

ASSEMBLY BILL

No. 991

Introduced by Committee on Public Employees, Retirement, and Social Security (Assembly Members Bonta (Chair), Cooley, Jones-Sawyer, O'Donnell, and Rendon)

February 26, 2015

An act to amend Sections 22001.5, 22121, 22141, 22404, 22509, 22714, 22900, 22903, 22950, 23001, 24114, 24214, 24214.5, 26000, 26002.5, 26132, 26400, 26506, 26806, 26807.6, 26812, 26906.6, and 27100 of, and to add Section 26142.5 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 991, as introduced, Committee on Public Employees, Retirement, and Social Security. State teachers' retirement.

Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is governed by the Teachers' Retirement Board. Existing law defines credited service for these purposes as service from which required contributions have been paid. Existing law permits the board to amend the plan to dispense with payment for amounts less than \$10. Existing law permits specified employers participating in STRS, if it is in the best interests of the school district or office of education, to grant an additional 2 years of service credit in order to encourage retirement, if specified conditions are met. Existing law authorizes specified payments made pursuant to the Teachers' Retirement Law,

including disability retirement benefits and compensation for postretirement activities, to be reduced if they are in excess of specified limits. Existing law permits members retired for disability or service from STRS to perform member activities without reinstatement into the system if certain conditions are met.

This bill would revise the definition of credited service for purposes of STRS to include service for which required contributions would have been made in absence of specified federal limits. The bill would revise the provisions authorizing the board to dispense with the payment for amounts less than \$10 to be more specific in regard to the types of payments and to include adjustments to those payments. The bill would require, in regard to the grant of additional service credit to encourage retirement, to require as a condition of that grant that necessary documentation be provided to the retirement system within a specified time. The bill would make various technical changes to accurately cross-reference current law regarding contributions to fund the system. The bill would specify how reductions in payments are to be made in connection with the amount received in a particular month. The bill would make other technical, conforming changes, and corrections.

Existing law establishes the Cash Balance Benefit Program, administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service. Existing law states legislative findings and declarations regarding the purpose of the Cash Balance Plan offered pursuant to the program. Existing law defines a participant for these purposes and prescribes the circumstances pursuant to which a person is permitted to participate in the program and how participation may be terminated and service be subject to the Defined Benefit Program offered by STRS. Existing law provides that the normal form of retirement benefit under the Cash Balance Benefit Program is a lump-sum payment.

This bill would revise the statement of legislative findings regarding the Cash Balance Benefit Program to specify that it applies to a person working for an employer, except a community college district, that offers the plan, a person who is employed on temporary basis, as specified, by a community college district offering the plan, or a person employed as a substitute employee. The bill would revise the definition of a participant in the plan to require that he or she has not received a lump-sum retirement benefit, as specified. The bill would define the

system’s headquarters office for purposes of the program. The bill would revise the circumstances pursuant to which a person providing creditable service would be eligible to participate in the plan with reference to whether a person has elected an alternative retirement program, whether a participant’s employment with a community college district precludes continued participation in the plan, and how a substitute employee may become and remain a member of the plan. The bill would prohibit payment of a lump-sum retirement benefit before 180 days have elapsed following termination of employment and would require automatic termination of an application for the retirement benefit based on the participant performing creditable service with 180 days of terminating employment, except as specified. The bill would specify how reductions in payments under the Cash Balance Benefit Program are to be made in connection with the amount received in a particular month. The bill would require, with regard to a participant retired for service, that the retired participant application for the retirement benefit be canceled automatically if he or she is anticipated to receive the retirement in a lump-sum payment and earns compensation for performing creditable service with 180 days after termination of employment. The bill would make other technical, conforming changes, and corrections in the Cash Balance Benefit Program.

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

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

1 SECTION 1. Section 22001.5 of the Education Code is
 2 amended to read:
 3 22001.5. The Legislature hereby finds and declares that on
 4 July 1, 1996, the State Teachers’ Retirement System Cash Balance
 5 Plan was created and established to provide a retirement plan for
 6 persons employed *by an employer offering the Cash Balance Plan,*
 7 *excluding community college districts,* to perform creditable service
 8 for less than 50 percent of the full-time equivalent for the position
 9 *or employed by a community college district offering the Cash*
 10 *Balance Plan to perform creditable service on a temporary basis*
 11 *pursuant to Section 87474, 87478, 87480, 87481, 87482, or*
 12 *87482.5, or employed by an employer offering the Cash Balance*
 13 *Plan to perform creditable service as a substitute employee.* The
 14 persons eligible for the Cash Balance Plan were excluded from

1 mandatory membership in the State Teachers' Retirement System
2 Defined Benefit Plan. Both plans are administered by the Teachers'
3 Retirement Board. Prior to the creation and establishment of the
4 Cash Balance Plan, the State Teachers' Retirement System Defined
5 Benefit Plan had been identified simply as the State Teachers'
6 Retirement System. As a result, the system was identified as both
7 the administrative body and the retirement plan. The State
8 Teachers' Retirement Law was amended to identify the retirement
9 plan as the State Teachers' Retirement System Defined Benefit
10 Plan in order to distinguish that plan from the Cash Balance Plan.
11 Because both plans were intended to provide for the retirement of
12 teachers and other persons employed in connection with public
13 schools of this state and schools supported by this state, a merger
14 of these two plans is now hereby made for the purpose of
15 establishing a single retirement plan that shall be known and may
16 be cited as the State Teachers' Retirement Plan consisting of the
17 different benefit programs set forth in this part and Part 14
18 (commencing with Section 26000). This plan shall be administered
19 by the Teachers' Retirement Board as set forth in this part and Part
20 14 (commencing with Section 26000). This part, together with
21 Part 14 (commencing with Section 26000) shall be known and
22 may be cited as the Teachers' Retirement Law.

