

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1875

Introduced by Assembly Member Chávez

February 10, 2016

An act to amend Sections 22105.5, 22149, 22450, 22451.5, 23301, 24300, 24300.1, 24307, 24309, 24331, 25015, 26306, 26811, ~~and 26910 of; 26910, and 27004 of~~, and to add Sections 24613.5 and 26106.5 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1875, as amended, Chávez. State teachers' retirement: option beneficiaries: trusts.

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 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 permits members of STRS to select option beneficiaries and participants in the Cash Balance Benefit Program to select annuity beneficiaries for the purpose of receiving a retirement allowance or an annuity, respectively, upon the member's or the participant's death. Existing law specifically prohibits a trust from being an option beneficiary under STRS.

This bill would permit irrevocable trusts, with specified characteristics, that are established for individuals who are disabled to be an option beneficiary or annuity beneficiary, as described above, for the defined benefit program and the Cash Balance Benefit Program. The bill would require the trust to be for the sole benefit of a single beneficiary and that any other beneficiaries be limited to successor beneficiaries. The bill would require, with respect to the trust's interest in the member's or in the participant's benefits, that the beneficiary of the trust be considered the designated beneficiary for the purpose of determining eligibility for, and the amount and determination of, benefits.

The bill would require a member or participant to provide specified documentation if a trust is to be designated an option beneficiary, including a certification that the trust meets relevant requirements, to be signed by the member or participant and acting trustees. The bill would require trustees acting at the time of the death of the member or participant to provide a similar, signed certification and additionally certify that the trust has not *been* revoked, modified, or amended, in a manner that would cause the certification to be incorrect. The bill would allow a member or participant to change a beneficiary designation without penalty for the purpose of designating a trust as a beneficiary if certain requirements are met. The bill would require, if the trust becomes invalid or terminates, that the benefit or annuity be paid to the beneficiary, if eligible, with associated rights and responsibilities also accruing to that person. The bill would provide that the board is not required to determine the powers of a trustee or the validity of a trust in the context, that such a determination shall not be inferred and, provided the board acts in good faith, as specified, would immunize the board, system, and plan from liability. *The bill would make conforming and, with respect to the Cash Balance Benefit Program, revise the circumstances under which a participant may change an option beneficiary after retirement changes.*

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 22105.5 of the Education Code is
- 2 amended to read:
- 3 22105.5. "Annuity beneficiary" means the person or trust
- 4 designated by a member pursuant to Section 25011, 25011.1,

1 25018, or 25018.1 to receive an annuity under the Defined Benefit
2 Supplement Program upon the member’s death.

3 SEC. 2. Section 22149 of the Education Code is amended to
4 read:

5 22149. (a) “Option beneficiary” means the person or trust
6 designated by a member to receive a retirement allowance under
7 the Defined Benefit Program upon the member’s death.

8 (b) For purposes of this section, “trust” means an irrevocable
9 trust with the following characteristics:

10 (1) The trust satisfies the requirements of subparagraph (A) or
11 (C) of paragraph (4) of subdivision (d) of Section 1396p of Title
12 42 of the United States Code.

13 (2) The trust satisfies the requirements of Section 1.401(a)(9)-4
14 of Title 26 of the Code of Federal Regulations.

15 (3) The trust, or the account in a pooled trust, is for the sole
16 benefit of a single beneficiary and other beneficiaries to the trust,
17 if any, are successor beneficiaries.

18 (4) The beneficiary of the trust who is beneficiary with respect
19 to the trust’s interest in the member’s benefit shall be considered
20 the designated *option* beneficiary for the purpose of determining
21 eligibility for, and the amount and duration of, benefits under the
22 plan.

23 SEC. 3. Section 22450 of the Education Code is amended to
24 read:

25 22450. (a) Each member and beneficiary shall furnish to the
26 board any information affecting his or her status as a member or
27 beneficiary of the Defined Benefit Program as the board requires,
28 which may include, but shall not be limited to, the following:

29 (1) Financial statements, certified copies of state and federal
30 income tax records, or evidence of financial status.

31 (2) Employment, legal, or medical documentation.

32 (b) A member who has not had any creditable service reported
33 during the prior school year shall provide the system with his or
34 her current mailing address and beneficiary information.

