon which members’
7 contributions are based. At any time when there is neither an
8 unfunded obligation nor a normal cost deficit, the percentage shall
9 be reduced to zero. The funds transferred pursuant to this
10 subdivision shall first be applied to eliminating on or before June
11 30, 2027, the unfunded actuarial liability of the fund identified in
12 the actuarial valuation as of June 30, 1997.

13 (c) For the purposes of this section, the term “normal cost
14 deficit” means the difference between the normal cost rate as
15 determined in the actuarial valuation required by Section 22311
16 and the total of the member contribution rate required under Section
17 22901 and the employer contribution rate required under Section
18 22950, and shall exclude (1) the portion for unused sick leave
19 service credit granted pursuant to Section 22717, and (2) the cost
20 of benefit increases that occur after July 1, 1990. The contribution
21 rates prescribed in Section 22901 and Section 22950 on July 1,
22 1990, shall be utilized to make the calculations. The normal cost
23 deficit shall then be multiplied by the total of the creditable
24 compensation upon which member contributions under this part
25 are based to determine the dollar amount of the normal cost deficit
26 for the year.

27 (d) Pursuant to Section 22001 and case law, members are
28 entitled to a financially sound retirement system. It is the intent of
29 the Legislature that this section shall provide the retirement fund
30 stable and full funding over the long term.

31 (e) This section continues in effect but in a somewhat different
32 form, fully performs, and does not in any way unreasonably impair,
33 the contractual obligations determined by the court in California
34 Teachers’ Association v. Cory, 155 Cal.App.3d 494.

35 (f) Subdivision (b) shall not be construed to be applicable to
36 any unfunded liability resulting from any benefit increase or change
37 in contribution rate under this part that occurs after July 1, 1990.

38 (g) The provisions of this section shall be construed and
39 implemented to be in conformity with the judicial intent expressed

1 by the court in California Teachers' Association v. Cory, 155
2 Cal.App.3d 494.

3 ~~(h) This section—Subdivisions (a) through (g), inclusive, shall~~
4 ~~become operative~~ *be inoperative on and after July 1, 2003, if the*
5 ~~revenue limit cost-of-living adjustment computed by the~~
6 ~~Superintendent of Public Instruction for the 2001–02 fiscal year~~
7 ~~is equal to or greater than 3.5 percent. Otherwise this section shall~~
8 ~~become operative on July 1, 2004.~~ *2014, and shall become*
9 *operative beginning the earlier of July 1, 2046, or July 1 of the*
10 *first fiscal year after a 30-day notice has been sent to the Joint*
11 *Legislative Budget Committee and the Controller in compliance*
12 *with subdivision (d) of Section 22957.*

13 *SEC. 9. Section 22955.1 is added to the Education Code, to*
14 *read:*

15 *22955.1. (a) Notwithstanding Section 13340 of the Government*
16 *Code, commencing July 1, 2003, a continuous appropriation is*
17 *hereby annually made from the General Fund to the Controller;*
18 *pursuant to this section, for transfer to the Teachers' Retirement*
19 *Fund. The total amount of the appropriation for each year shall*
20 *be equal to 2.017 percent of the total of the creditable*
21 *compensation of the fiscal year ending in the immediately*
22 *preceding calendar year upon which members' contributions are*
23 *based, as reported annually to the Director of Finance, the*
24 *Chairperson of the Joint Legislative Budget Committee, and the*
25 *Legislative Analyst pursuant to Section 22955.5, and shall be*
26 *divided into four equal payments. The payments shall be made on,*
27 *or the following business day after, July 1, October 1, December*
28 *15, and April 15 of each fiscal year.*

29 *(b) (1) Commencing July 1, 2014, the amount of the*
30 *appropriation required under subdivision (a) shall increase by the*
31 *following percentages of the creditable compensation upon which*
32 *that appropriation is based:*

33 *(A) On July 1, 2014, by 1.437 percent.*

34 *(B) On July 1, 2015, by 2.874 percent.*

35 *(C) On July 1, 2016, by 4.311 percent.*

36 *(2) For fiscal year 2017–18 and each fiscal year thereafter, the*
37 *board shall increase or decrease the percentage specified in this*
38 *subdivision from the percentage paid during the prior fiscal year*
39 *to reflect the contribution required to eliminate the remaining*
40 *unfunded actuarial obligation, as determined by the board based*

1 upon a recommendation from its actuary. If a rate increase is
2 required, the adjustment may be for no more than 0.50 percent
3 per year of the total of the creditable compensation of the fiscal
4 year ending in the immediately preceding calendar year upon
5 which members' contributions are based. At any time when there
6 is not an unfunded actuarial obligation as determined by the board,
7 the percentage specified in this subdivision shall be reduced to
8 zero.