23 SEC. 2. Section 22121 of the Education Code is amended to
24 read:

25 22121. (a) "Credited service" means service for which the
26 required contributions have been paid *and service for which*
27 *required contributions would have been paid in absence of the*
28 *limit prescribed by Section 401(a)(17) of Title 26 of the United*
29 *States Code as described in Section 22317.5.*

30 (b) "Credited service" for members who are subject to the
31 California Public Employees' Pension Reform Act of 2013 means
32 service for which required contributions have been paid and service
33 for which required contributions would have been paid in absence
34 of the limit established by subdivision (c) of Section 22119.3.

35 (c) "Credited service" for the limited purpose of determining
36 eligibility for benefits pursuant to Section 22134.5, 24203.5, or
37 24203.6 also includes up to two-tenths of one year of service
38 granted pursuant to Section 22717.

39 SEC. 3. Section 22141 of the Education Code is amended to
40 read:

1 22141. (a) Notwithstanding Section 22140, “improvement
2 factor” means an increase of 2 percent in benefits provided under
3 Sections 24408 and 24409 for each year commencing on September
4 1, 1981, and under Section 24410.5 for each year commencing
5 September 1, 2001, and under Sections 24410.6 and ~~24410.7~~
6 24410.7 for each year commencing September 1, 2002. The
7 *improvement* factor shall not be compounded nor shall it be
8 applicable to annuities payable from the accumulated annuity
9 deposit contributions or the accumulated tax-sheltered annuity
10 contributions. The Legislature reserves the right to adjust the
11 amount of the improvement factor up or down as the economic
12 conditions dictate. No adjustments of the improvement factor shall
13 reduce the monthly retirement allowance or benefit below that
14 which would be payable to the recipient under this part had this
15 section not been enacted.

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

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

29 (d) For members who retired before the calendar year in which
30 Section 22901.7 was added, the Legislature reserves the right to
31 adjust the amount of the improvement factor up or down as the
32 economic conditions dictate. No adjustments of the improvement
33 factor shall reduce the monthly retirement allowance or benefit
34 below that which would be payable to the recipient under this part
35 had this section not been enacted.

36 SEC. 4. Section 22404 of the Education Code is amended to
37 read:

38 22404. (a) Notwithstanding any other provision of this part
39 or Part 14 (commencing with Section 26000) to the contrary, the
40 board may establish by plan amendment a specified amount or

1 amounts, not to exceed ten dollars (\$10), below which the system
2 may dispense ~~with the~~ *with*:

3 (1) ~~The processing of benefit or other payments or a benefit~~
4 ~~payment, an annuity payment, or any other payment, including~~
5 ~~adjustments to those payments, payable to a member, participant,~~
6 ~~or beneficiary.~~

7 (2) ~~The collection of benefit or other overpayments that result~~
8 ~~from adjustments made to the benefit or other amount a benefit~~
9 ~~overpayment, annuity overpayment, or any other overpayments~~
10 paid to a member, participant, or beneficiary.

11 (b) When the cumulative dollar amount associated with one or
12 more ~~benefit or other adjustments~~ *benefit payments or*
13 *overpayments, annuity payments or overpayments, or other*
14 *payments or overpayments* equals or exceeds the amount described
15 in subdivision (a), that amount shall be paid to, or collected from,
16 the member, participant, or beneficiary. That cumulative amount
17 paid or collected shall not be credited with interest.

18 SEC. 5. Section 22509 of the Education Code is amended to
19 read:

20 22509. (a) Within 10 working days of the date of hire of an
21 employee who has the right to make an election pursuant to Section
22 22508 or 22508.5, the employer shall inform the employee of the
23 right to make an election and shall make available to the employee
24 written information provided by each retirement system concerning
25 the benefits provided under that retirement system to assist the
26 employee in making an election.

27 (b) Any election made pursuant to subdivision (a) of Section
28 22508 or subdivision (a) of Section 22508.5 shall be filed with the
29 office of the State Teachers' Retirement System and a copy of the
30 election shall be filed with the other public retirement system. Any
31 election made pursuant to subdivision ~~(b)~~ (c) of Section 22508 or
32 subdivision (b) of Section 22508.5 shall be filed with the office
33 of the Public Employees' Retirement System and a copy of the
34 election shall be filed with the office of this system.

35 (c) Any election made pursuant to Section 22508 or Section
36 22508.5 shall become effective as of the first day of employment
37 in the position that qualified the employee to make an election.

38 SEC. 6. Section 22714 of the Education Code is amended to
39 read:

1 22714. (a) Whenever the governing board of a school district
2 or a community college district or a county office of education,
3 by formal action, determines pursuant to Section 44929 or 87488
4 that, because of impending curtailment of, or changes in, the
5 manner of performing services, the best interests of the district or
6 county office of education would be served by encouraging
7 certificated employees or academic employees to retire for service
8 and that the retirement will result in a net savings to the district or
9 county office of education, an additional two years of service credit
10 shall be granted under this part to a member of the Defined Benefit
11 Program if all of the following conditions exist:

12 (1) The member is credited with five or more years of service
13 credit and retires for service under Chapter 27 (commencing with
14 Section 24201) during a period of not more than 120 days or less
15 than 60 days, commencing no sooner than the effective date of the
16 formal action of the employer that shall specify the period.

17 (2) *The documentation required by this section is received by*
18 *the system no later than 30 calendar days after the last day of the*
19 *window period established in paragraph (1).*

20 ~~(2)~~

21 (3) (A) The employer transfers to the retirement fund an amount
22 determined by the Teachers' Retirement Board to equal the
23 actuarial equivalent of the difference between the allowance the
24 member receives after receipt of service credit pursuant to this
25 section and the amount the member would have received without
26 the service credit and an amount determined by the Teachers'
27 Retirement Board to equal the actuarial equivalent of the difference
28 between the purchasing power protection supplemental payment
29 the member receives after receipt of service credit pursuant to this
30 section and the amount the member would have received without
31 the service credit. The payment for purchasing power shall be
32 deposited in the Supplemental Benefit Maintenance Account
33 established by Section 22400 and shall be subject to Section 24415.
34 The transfer to the retirement fund shall be made in a manner and
35 a time period, not to exceed eight years, that is acceptable to the
36 Teachers' Retirement Board. The employer shall transfer the
37 required amount for all eligible employees who retire pursuant to
38 this section.