35 (c) For a trust that is designated as an option beneficiary, as
36 defined in Section 22149, the following documentation is required:

37 (1) The member shall provide an acknowledged certification
38 that includes each declaration prescribed by clause A-6 of Section
39 1.401(a)(9)-4 of Title 26 of the Code of Federal Regulations and
40 a declaration that the trust meets the requirements and conditions

1 as defined in Section 22149. The certification shall be submitted
2 to the system at the time of election of the beneficiary and is
3 required for the election to be valid. The certification shall be in
4 the form of an acknowledged declaration signed by the member
5 and by all then-acting trustees of the trust.

6 (2) After the member’s death, the then-acting trustee or trustees
7 of the trust shall provide an acknowledged certification that
8 includes each of the declarations prescribed by clause A-6 of
9 Section 1.401(a)(9)-4 of Title 26 of the Code of Federal
10 Regulations and a declaration that the trust meets the requirements
11 and conditions provided in Section 22149. The certification by the
12 trustee or trustees of the trust shall be submitted to the system upon
13 the member’s death and shall additionally certify that the trust has
14 not been revoked, modified, or amended in any manner which
15 would cause the representations contained in the certification to
16 be incorrect. The certification shall contain a statement that it is
17 being signed by all of the then-acting trustees of the trust and shall
18 be in the form of an acknowledged declaration signed by all the
19 then-acting trustees.

20 (3) At any time, upon demand by the system, the member or
21 trustee of the trust shall provide a copy of the trust instrument.

22 SEC. 4. Section 22451.5 of the Education Code is amended to
23 read:

24 22451.5. (a) Upon request by the system, a member shall
25 provide proof of his or her date of birth to resolve any discrepancy
26 between the member’s date of birth as originally documented on
27 the records of the system and the member’s date of birth as
28 subsequently submitted.

29 (b) A member shall provide proof of the date of birth of a person
30 who is, or the beneficiary of a trust that is, designated by the
31 member as beneficiary under an option selected pursuant to Chapter
32 28 (commencing with Section 24300) if the beneficiary is not also
33 a member of the plan.

34 (c) Documentation substantiating the date of birth of a member’s
35 dependent child shall be provided if an allowance payable under
36 this part will include an amount for that dependent child.

37 (d) At the time application is made for payment of a family
38 allowance or survivor benefit allowance to a surviving spouse or
39 dependent parent, a member’s surviving spouse or dependent parent
40 shall provide proof of his or her date of birth.

1 (e) At the discretion of the board, an original document, a
2 certified copy of the original, or a photocopy shall be acceptable
3 to establish proof of the date of birth.

4 SEC. 5. Section 23301 of the Education Code is amended to
5 read:

6 23301. A corporation, trust, eleemosynary, parochial institution,
7 or public entity may be designated as a beneficiary under this part,
8 but they shall not be designated as option beneficiaries, except a
9 trust as defined in Section 22149.

10 SEC. 6. Section 24300 of the Education Code is amended to
11 read:

12 24300. (a) A member may, upon application for retirement,
13 elect an option pursuant to this part that would provide an
14 actuarially modified retirement allowance payable throughout the
15 life of the member and the member's option beneficiary or
16 beneficiaries, as follows:

17 (1) Option 2. The modified retirement allowance shall be paid
18 to the retired member. Upon the retired member's death, an
19 allowance equal to the modified amount that the retired member
20 was receiving shall be paid to the option beneficiary.

21 (2) Option 3. The modified retirement allowance shall be paid
22 to the retired member. Upon the retired member's death, an
23 allowance equal to one-half of the modified amount that the retired
24 member was receiving shall be paid to the option beneficiary.

25 (3) Option 4. The modified retirement allowance shall be paid
26 to the retired member as long as both the retired member and the
27 option beneficiary are living. Upon the death of either the retired
28 member or the option beneficiary, an allowance equal to two-thirds
29 of the modified amount that the retired member was receiving shall
30 be paid to the surviving retired member or the surviving option
31 beneficiary.

32 (4) Option 5. The modified retirement allowance shall be paid
33 to the retired member as long as both the retired member and the
34 option beneficiary are living. Upon the death of either the retired
35 member or the option beneficiary, an allowance equal to one-half
36 of the modified amount that the retired member was receiving shall
37 be paid to the surviving retired member or surviving option
38 beneficiary.

39 (5) Option 6. The modified retirement allowance shall be paid
40 to the retired member and upon the retired member's death, an

1 allowance equal to the modified amount that the retired member
2 was receiving shall be paid to the option beneficiary.