9 (c) Pursuant to Section 22001 and case law, members are
10 entitled to a financially sound retirement system. It is the intent of
11 the Legislature that this section shall provide the retirement fund
12 stable and full funding over the long term.

13 (d) This section continues in effect but in a somewhat different
14 form, fully performs, and does not in any way unreasonably impair,
15 the contractual obligations determined by the court in California
16 Teachers' Association v. Cory, 155 Cal.App.3d 494.

17 (e) Subdivision (b) shall not be construed to be applicable to
18 any unfunded actuarial obligation resulting from any benefit
19 increase or change in member or employer contribution rate under
20 this part that occurs after July 1, 1990.

21 (f) The provisions of this section shall be construed and
22 implemented to be in conformity with the judicial intent expressed
23 by the court in California Teachers' Association v. Cory, 155
24 Cal.App.3d 494.

25 (g) (1) Except as described in paragraph (2), this section shall
26 become inoperative on July 1, 2046, and as of January 1, 2047,
27 is repealed.

28 (2) Notwithstanding paragraph (1), on July 1 of the first fiscal
29 year after a 30-day notice has been sent to the Joint Legislative
30 Budget Committee and the Controller in compliance with
31 subdivision (d) of Section 22957, this section shall become
32 inoperative and, as of the following January 1, is repealed.

33 SEC. 10. Section 22955.5 of the Education Code is amended
34 to read:

35 22955.5. (a) For purposes of Sections ~~22954~~ 22954, 22955,
36 and ~~22955~~, 22955.1, "creditable compensation" shall include only
37 creditable compensation for which member contributions are
38 credited under the Defined Benefit Program.

39 (b) On or after October 1 and on or before October 25 of each
40 year, beginning in 2008, the board shall calculate the total amount

1 of creditable compensation for the fiscal year that ended on the
2 immediately preceding June 30. For the purpose of informing the
3 Department of Finance and the Legislature of the amount of the
4 state's appropriations pursuant to Sections ~~22954~~ 22954, 22955,
5 and ~~22955~~ 22955.1 in the next fiscal year, the system shall
6 immediately submit a report that includes this calculation to the
7 Director of Finance, the Chairperson of the Joint Legislative Budget
8 Committee, and the Legislative Analyst.

9 (c) After submission of the report described in subdivision (b),
10 on or before the April 15 after submission of the report described
11 in subdivision (b), the system shall notify the Director of Finance,
12 the Chairperson of the Joint Legislative Budget Committee, and
13 the Legislative Analyst of any revisions in its calculation of the
14 total amount of creditable compensation for the fiscal year that
15 ended on the immediately preceding June 30.

16 (d) The last revised calculation submitted pursuant to subdivision
17 (c) on or before April 15 of each year or, if no such revised
18 calculation is submitted, the calculation in the report submitted
19 pursuant to subdivision (b) shall be the calculation of creditable
20 compensation upon which the state's appropriations pursuant to
21 Sections ~~22954~~ 22954, 22955, and ~~22955~~ 22955.1 will be based
22 in the next fiscal year. On or after April 15 and on or before May
23 1 of each year, the system shall submit to the Controller a copy of
24 this calculation, along with a requested schedule of transfers to be
25 made pursuant to the appropriations in Sections ~~22954~~ 22954,
26 22955, and ~~22955~~ 22955.1 in the next fiscal year beginning on the
27 next July 1. The system shall also provide a copy of this schedule
28 to the Director of Finance and the Legislative Analyst.

29 *SEC. 11. Section 22957 is added to the Education Code, to*
30 *read:*

31 *22957. (a) The Legislature hereby finds and declares that the*
32 *provisions of Section 22950.5 do not constitute a new functional*
33 *responsibility for schools and community colleges pursuant to*
34 *subdivision (c) of Section 41204, and do not require an adjustment*
35 *pursuant to subdivision (b) of Section 8 of Article XVI of the*
36 *California Constitution. The Legislature further finds and declares*
37 *that the provisions of Section 22950.5 do not constitute a*
38 *reimbursable mandate for school districts pursuant to Article*
39 *XIII B of the California Constitution. Any challenge to these*
40 *findings shall be filed in Sacramento Superior Court within 60*