1 (B) Regular interest shall be charged on the unpaid balance if
2 the employer makes the transfer to the retirement fund in
3 installments.

4 ~~(3)~~

5 (4) The employer transmits to the retirement fund the
6 administrative costs incurred by the system in implementing this
7 section, as determined by the Teachers' Retirement Board.

8 ~~(4)~~

9 (5) The employer has considered the availability of teachers or
10 academic employees to fill the positions that would be vacated
11 pursuant to this section.

12 (b) (1) The school district shall demonstrate and certify to the
13 county superintendent that the formal action taken would result in
14 a net savings to the district.

15 (2) The county superintendent shall certify to the Teachers'
16 Retirement Board that the result specified in paragraph (1) can be
17 demonstrated. The certification shall include, but not be limited
18 to, the information specified in subdivision (c) of Section 14502.1.

19 (3) The school district shall reimburse the county superintendent
20 for all costs to the county superintendent that result from the
21 certification.

22 (c) (1) The county office of education shall demonstrate and
23 certify to the Superintendent of Public Instruction that the formal
24 action taken would result in a net savings to the county office of
25 education.

26 (2) The Superintendent of Public Instruction shall certify to the
27 Teachers' Retirement Board that the result specified in paragraph
28 (1) can be demonstrated. The certification shall include, but not
29 be limited to, the information specified in subdivision (c) of Section
30 14502.1.

31 (3) The Superintendent of Public Instruction may request
32 reimbursement from the county office of education for all
33 administrative costs that result from the certification.

34 (d) (1) The community college district shall demonstrate and
35 certify to the chancellor's office that the formal action taken would
36 result in a net savings to the district.

37 (2) The chancellor shall certify to the Teachers' Retirement
38 Board that the result specified in paragraph (1) can be
39 demonstrated. The certification shall include, but not be limited
40 to, the information specified in subdivision (c) of Section 84040.5.

1 (3) The chancellor may request reimbursement from the
2 community college district for all administrative costs that result
3 from the certification.

4 (e) The opportunity to be granted service credit pursuant to this
5 section shall be available to all members employed by the school
6 district, community college district, or county office of education
7 who meet the conditions set forth in this section.

8 (f) The amount of service credit shall be two years.

9 (g) Any member of the Defined Benefit Program who retires
10 under this part for service under Chapter 27 (commencing with
11 Section 24201) with service credit granted under this section and
12 who subsequently reinstates shall forfeit the service credit granted
13 under this section.

14 (h) Any member of the Defined Benefit Program who retires
15 under this part for service under Chapter 27 (commencing with
16 Section 24201) with service credit granted under this section and
17 who takes any job with the school district, community college
18 district, or county office of education that granted the member the
19 service credit less than five years after receiving the credit shall
20 forfeit the ongoing benefit he or she receives from the additional
21 service credit granted under this section.

22 (i) This section does not apply to any member otherwise eligible
23 if the member receives any unemployment insurance payments
24 arising out of employment with an employer subject to this part
25 within one year following the effective date of the formal action
26 under subdivision (a), or if the member is not otherwise eligible
27 to retire for service.

28 SEC. 7. Section 22900 of the Education Code is amended to
29 read:

30 22900. By accepting employment to perform creditable service,
31 a person consents to make contributions pursuant to ~~Section 22901~~
32 *Sections 22901 and 22901.7* for service and compensation credited
33 under this part.

34 SEC. 8. Section 22903 of the Education Code is amended to
35 read:

36 22903. Notwithstanding Sections 22901, 22901.3, 22901.7,
37 22956, and 23000, *the state and* each school district, community
38 college district, county board of education, and county
39 superintendent of schools, may pick up, for the sole purpose of
40 deferring taxes, as authorized by Section 414(h)(2) of the Internal

1 Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)) and Section
 2 17501 of the Revenue and Taxation Code, all of the contributions
 3 required to be paid under this part by a member of the Defined
 4 Benefit Program, provided that the contributions are deducted from
 5 the creditable compensation of the member.

6 SEC. 9. Section 22950 of the Education Code is amended to
 7 read:

8 22950. (a) Employers shall contribute monthly to the system
 9 8 percent of the creditable compensation upon which members’
 10 contributions under this part are based.

11 (b) From the contributions required under subdivision (a), there
 12 shall be deposited in the Teachers’ Retirement Fund an amount,
 13 determined by the board, that is not less than the amount,
 14 determined in an actuarial valuation of the Defined Benefit
 15 Program pursuant to Section 22311.5, necessary to finance the
 16 liabilities associated with the benefits of the Defined Benefit
 17 Program over the funding period adopted by the board, after taking
 18 into account the contributions made pursuant to Sections 22901,
 19 ~~22951, and 22955. 22901.7, 22950.5, 22951, 22955, and 22955.1.~~

20 (c) The amount of contributions required under subdivision (a)
 21 that is not deposited in the Teachers’ Retirement Fund pursuant
 22 to subdivision (b) shall be deposited directly into the Teachers’
 23 Health Benefits Fund, as established in Section 25930, and shall
 24 not be deposited into or transferred from the Teachers’ Retirement
 25 Fund.

26 (d) (1) Notwithstanding subdivisions (b) and (c), there may be
 27 deposited into the Teachers’ Retirement Program Development
 28 Fund, as established in Section 22307.5, from the contributions
 29 required under subdivision (a), an amount determined by the board,
 30 not to exceed the limit specified in paragraph (2).

31 (2) The balance of deposits into the Teachers’ Retirement
 32 Program Development Fund, minus the subsequent transfer of
 33 funds, with interest, into the Teachers’ Retirement Fund pursuant
 34 to subdivision (e) of Section 22307.5, shall not exceed 0.01 percent
 35 of the total of the creditable compensation of the fiscal year ending
 36 in the immediately preceding calendar year upon which member’s
 37 contributions to the Defined Benefit Program are based.