3 (6) Option 7. The modified retirement allowance shall be paid
4 to the retired member and upon the retired member's death, an
5 allowance equal to one-half of the modified amount the retired
6 member was receiving shall be paid to the option beneficiary.

7 (7) Option 8. (A) A member may designate multiple option
8 beneficiaries. The member who has designated more than one
9 option beneficiary shall elect an option that the member is
10 authorized to elect subject to subdivision (e) for each beneficiary
11 designated that would provide an actuarially modified retirement
12 allowance payable throughout the lives of the member and the
13 member's option beneficiaries upon the member's death.

14 (B) The modified retirement allowance shall be paid to the
15 retired member as long as the retired member and at least one of
16 the option beneficiaries are living. Upon the retired member's
17 death, an allowance shall be paid to each surviving option
18 beneficiary in accordance with the option elected respective to that
19 beneficiary. The member shall determine the percentage of the
20 unmodified allowance that will be modified by the election of
21 Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7
22 within this option, the aggregate of which shall equal 100 percent
23 of the member's unmodified allowance. The election of this option
24 is subject to approval by the board.

25 (C) A member who is a party to an action for legal separation
26 or dissolution of marriage and who is required by court order to
27 designate a spouse or former spouse as an option beneficiary may
28 designate his or her spouse or former spouse as a sole option
29 beneficiary under subparagraphs (A) and (B). The member shall
30 specify the option elected for the spouse or former spouse and the
31 percentage of his or her unmodified allowance to be modified by
32 the option, consistent with the court order. The percentage of the
33 member's unmodified allowance that is not modified by the option
34 shall remain an unmodified allowance payable to the member. The
35 aggregate of the percentages specified for the option beneficiary
36 and the member's remaining unmodified allowance, if any, shall
37 equal 100 percent.

38 (b) For purposes of this section, the member shall designate an
39 option beneficiary on a properly executed retirement application.

1 Except as otherwise provided by this chapter, the option shall
2 become effective on the member's benefit effective date.

3 (c) A member may revoke or change an election of an option
4 at any time prior to the effective date of the member's retirement
5 under this part. A revocation or change of an option may not be
6 made in derogation of a spouse's or former spouse's community
7 property rights as specified in a court order.

8 (d) (1) A member may change the beneficiary designated
9 pursuant to this section without penalty by designating a trust as
10 beneficiary if all of the following requirements are met:

11 (A) The trust conforms to the definition of trust in Section
12 22149.

13 (B) The beneficiary of the trust is the same person as the
14 previously named *option* beneficiary.

15 (C) The member files an application and any required documents
16 in a form prescribed by the system.

17 (2) If a trust is determined to be invalid or terminates after the
18 system commences payment to the trust, beginning on the effective
19 date of termination of the trust, the benefit shall be paid to, and all
20 associated rights and responsibilities shall accrue to, the beneficiary
21 of the trust so long as that beneficiary is eligible to receive a
22 ~~benefit.~~ *benefit pursuant to this section.*

23 (e) On or before July 1, 2004, the board shall evaluate the
24 existing options and annuities provided pursuant to this section,
25 Chapter 38 (commencing with Section 25000) of this part, and
26 Part 14 (commencing with Section 26000) and adopt, as a plan
27 amendment, any appropriate changes to the options and annuities
28 based on the needs of members, participants, and their
29 beneficiaries, including, but not limited to, providing economic
30 security for beneficiaries and reducing complexity in the election
31 of options and annuities by members and participants. The changes
32 to the options and annuities may have no net actuarial impact on
33 the retirement fund, and the board may establish any eligibility
34 criteria it deems necessary to prevent an adverse actuarial impact
35 to the fund. The board shall designate the effective date of the plan
36 amendment, which shall be at least 18 months after the amendment
37 is adopted by the board, and notwithstanding any other provision
38 of this section, the options and annuities available to members and
39 participants eligible to retire pursuant to this part and Part 14
40 (commencing with Section 26000), after the effective date of the

1 plan amendment made pursuant to this subdivision, shall reflect
2 the changes adopted as a plan amendment pursuant to this
3 subdivision.