1 *days of the effective date of the act adding this section. Any action*
2 *so filed shall be consolidated with any action filed pursuant to*
3 *Section 22958.*

4 *(b) On or before June 1 of each year, the Director of Finance*
5 *shall determine if an adjustment to the constitutional minimum*
6 *guarantee of funding for schools shall be made pursuant to a final,*
7 *unappealable judicial decision holding that the increased*
8 *contributions in Section 22950.5 constitute a new functional*
9 *responsibility for schools and community colleges, pursuant to*
10 *subdivision (c) of Section 41204, or any other final, unappealable,*
11 *judicial decision holding that the increased contributions in Section*
12 *22950.5 require an adjustment in funding provided to schools and*
13 *community colleges pursuant to subdivision (b) of Section 8 of*
14 *Article XVI of the California Constitution. If the Director of*
15 *Finance estimates that an adjustment will require increased*
16 *General Fund expenditures of more than ten million dollars*
17 *(\$10,000,000), then the determination described in this subdivision*
18 *shall be considered to have been met. This estimate shall be*
19 *calculated solely within the discretion of the Director of Finance.*

20 *(c) On or before June 1 of each year, the Director of Finance*
21 *shall determine if any amounts are needed to fund school districts*
22 *or other local governments due to a final unappealable*
23 *administrative or judicial decision holding that the increased*
24 *contributions in Section 22950.5 constitute a reimbursable mandate*
25 *pursuant to Article XIII B of the California Constitution. If the*
26 *Director of Finance estimates that the cost of the mandate is more*
27 *than ten million dollars (\$10,000,000), then the determination*
28 *described in this subdivision shall be considered to have been met.*
29 *This estimate shall be solely within the discretion of the Director*
30 *of Finance, and the director need not wait for a final cost estimate,*
31 *nor any other administrative determination, from the Commission*
32 *of State Mandates prior to making this determination.*

33 *(d) If, before June 1 of each year, the Director of Finance*
34 *determines that the determinations described in subdivisions (b)*
35 *or (c) have been met, then the Director of Finance shall*
36 *immediately notify, in writing, the Joint Legislative Budget*
37 *Committee and the Controller of this determination.*

38 *SEC. 12. Section 22958 is added to the Education Code, to*
39 *read:*

1 22958. (a) Any action or proceeding challenging the validity
2 of any matter authorized by the act adding this section by any
3 person or entity shall be brought in accordance with, and within
4 the time specified in, Chapter 9 (commencing with Section 860)
5 of Title 10 of Part 2 of the Code of Civil Procedure.

6 (b) This section provides the authorization for all entities
7 referenced in the act adding this section as required by Section
8 860 of the Code of Civil Procedure.

9 (c) Any action initiated pursuant to this section shall be brought
10 in the Superior Court of the County of Sacramento.

11 SEC. 13. (a) None of the provisions of this act are severable.
12 All of the sections together are the complete operative expression
13 of legislative intent. The Legislature inextricably connects the
14 policies and goals of these sections together and would not enact
15 the provisions separately.

16 (b) If any provision of this act or application of any section of
17 this act to a person or circumstances is held by a court of
18 competent jurisdiction to be invalid, unenforceable, or not binding
19 on any person then this finding shall invalidate the other provisions
20 and applications of this act in its entirety.

21 (c) The provisions of this act were based on various legal
22 understandings and would not have been adopted without those
23 understandings. Thus, if a final unappealable judicial decision
24 holds that the increased contributions set out in Section 22950.5
25 constitute a new functional responsibility for schools and
26 community colleges pursuant to subdivision (c) of Section 41204,
27 and correspondingly require an adjustment pursuant to subdivision
28 (b) of Section 8 of Article XVI of the California Constitution, then
29 Sections 5, 7, and 9 of this act shall be inoperable.

30 (d) The provisions of this act were based on various legal
31 understandings and would not have been adopted without those
32 understandings. Thus, if a final unappealable administrative or
33 judicial decision holds that the increased contributions set out in
34 Section 22950.5 constitutes a reimbursable mandate pursuant to
35 Article XIII B of the California Constitution, then Sections 5, 7,
36 and 9 of this act shall be inoperable.

37 SEC. 14. This act is a bill providing for appropriations related
38 to the Budget Bill within the meaning of subdivision (e) of Section
39 12 of Article IV of the California Constitution, has been identified

1 *as related to the budget in the Budget Bill, and shall take effect*
2 *immediately.*
3 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
4 ~~changes relating to the Budget Act of 2014.~~

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