38 (3) The deposits described in this subdivision shall not be
 39 deposited into, or transferred from, the Teachers’ Retirement Fund.

1 SEC. 10. Section 23001 of the Education Code is amended to
2 read:

3 23001. Each county superintendent, district superintendent,
4 chancellor of a community college district, or other employing
5 agency that reports directly to the system shall draw requisitions
6 for contributions required by Sections ~~22901 and 22950~~ 22901,
7 22901.7, 22950, and 22950.5 in favor of the State Teachers'
8 Retirement System, and the requisitions, when allowed and signed
9 by the county auditor, shall constitute a warrant against the county
10 treasury. The county superintendent, district superintendent,
11 chancellor of a community college district, or other employing
12 agency thereupon shall forward the warrants to the board in the
13 system's headquarters office. The amounts received shall be
14 deposited immediately in the State Treasury to the Teachers'
15 Retirement Fund.

16 SEC. 11. Section 24114 of the Education Code is amended to
17 read:

18 24114. (a) A member receiving a disability retirement benefit
19 under this part may be employed or self-employed in any capacity,
20 notwithstanding Section 22132, but may not make contributions
21 to the retirement fund with respect to the Defined Benefit Program
22 or accrue service credit under this part based on earnings from any
23 employment.

24 (b) A member receiving a disability retirement benefit under
25 this part may earn in any one calendar year up to the limitation
26 specified in subdivision (c) without a reduction in his or her
27 disability retirement allowance.

28 (c) The limitation that shall apply to the earnings of a member
29 receiving a disability retirement benefit under this part shall be
30 fifteen thousand dollars (\$15,000), in any one calendar year,
31 adjusted annually by the board effective each January 1 by the
32 amount of increase in the All Urban California Consumer Price
33 Index using December 1989 as the base.

34 (d) If a member receiving a disability retirement benefit under
35 this part earns in excess of the limitation specified in subdivision
36 (c) from all employment in any calendar year, notwithstanding
37 Section 22132, his or her retirement allowance shall be reduced
38 by the amount of the excess earnings. The amount of the reduction
39 ~~may be equal to~~ *in an individual month shall be no more than the*
40 *monthly allowance payable but may in that month, and the total*

1 *amount of the reduction shall* not exceed the amount of the annual
2 allowance payable under this part for the calendar year in which
3 the excess compensation was earned.

4 (e) The earnings limitation specified in this section does not
5 apply to a member receiving a disability retirement benefit under
6 this part who is participating in an approved rehabilitation program
7 pursuant to Section 24111.

8 (f) This section does not apply to a member receiving a disability
9 retirement benefit under this part who began receiving a disability
10 retirement allowance prior to October 16, 1992.

11 SEC. 12. Section 24214 of the Education Code, as amended
12 by Section 21 of Chapter 32 of the Statutes of 2014, is amended
13 to read:

14 24214. (a) A member retired for service under this part may
15 perform retired member activities, but the member shall not make
16 contributions to the retirement fund or accrue service credit based
17 on compensation earned from that service. The employer shall
18 maintain accurate records of the earnings of the retired member
19 and report those earnings monthly to the system and retired member
20 as described in Section 22461.

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

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

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

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

36 (f) (1) The limitation that shall apply to the compensation paid
37 in cash to the retired member for performance of retired member
38 activities, excluding reimbursements paid by an employer for
39 expenses incurred by the member in which payment of the expenses
40 by the member is substantiated, shall, in any one school year, be

1 an amount calculated by the system each July 1 equal to one-half
2 of the median final compensation of all members who retired for
3 service during the fiscal year ending in the previous calendar year.

4 (2) For written agreements pertaining to the performance of
5 retired member activities entered into, extended, renewed, or
6 amended on or after January 1, 2014, the limitation in paragraph
7 (1) shall also apply to payments *made for the performance of*
8 *retired member activities*, including, but not limited to, those for
9 participation in a deferred compensation plan; to purchase an
10 annuity contract, tax-deferred retirement plan, or insurance
11 program; and for contributions to a plan that meets the requirements
12 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
13 26 of the United States Code when the cost is covered by an
14 employer.

15 (g) If a member retired for service under this part earns
16 compensation for performing retired member activities, in excess
17 of the limitation specified in subdivision (f), and if that
18 compensation is not exempt from that limitation under subdivision
19 (e) or (h) or any other law, the member's retirement allowance
20 shall be reduced by the amount of the excess compensation. The
21 amount of the reduction ~~may be equal to~~ *in an individual month*
22 *shall be no more than* the monthly allowance ~~payable but payable~~
23 *in that month, and the total amount of the reduction* shall not
24 exceed the amount of the annual allowance payable under this part
25 for the fiscal year in which the excess compensation was earned
26 after any reduction made in accordance with subdivision (h) of
27 Section 24214.5.

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

31 (1) As a trustee appointed by the Superintendent pursuant to
32 Section 41320.1.

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

36 (3) As a receiver or trustee appointed by the state board pursuant
37 to Article 3.1 (commencing with Section 52055.57) of Chapter
38 6.1 of Part 28 of Division 4 of Title 2.

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

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

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

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

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

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

37 (3) The appointing authority, having tried and failed to hire a
38 current active or inactive member or a reinstated retired member,
39 hired a retired member and the salary offered to the retired member

1 subject to this paragraph does not exceed the salary that was offered
2 as first advertised pursuant to paragraph (1).

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

5 (l) The amendments to this section enacted during the 1995–96
6 Regular Session shall be deemed to have become operative on July
7 1, 1996.

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

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

14 (o) This section shall become inoperative on July 1, 2017, and,
15 as of January 1, 2018, is repealed, unless a later enacted statute,
16 that becomes operative on or before January 1, 2018, deletes or
17 extends the dates on which it becomes inoperative and is repealed.