4 (f) Any member or participant who retired and elected an option
5 or a joint and survivor annuity, or who filed a preretirement election
6 of an option prior to the effective date of the plan amendment made
7 pursuant to subdivision (d), may elect to change to a different
8 option or joint and survivor annuity, as modified by the board as
9 a plan amendment pursuant to subdivision (d), if the member or
10 participant meets all the criteria established by the board to prevent
11 a change in an option or joint and survivor annuity from having
12 an adverse actuarial impact on the retirement fund, including, but
13 not limited to, the effective date of a new designation or limitations
14 on any changes if a member or participant, as the case may be, or
15 beneficiary, or both, is currently not living or afflicted with a
16 known terminal illness. The member or participant shall designate
17 the change during the six-month period that begins with the
18 effective date of the plan amendment, on a form prescribed by the
19 system. Any member changing an option election pursuant to this
20 subdivision is not subject to the allowance reduction prescribed
21 in Section 24309 or 24310 as a result of the election. If a member
22 or participant elects to change his or her option or joint and survivor
23 annuity under this subdivision, the member or participant shall
24 retain the same option beneficiary or beneficiaries as named in the
25 prior designation.

26 (g) The Legislature reserves the right to modify this section
27 prior to the effective date of the plan amendment made pursuant
28 to subdivision (d) to prevent any actuarial impact to the fund.

29 (h) Except as described in subdivision (e) of Section 24300.1,
30 on or after January 1, 2007, a member may not make a new election
31 for an option or joint and survivor annuity described in subdivision
32 (a).

33 (i) Any member with a retirement effective on or after January
34 1, 2007, shall elect an option from the options described in Section
35 24300.1. Any member making a new option election under the
36 provisions of Section 24320, 24321, 24322, or 24323 shall elect
37 an option from the options described in Section 24300.1 if the
38 effective date of the new option election is on or after January 1,
39 2007.

1 SEC. 7. Section 24300.1 of the Education Code is amended to
2 read:

3 24300.1. (a) A member may, upon application for retirement,
4 elect an option pursuant to this part that would provide an
5 actuarially modified retirement allowance payable throughout the
6 life of the member and the member's option beneficiary or
7 beneficiaries, as follows:

8 (1) One hundred percent beneficiary option. The modified
9 retirement allowance shall be paid to the retired member and upon
10 the member's death, 100 percent of the modified allowance shall
11 continue to be paid to the option beneficiary.

12 (2) Seventy-five percent beneficiary option. The modified
13 retirement allowance shall be paid to the retired member and upon
14 the member's death, 75 percent of the modified allowance shall
15 continue to be paid to the option beneficiary. Pursuant to Section
16 401(a)(9) of the Internal Revenue Code, unless the option
17 beneficiary is the member's spouse or former spouse who has been
18 awarded a community property interest in the benefits of the
19 member under this part, the member may not designate an option
20 beneficiary under this option who is more than exactly 19 years
21 younger than the member.

22 (3) Fifty percent beneficiary option. The modified retirement
23 allowance shall be paid to the retired member and upon the
24 member's death, 50 percent of the modified allowance shall
25 continue to be paid to the option beneficiary.

26 (4) Compound option. The member may designate multiple
27 option beneficiaries or one or multiple option beneficiaries with
28 a designated percentage to remain unmodified. The member shall
29 elect an option as described in paragraph (1), (2), or (3) for each
30 designated option beneficiary that would provide an actuarially
31 modified retirement allowance payable throughout the lives of the
32 retired member and the member's option beneficiary or
33 beneficiaries upon the member's death.

34 (A) The modified retirement allowance shall be paid to the
35 member as long as the member and at least one option beneficiary
36 is living. Upon the member's death, an allowance shall be paid to
37 each surviving option beneficiary in accordance with the option
38 elected respective to that option beneficiary.

39 (B) The member shall specify the percent of the unmodified
40 allowance that will be modified by the election of each option

1 described in paragraph (1), (2), or (3) of this subdivision. The
2 percent of the unmodified allowance that is not modified by an
3 option, if any, shall be payable to the member. The sum of the
4 percentages specified for the option beneficiary or beneficiaries
5 and the member's remaining unmodified allowance, if any, shall
6 equal 100 percent.

7 (C) The member's election of the compound option is subject
8 to all of the following:

9 (i) Pursuant to Section 401(a)(9) of the Internal Revenue Code,
10 unless the option beneficiary is the member's spouse or former
11 spouse who has been awarded a community property interest in
12 the member's benefits under this part, the member may not
13 designate an option beneficiary under the 100 percent beneficiary
14 option within this compound option who is more than exactly 10
15 years younger than the member.