18 SEC. 13. Section 24214 of the Education Code, as amended
19 by Section 22 of Chapter 32 of the Statutes of 2014, is amended
20 to read:

21 24214. (a) A member retired for service under this part may
22 perform retired member activities, but the member shall not make
23 contributions to the retirement fund or accrue service credit based
24 on compensation earned from that service. The employer shall
25 maintain accurate records of the earnings of the retired member
26 and report those earnings monthly to the system and retired member
27 as described in Section 22461.

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

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

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

39 (e) The postretirement compensation limitation provisions set
40 forth in this section are not applicable to compensation earned for

1 the performance of retired member activities that are not wholly
2 or in part supported by state, local, or federal funds.

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

11 (2) For written agreements pertaining to the performance of
12 retired member activities entered into, extended, renewed, or
13 amended on or after January 1, 2014, the limitation in paragraph
14 (1) shall also apply to payments *made for the performance of*
15 *retired member activities*, including, but not limited to, those for
16 participation in a deferred compensation plan; to purchase an
17 annuity contract, tax-deferred retirement plan, or insurance
18 program; and for contributions to a plan that meets the requirements
19 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
20 26 of the United States Code when the cost is covered by an
21 employer.

22 (g) If a member retired for service under this part earns
23 compensation for performing retired member activities, in excess
24 of the limitation specified in subdivision (f), the member's
25 retirement allowance shall be reduced by the amount of the excess
26 compensation. ~~The amount of the reduction may be equal to in an~~
27 *individual month shall be no more than the monthly allowance*
28 *payable but may in that month, and the total amount of the*
29 *reduction shall not exceed the amount of the annual allowance*
30 *payable under this part for the fiscal year in which the excess*
31 *compensation was earned after any reduction made in accordance*
32 *with subdivision (h) of Section 24214.5.*

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

37 (i) This section shall become operative on July 1, 2017.

38 SEC. 14. Section 24214.5 of the Education Code is amended
39 to read:

1 24214.5. (a) (1) Notwithstanding subdivision (f) of Section
2 24214, the postretirement compensation limitation that shall apply
3 to the compensation paid in cash to the retired member for
4 performance of retired member activities, excluding
5 reimbursements paid by an employer for expenses incurred by the
6 member in which payment of the expenses by the member is
7 substantiated, shall be zero dollars (\$0) during the first 180 calendar
8 days after the most recent retirement of a member retired for service
9 under this part.

10 (2) For written agreements pertaining to the performance of
11 retired member activities entered into, extended, renewed, or
12 amended on or after January 1, 2014, the limitation in paragraph
13 (1) shall also apply to payments *made for the performance of*
14 *retired member activities*, including, but not limited to, those for
15 participation in a deferred compensation plan; to purchase an
16 annuity contract, tax-deferred retirement plan, or insurance
17 program; and for contributions to a plan that meets the requirements
18 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
19 26 of the United States Code when the cost is covered by an
20 employer.

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

- 36 (1) The nature of the employment.
37 (2) A finding that the appointment is necessary to fill a critically
38 needed position before 180 calendar days have passed.
39 (3) A finding that the member is not ineligible for application
40 of this subdivision pursuant to subdivision (d).

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

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

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

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

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

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

36 (h) If a member retired for service under this part earns
 37 compensation for performing retired member activities in excess
 38 of the limitation specified in subdivision (a), the member’s
 39 retirement allowance shall be reduced by the amount of the excess
 40 compensation. The amount of the reduction ~~may be equal to~~ *in an*

1 *individual month shall be no more than the monthly allowance*
2 ~~payable but may payable in that month and the total amount of~~
3 *the reduction shall not exceed the amount of the allowance payable*
4 *during the first 180 calendar days, after a member retired for*
5 *service under this part.*

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

9 SEC. 15. Section 26000 of the Education Code is amended to
10 read:

11 26000. The Legislature hereby finds and declares that the State
12 Teachers' Retirement System Cash Balance Plan was created and
13 established on July 1, 1996, to provide a retirement plan for persons
14 *employed by an employer offering the Cash Balance Plan,*
15 *excluding a community college district, to perform creditable*
16 *service for less than 50 percent of the full-time equivalent for the*
17 *position, or employed by a community college district offering the*
18 *Cash Balance Plan to perform creditable service on a temporary*
19 *basis pursuant to Section 87474, 87478, 87480, 87481, 87482, or*
20 *87482.5, or employed by an employer offering the Cash Balance*
21 *Plan to perform creditable service as a substitute employee. The*
22 *persons eligible for the Cash Balance Plan were excluded from*
23 *mandatory membership in the State Teachers' Retirement System*
24 *Defined Benefit Plan. Both plans are administered by the Teachers'*
25 *Retirement Board. Because both plans were intended to provide*
26 *for the retirement of teachers and other persons employed in*
27 *connection with the public schools of this state and schools*
28 *supported by this state, a merger of these two plans is now hereby*
29 *made for the purpose of establishing a single retirement plan that*
30 *shall be known and may be cited as the State Teachers' Retirement*
31 *Plan consisting of the different benefit programs set forth in this*
32 *part and Part 13 (commencing with Section 22000). The plan shall*
33 *be administered by the Teachers' Retirement Board as set forth in*
34 *this part and Part 13 (commencing with Section 22000). As a result*
35 *of this merger, a Cash Balance Benefit Program will be provided*
36 *under the State Teachers' Retirement Plan and that program is set*
37 *forth in this part.*

38 The governing board of a school district, community college
39 district, or county office of education may, by formal action, elect

1 to provide the benefits of the Cash Balance Benefit Program under
 2 this part for their employees.

3 SEC. 16. Section 26002.5 of the Education Code is amended
 4 to read:

5 26002.5. Except as excluded in subdivision (d) of Section
 6 26807.5 or subdivision ~~(d)~~ (c) of Section 26906.5, a person who
 7 is the registered domestic partner of a member, as established
 8 pursuant to Section 297 or 299.2 of the Family Code, shall be
 9 treated in the same manner as a “spouse,” as defined in Section
 10 26140.

11 SEC. 17. Section 26132 of the Education Code is amended to
 12 read:

13 26132. “Participant” means a person who has performed
 14 creditable service subject to coverage by the Cash Balance Benefit
 15 ~~Program, Program~~ and who has contributions credited under the
 16 Cash Balance Benefit Program or is receiving an annuity under
 17 the Cash Balance Benefit Program by reason of creditable service
 18 *or has not yet met the conditions of subdivision (b) of Section*
 19 *26806.*

20 SEC. 18. Section 26142.5 is added to the Education Code, to
 21 read:

22 26142.5. “System’s headquarters office” means the office
 23 building established as the permanent headquarters facility for the
 24 system, pursuant to Section 22375.

25 SEC. 19. Section 26400 of the Education Code is amended to
 26 read:

27 26400. (a) (1) A person employed on a part-time basis by a
 28 ~~school district or county office of education~~ *an employer, excluding*
 29 *community college districts*, to perform creditable service for less
 30 than 50 percent of each full-time position shall become a participant
 31 on the later of the first day that creditable service is performed for
 32 an employer that provides the Cash Balance Benefit Program or
 33 the effective date of the employer’s governing board’s action to
 34 provide the Cash Balance Benefit Program, provided that creditable
 35 service is not performed for the same employer with whom the
 36 person is subject to mandatory membership in the Defined Benefit
 37 ~~Program, Program~~, *and that the person has not made an election*
 38 *pursuant to subdivision (d).*

39 (2) *If the participant’s basis of employment with an employer,*
 40 *excluding community college districts, that provides the Cash*

1 *Balance Benefit Program changes to employment to perform*
2 *creditable service for 50 percent or more of the full-time position*
3 *during one school year with the same employer, creditable service*
4 *performed for that employer shall no longer be covered under the*
5 *Cash Balance Benefit Program as of the last day of the pay period*
6 *in which the change in the participant's basis of employment*
7 *occurred. Creditable service performed for that employer shall be*
8 *subject to coverage by the Defined Benefit Program as of the first*
9 *day of the pay period following the change in the participant's*
10 *basis of employment.*

11 (b) (1) A person employed on a temporary basis pursuant to
12 Section 87474, 87478, 87480, 87481, 87482, or 87482.5 by a
13 community college district, who is not subject to mandatory
14 membership in the Defined Benefit Program pursuant to Section
15 22501, 22502 or 22504 for each position with the same employer,
16 shall become a participant on the later of the first day that creditable
17 service is performed for an employer that provides the Cash
18 Balance Benefit Program or the effective date of the employer's
19 governing board's action to provide the Cash Balance Benefit
20 Program, provided that the person has not made an election
21 pursuant to subdivision (d).

22 (2) If the participant's basis of employment with a community
23 college district changes to employment that is subject to mandatory
24 membership in the Defined Benefit Program pursuant to Section
25 22501, 22502, or 22504 during one school year with the same
26 employer, creditable service performed for that employer shall no
27 longer be covered under the Cash Balance Benefit Program as of
28 the last day of the pay period in which the change in the
29 participant's basis of employment occurred. Creditable service
30 performed for that employer shall be subject to coverage by the
31 Defined Benefit Program as of the first day of the pay period
32 following the change in the participant's basis of employment.

33 (c) (1) Any person employed to perform creditable service as
34 a substitute employee for an employer shall become a participant
35 on the later of the first day that creditable service is performed
36 for an employer that provides the Cash Balance Benefit Program
37 or the effective date of the employer's governing board's action
38 to provide the Cash Balance Benefit Program, provided that
39 creditable service is not performed for the same employer with
40 whom the person is subject to mandatory membership in the

1 *Defined Benefit Program, and that the person has not made an*
 2 *election pursuant to subdivision (d).*

3 (2) *If the participant's basis of employment as a substitute*
 4 *employee for an employer changes to employment that is subject*
 5 *to mandatory membership in the Defined Benefit Program pursuant*
 6 *to Section 22501, 22502, or 22504 during one school year with*
 7 *the same employer, creditable service performed for that employer*
 8 *shall no longer be covered under the Cash Balance Benefit*
 9 *Program as of the last day of the pay period in which the change*
 10 *in the participant's basis of employment occurred. Creditable*
 11 *service performed for that employer shall be subject to coverage*
 12 *under the Defined Benefit Program as of the first day of the pay*
 13 *period following the change in the participant's basis of*
 14 *employment.*

15 (e)

16 (d) *If the employer's governing board's action to provide the*
 17 *Cash Balance Benefit Program gives employees the right to elect*
 18 *coverage under ~~social security~~ the federal Social Security Act or*
 19 *an alternative retirement plan offered by the employer in addition*
 20 *to the Cash Balance Benefit Program, the employee may elect*
 21 *within 60 calendar days of the latest of the first day that creditable*
 22 *service is performed, the date of the employer's governing board's*
 23 *action to provide the Cash Balance Benefit Program, or the*
 24 *effective date of the employer's governing board's action to provide*
 25 *the Cash Balance Benefit Program to be covered by ~~social security~~*
 26 *the federal Social Security Act or to participate in the alternative*
 27 *retirement plan in lieu of participating in the Cash Balance Benefit*
 28 *Program. An election may not preclude an employee from*
 29 *participating in the Cash Balance Benefit Program at a later date*
 30 *so long as the Cash Balance Benefit Program is provided by the*
 31 *employer and the employee is eligible to participate in the Cash*
 32 *Balance Benefit Program.*

33 (d)

34 (e) *If subdivision (d) is applicable, the employer shall inform*
 35 *employees pursuant to subdivision (c) of Section 26300 of their*
 36 *right to make an election and the election shall be made on a*
 37 *properly executed form provided by the system and filed with the*
 38 *employer. The employer shall retain a copy of the employee's*
 39 *signed election form and mail the original election form to the*
 40 *system's headquarters office of the system as described in Section*

1 ~~22375: office.~~ The election shall become effective on the later of
2 the first day that creditable service is performed or the effective
3 date of the employer's governing board's action to provide the
4 Cash Balance Benefit Program.