16 (ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code,
17 unless the option beneficiary is the member's spouse or former
18 spouse who has been awarded a community property interest in
19 the member's benefits under this part, the member may not
20 designate an option beneficiary under the 75 percent beneficiary
21 option within this compound option who is more than exactly 19
22 years younger than the member.

23 (b) For purposes of this section, the member shall designate an
24 option beneficiary on a properly executed retirement application.
25 Except as otherwise provided by this chapter, the option shall
26 become effective on the member's benefit effective date.

27 (c) Except as provided in subdivision (d), a member may revoke
28 or change an election of an option no later than 30 days from the
29 date the member's initial benefit payment for the member's most
30 recent retirement under the Defined Benefit Program is paid by
31 the system. A revocation of an option may not be made in
32 derogation of a spouse's or a former spouse's community property
33 rights as specified in a court order.

34 (d) (1) A member may change the beneficiary designated
35 pursuant to this section without penalty by designating a trust as
36 beneficiary if all of the following requirements are met:

37 (A) The trust conforms to the definition of trust in Section
38 22149.

39 (B) The beneficiary of the trust is the same person as the
40 previously named *option* beneficiary.

1 (C) The member files an application and any required documents
2 in a form prescribed by the system.

3 (2) If a trust is determined to be invalid or terminates after the
4 system commences payment to the trust, beginning on the effective
5 date of termination of the trust, the benefit shall be paid to, and all
6 associated rights and responsibilities shall accrue to, the beneficiary
7 of the trust so long as that beneficiary is eligible to receive a
8 ~~benefit.~~ *benefit pursuant to this section.*

9 (e) Notwithstanding Section 297 or 299.2 of the Family Code,
10 a spouse described in paragraphs (2) and (4) of subdivision (a)
11 does not include the domestic partner of the member, pursuant to
12 Section 7 of Title 1 of the United States Code.

13 (f) If there is a determination of community property rights as
14 described in Chapter 12 (commencing with Section 22650) of this
15 part on or before December 31, 2006, the member may elect the
16 option that is required by the judgment or court order. Nothing in
17 this part shall permit the member to change the option to the
18 detriment of the community property interest of the nonmember
19 spouse.

20 (g) The board may evaluate the existing options and annuities
21 provided pursuant to this section, Chapter 38 (commencing with
22 Section 25000) of this part, and Part 14 (commencing with Section
23 26000) and adopt, as a plan amendment, any appropriate changes
24 to the options and annuities based on the needs of the members,
25 participants, and their beneficiaries, including, but not limited to,
26 providing economic security for beneficiaries and reducing the
27 complexity of the options and annuities. The changes to the options
28 and annuities may have no net actuarial impact on the retirement
29 fund and the board may establish any eligibility criteria the board
30 deems necessary to prevent an adverse actuarial impact to the fund.
31 The board shall designate the effective date of the plan amendment,
32 which shall be at least 18 months after the amendment is adopted
33 by the board, and notwithstanding any other provision of this
34 section, the options and annuities available to members and
35 participants eligible to retire pursuant to this part and Part 14
36 (commencing with Section 26000), after the effective date of the
37 plan amendment made pursuant to this subdivision, shall reflect
38 the changes adopted as a plan amendment to this subdivision.

39 SEC. 8. Section 24307 of the Education Code is amended to
40 read:

1 24307. (a) A member who qualifies to apply for retirement
2 under Section 24201 or 24203 may make a preretirement election
3 of an option, as provided in Section 24300.1 without right of
4 revocation or change after the benefit effective date, except as
5 provided in this part. The preretirement election of an option shall
6 become effective as of the date of the member's signature on a
7 properly executed form prescribed by the system, subject to the
8 following requirements:

9 (1) The form includes the signature of the member's spouse or
10 registered domestic partner, if applicable, and the signature is
11 dated.

12 (2) The date the form is received at the system's headquarters
13 office is within 30 days after the date of the member's signature
14 and, if applicable, the spouse's or registered domestic partner's
15 signature.

16 (b) A member who makes a preretirement election of an Option
17 2, Option 3, Option 4, Option 5, Option 6, or Option 7 pursuant
18 to Section 24300, or an election as described in paragraph (1), (2),
19 or (3) of Section 24300.1 may subsequently make a preretirement
20 election of the compound option described in paragraph (4) of
21 subdivision (a) of Section 24300.1. The member may retain the
22 same option and the same option beneficiary as named in the prior
23 preretirement election for a designated percentage within the
24 compound option.

25 (c) Upon the member's death prior to the benefit effective date,
26 the beneficiary who was designated under the option elected and
27 who survives shall receive an allowance calculated under the
28 option, under the assumption that the member retired for service
29 pursuant to Chapter 27 (commencing with Section 24201) on the
30 date of death. The payment of the allowance to the option
31 beneficiary shall be in lieu of the family allowance provided in
32 Section 23804, the payment provided in paragraph (1) of
33 subdivision (a) of Section 23802, the survivor benefit allowance
34 provided in Section 23854, and the payment provided in
35 subdivisions (a) and (b) of Section 23852, except that if the
36 beneficiary dies before all of the member's accumulated retirement
37 contributions are paid, the balance, if any, shall be paid to the estate
38 of the person last receiving or entitled to receive the allowance.
39 The accumulated annuity deposit contributions and the death

1 payment provided in Sections 23801 and 23851 shall be paid to
2 the beneficiary in a lump sum.

3 (d) If the member subsequently retires for service, and the
4 elected option has not been canceled pursuant to Section 24309,
5 a modified service retirement allowance computed under Section
6 24300 or 24300.1 and the option elected shall be paid.

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

15 (f) A member who terminates the service retirement allowance
16 pursuant to Section 24208 shall not be eligible to file a
17 preretirement election of an option until one calendar year elapses
18 from the date the allowance is terminated. If the member retires
19 again within one calendar year of the termination of their benefit
20 pursuant to Section 24208, the retired member shall keep, upon
21 subsequent retirement, the option and beneficiary or the unmodified
22 election in place upon the date the termination of the benefits
23 became effective.

24 (1) If the member's option beneficiary or beneficiaries
25 predecease the member within one calendar year of the termination
26 of benefits and before the member has retired again, upon
27 notification to the system, the system shall cancel the option and
28 beneficiary from that portion of the benefit with reduction pursuant
29 to Section 24309. The member shall not elect a new option or
30 beneficiary pursuant to Section 24310 until one calendar year from
31 the termination effective date has elapsed.

32 (2) If a final decree of dissolution of marriage or a judgment of
33 nullity has been entered or an order of separate maintenance has
34 been made within one calendar year of the termination of benefits
35 and the member has not retired again, upon notification to the
36 system, the system shall cancel or change the option election in
37 accordance with the court order with reduction pursuant to Section
38 24309. Any additional changes shall not be made until one calendar
39 year from the termination effective date has elapsed.

1 (g) (1) A member may change the beneficiary designated
2 pursuant to this section without penalty by designating a trust as
3 beneficiary if all of the following requirements are met:

4 (A) The trust conforms to the definition of trust in Section
5 22149.

6 (B) The beneficiary of the trust is the same person as the
7 previously named *option* beneficiary.

8 (C) The member files an application and any required documents
9 in a form prescribed by the system.

10 (2) If a trust is determined to be invalid or terminates after the
11 system commences payment to the trust, beginning on the effective
12 date of termination of the trust, the benefit shall be paid to, and all
13 associated rights and responsibilities shall accrue to, the beneficiary
14 of the trust so long as that beneficiary is eligible to receive a
15 ~~benefit.~~ *benefit pursuant to this section.*

16 (h) The system shall inform members who are qualified to make
17 a preretirement election of an option, through the annual statements
18 of account, that the election of an option can be made.

19 SEC. 9. Section 24309 of the Education Code is amended to
20 read:

21 24309. (a) A member may change or cancel the election of an
22 option made pursuant to Section 24307. The change or cancellation
23 shall be on a properly executed form provided by the system and
24 received at the system’s headquarters office within 30 days after
25 the date of the member’s signature and, if applicable, the spouse’s
26 signature, and no later than 30 days from the date the member’s
27 initial benefit payment for the member’s most recent retirement
28 under the Defined Benefit Program is paid by the system. The
29 change or cancellation shall become effective as of the date of the
30 member’s signature or the day prior to the member’s benefit
31 effective date, whichever is earlier. Except as provided in
32 subdivision (g) of Section 24307, both of the following shall apply:

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

36 (2) Regardless of how the member elects to receive his or her
37 retirement allowance, a change made to an election of an option
38 or a cancellation of an option shall result in the reduction of that
39 allowance by an amount determined by the board to be the actuarial
40 equivalent of the coverage the member received as a result of the

1 preretirement election and that does not result in any adverse
2 funding to the plan.