5 ~~(e) If the participant's basis of employment with a school district~~
6 ~~or county office of education that provides the Cash Balance~~
7 ~~Benefit Program changes to employment to perform creditable~~
8 ~~service for 50 percent or more of the full-time position during one~~
9 ~~school year with the same employer, creditable service performed~~
10 ~~for that employer shall no longer be covered under the Cash~~
11 ~~Balance Benefit Program. Creditable service performed for that~~
12 ~~employer shall be subject to coverage by the Defined Benefit~~
13 ~~Program as of the first day of the pay period following the change~~
14 ~~in the participant's basis of employment.~~

15 ~~(f) If the participant's basis of employment with a community~~
16 ~~college district changes to employment that is subject to mandatory~~
17 ~~membership in the Defined Benefit Program pursuant to Section~~
18 ~~22501, 22502, or 22504 during one school year with the same~~
19 ~~employer, creditable service performed for that employer shall no~~
20 ~~longer be covered under the Cash Balance Benefit Program.~~
21 ~~Creditable service performed for that employer shall be subject to~~
22 ~~coverage by the Defined Benefit Program as of the first day of the~~
23 ~~pay period following the change in the participant's basis of~~
24 ~~employment.~~

25 ~~(g)~~

26 ~~(f) If the governing board of an employer subsequently provides,~~
27 ~~in addition to the Cash Balance Benefit Program, social security~~
28 ~~federal Social Security Act coverage, a participant covered by the~~
29 ~~Cash Balance Benefit Program who is performing creditable service~~
30 ~~for that employer may elect to be covered by social security the~~
31 ~~federal Social Security Act in lieu of the Cash Balance Benefit~~
32 ~~Program. That participant's election shall be made within 60~~
33 ~~calendar days of the date the governing board acted to provide~~
34 ~~coverage under social security the federal Social Security Act or~~
35 ~~the effective date of the governing board's action to provide federal~~
36 ~~Social Security Act coverage, whichever is later. An election under~~
37 ~~this subdivision may not preclude an employee from participating~~
38 ~~in the Cash Balance Benefit Program at a later date if the employee~~
39 ~~is eligible to participate in the Cash Balance Benefit Program and~~
40 ~~the employer provides the Cash Balance Benefit Program.~~

1 ~~(h)~~
2 (g) If the governing board of an employer provided ~~social~~
3 ~~security~~ *federal Social Security Act* coverage with an effective
4 date prior to January 1, 2007, and the employer offered the Cash
5 Balance Benefit Program as of the effective date of the governing
6 board's action to provide ~~social security~~ *federal Social Security*
7 *Act* coverage, a participant who was performing creditable service
8 for that employer may elect to be covered by ~~social security~~ *the*
9 *federal Social Security Act* in lieu of the Cash Balance Benefit
10 Program. The participant's election shall be made on or after March
11 1, 2008, and on or before May 1, 2008. The election to participate
12 in ~~social security~~ *the federal Social Security Act* shall be effective
13 on July 1, 2008. An election under this subdivision may not
14 preclude an employee from participating in the Cash Balance
15 Benefit Program at a later date if the employee is eligible to
16 participate in the Cash Balance Benefit Program and the employer
17 provides the Cash Balance Benefit Program.

18 ~~(i)~~
19 (h) An election by an employee to terminate his or her
20 participation in the Cash Balance Benefit Program as described in
21 subdivision ~~(g) or (h)~~ (f) or (g) shall be made on a properly
22 executed form provided by the system and filed with the employer.
23 The employer shall retain a copy of the employee's signed election
24 form and mail the original election form to the headquarters office
25 of the system, ~~as described in Section 22375.~~ *system.*

26 SEC. 20. Section 26506 of the Education Code is amended to
27 read:

28 26506. (a) Except as provided in subdivision (b), participants
29 shall not make voluntary pretax or post-tax contributions into the
30 Cash Balance Benefit Program, nor shall participants redeposit
31 amounts previously distributed from employee accounts or
32 employer accounts.

33 (b) Pursuant to terms and conditions established by the board,
34 participants may be permitted to transfer funds from eligible
35 retirement plans into the Cash Balance Benefit Program to the
36 extent that the transfers are allowable under and are completed in
37 a manner prescribed by applicable federal and state laws, and any
38 related regulations.

39 (c) Funds deposited with the Cash Balance Benefit Program by
40 a participant pursuant to subdivision (b) shall be credited to the

1 participant and identified separately from credits in the participant's
2 employee and employer accounts. Funds so deposited shall be
3 ~~credited with interest pursuant to Section 26604.~~ *treated as credits*
4 *to the participant's employee account for all other purposes under*
5 *this part.*

6 SEC. 21. Section 26806 of the Education Code is amended to
7 read:

8 26806. (a) The normal form of retirement benefit under this
9 part is a lump-sum payment. Upon distribution of the lump-sum
10 payment to the participant, no further benefits shall be payable
11 from the plan with respect to the Cash Balance Benefit Program.

12 (b) *The lump-sum payment in subdivision (a) shall not be*
13 *payable before 180 calendar days have elapsed following the date*
14 *of termination of employment.*

15 (c) *Except as provided in subdivision (d) or subdivision (e) of*
16 *Section 26812, the application for the retirement benefit in the*
17 *form of a lump-sum payment shall be automatically canceled if*
18 *the participant performs creditable service within 180 calendar*
19 *days following the date of termination of employment.*

20 (d) *Subdivision (c) does not apply if the participant has reached*
21 *that age at which the Internal Revenue Code of 1986 requires a*
22 *distribution of benefits. A participant who has reached this age*
23 *shall receive a distribution commencing on the earlier of the date*
24 *that the participant has met the conditions of subdivision (b) or*
25 *the conditions of subdivision (c) of Section 26004.*

26 SEC. 22. Section 26807.6 of the Education Code is amended
27 to read:

28 26807.6. (a) A participant who retired and elected an annuity
29 pursuant to Section 26807 may elect to change annuities, subject
30 to all of the following:

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

34 (2) A participant who elected an annuity under paragraph (3)
35 or (4) of subdivision (b) of Section 26807 may elect an annuity
36 under paragraph (3) of subdivision (a) of Section 26807.5.

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

39 (4) The participant designates the same annuity beneficiary that
40 was designated under the prior annuity elected by the participant,

1 if the annuity and annuity designation were effective on December
2 31, 2006.

3 (5) The annuity beneficiary is not afflicted with a known
4 terminal illness and the participant declares, under penalty of
5 perjury under the laws of this state, that to the best of his or her
6 knowledge, the annuity beneficiary is not afflicted with a known
7 terminal illness.

8 (6) The annuity beneficiary has not predeceased the participant
9 as of the effective date of the change in the annuity by the
10 participant.

11 (b) The change in the annuity by the participant shall be effective
12 on the date the election is signed, provided that the election is on
13 a properly executed form provided by the system and that election
14 is received at the system's headquarters office ~~as described in~~
15 ~~Section 22375~~ within 30 days after the date the election is signed.

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

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

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

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

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

16 (g) References to a "participant" in paragraph (1) of subdivision
17 (a) shall apply to the nonmember spouse.

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

21 SEC. 23. Section 26812 of the Education Code is amended to
22 read:

23 26812. (a) A participant retired for service under this part may
24 perform retired participant activities, but the participant shall not
25 make contributions to the plan or accrue service credit under the
26 Defined Benefit Program based on compensation earned from that
27 service. The employer shall maintain accurate records of the
28 earnings of the retired participant and report those earnings monthly
29 to the system and retired participant.

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

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

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

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

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

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

9 (2) The reduction in paragraph (1) shall only be made for
10 compensation paid in cash during the first 180 calendar days after
11 a participant retired for service under this part. The amount of the
12 reduction ~~may be equal to~~ *in an individual month shall be no more*
13 *than the monthly annuity payable* ~~but in that month and the total~~
14 *amount of the reduction* shall not exceed the amount of the annuity
15 payable during the first 180 calendar days after a participant retired
16 for service under this part. For written agreements pertaining to
17 the performance of retired participant activities entered into,
18 extended, renewed, or amended on or after January 1, 2014, the
19 reduction in paragraph (1) shall also be made for payments *made*
20 *for the performance of retired participant activities*, including, but
21 not limited to, those for participation in a deferred compensation
22 plan; to purchase an annuity contract, tax-deferred retirement plan,
23 or insurance program; and for contributions to a plan that meets
24 the requirements of Section 125, 401(a), 401(k), 403(b), 457(b),
25 or 457(f) of Title 26 of the United States Code when the cost is
26 covered by an employer.

27 (3) *Subject to the limitation described in paragraph (4), if all*
28 *of the following apply to a participant retired for service under*
29 *this part, the participant's application for the retirement benefit*
30 *shall automatically be canceled:*

31 (A) *The participant is anticipated to receive the retirement*
32 *benefit in the form of a lump-sum payment.*

33 (B) *The participant earns compensation for performing*
34 *creditable service within 180 calendar days following the date of*
35 *termination of employment.*

36 (4) *Paragraph (3) does not apply if the participant has reached*
37 *that age at which the Internal Revenue Code of 1986 requires a*
38 *distribution of benefits. A participant who has reached that age*
39 *shall receive a distribution commencing on the earlier of the date*

1 *that the participant has met the conditions of subdivision (b) of*
2 *Section 26806 or the conditions of subdivision (c) of Section 26004.*

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

18 (1) The nature of the employment.

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

21 (3) A finding that the participant is not ineligible for application
22 of this subdivision pursuant to subdivision (g).

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

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

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

1 received a financial incentive from any public employer to retire
2 or otherwise terminate employment with a public employer.

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

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

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

18 SEC. 24. Section 26906.6 of the Education Code is amended
19 to read:

20 26906.6. (a) A participant who is disabled and elected an
21 annuity pursuant to Section 26906 may elect to change annuities,
22 subject to all of the following:

23 (1) A participant who elected a single life annuity with or
24 without a cash refund feature or a period certain annuity may not
25 change his or her annuity.

26 (2) A participant who elected an annuity under paragraph (3)
27 or (4) of subdivision (b) of Section 26906 may elect an annuity
28 under paragraph (3) of subdivision (a) of Section 26906.5.

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

31 (4) The participant designates the same annuity beneficiary that
32 was designated under the prior annuity elected by the participant,
33 if the annuity and the annuity beneficiary designation were effective
34 on December 31, 2006.

35 (5) The annuity beneficiary is not afflicted with a known
36 terminal illness and the participant declares, under penalty of
37 perjury under the laws of this state, that to the best of his or her
38 knowledge, the annuity beneficiary is not afflicted with a known
39 terminal illness.

1 (6) The annuity beneficiary has not predeceased the participant
2 as of the effective date of the change in the annuity by the
3 participant.

4 (b) The change in the annuity by the participant shall be effective
5 on the date the election is signed, provided that the election is on
6 a properly executed form provided by the system and that election
7 is received at the system's headquarters office ~~as described in~~
8 ~~Section 22375~~ within 30 days after the date the election is signed.

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

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

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

1 following the date of mailing of the acknowledgment notice. If
2 the participant elects to make the one-time change provided by
3 this subdivision, the change shall be effective as of the participant's
4 signature date on the initial election to change.

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

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

12 SEC. 25. Section 27100 of the Education Code is amended to
13 read:

14 27100. A participant may at any time designate or change the
15 designation of one or more primary beneficiaries and one or more
16 contingent beneficiaries to receive any lump-sum death benefit
17 that may be payable under the plan. The beneficiary for the
18 lump-sum death benefit under this part may be a person, trust, or
19 the estate of the participant. The beneficiary shall be designated
20 on a form prescribed by the system that is received in the system's
21 headquarters office, as established pursuant to Section 22375,
22 *office* before the participant's death.