3 (b) If the option beneficiary designated in the preretirement
4 election of an option pursuant to Section 24307 dies prior to the
5 member's retirement, the preretirement election shall be canceled
6 as of the day following the date of death and the member's
7 subsequent retirement allowance under this part shall be subject
8 to the allowance reduction prescribed in this section.

9 (c) If the option elected pursuant to Section 24307 is "Option
10 8" as described in paragraph (7) of subdivision (a) of Section 24300
11 or the compound option as described in paragraph (4) of
12 subdivision (a) of Section 24300.1, a member may cancel the
13 designation of an option beneficiary. If the member cancels the
14 designation of the option beneficiary or the option beneficiary
15 predeceases the member prior to the member's retirement, the
16 member may elect to receive that portion of the retirement
17 allowance without modification for the option or elect one or
18 multiple new or existing option beneficiaries as described in
19 Section 24307. Any change or cancellation of the designation of
20 the option beneficiary under this subdivision shall result in the
21 allowance reduction prescribed in this section.

22 SEC. 10. Section 24331 of the Education Code is amended to
23 read:

24 24331. (a) An option beneficiary or a trustee *or beneficiary*
25 of a trust that is an option beneficiary who is receiving an
26 allowance pursuant to the option elected by the member may
27 designate a beneficiary to receive any allowance that has accrued
28 and is unpaid, and any remaining balance of the retired member's
29 accumulated retirement contributions payable pursuant to Section
30 23881, upon the death of the option beneficiary.

31 (b) Unless otherwise specified in the trust instrument, the trustee
32 of the trust that is an option beneficiary is entitled to name a
33 subsequent beneficiary if the trust is valid. If the trust is determined
34 to be invalid or terminates, any election by the trustee pursuant to
35 this division shall be void and the beneficiary shall be entitled to
36 exercise all rights provided to option beneficiaries under this part.

37 SEC. 11. Section 24613.5 is added to the Education Code, to
38 read:

39 24613.5. The board shall not be required to determine the
40 powers of a trustee or the validity of a trust or of any of the terms

1 of a trust that is elected as a beneficiary, option beneficiary, or
2 other payee under the plan. Such a determination by the board
3 shall not be inferred from the fact that a member or trustee has
4 provided a copy of all or part of the trust instrument. The
5 acknowledged certification pursuant to Section 22450 by the
6 member or trustee that the trustee has the powers declared therein
7 and that the trust meets the requirements described in this part and
8 Part 14 shall be conclusive. Payment of benefits to a trust pursuant
9 to the board's determination in good faith of the existence, identity,
10 or other facts relating to entitlement of the trust to receive a benefit
11 under this part constitutes a complete discharge and release of the
12 board, system, and plan from liability for the benefit.

13 SEC. 12. Section 25015 of the Education Code is amended to
14 read:

15 25015. (a) If a member elects to receive a benefit payable
16 under the Defined Benefit Supplement Program as a joint and
17 survivor annuity, the designation of the beneficiary made pursuant
18 to Section 24300 or 24300.1 shall apply to the benefit payable
19 under this chapter. The annuity beneficiary designation shall not
20 be changed after the date the benefit becomes payable to the
21 member, except as provided in Section 24300, 24300.1, 24324,
22 25011, 25011.1, 25018, or 25018.1, or Chapter 12 (commencing
23 with Section 22650).

24 (b) If the member designates one or multiple option beneficiaries
25 within Option 8 pursuant to Section 24300 or the compound option
26 pursuant to Section 24300.1, the percentage of the unmodified
27 allowance attributable to each option beneficiary specified in that
28 designation shall apply to the joint and survivor annuity payable
29 under this chapter. The member shall elect one joint and survivor
30 annuity type and this annuity type shall be applied the same for
31 each beneficiary and each designated percentage of the member
32 only annuity. If any percentage of the allowance was designated
33 to remain unmodified, the member only annuity shall apply for
34 the corresponding percentage of the annuity provided under this
35 chapter. The annuity amount payable to the member during his or
36 her lifetime shall be modified to be payable over the combined
37 lives of the member and the annuity beneficiary or beneficiaries.

38 (1) Pursuant to Section 401(a)(9) of the Internal Revenue Code,
39 the member shall not designate the 100 percent beneficiary annuity
40 type under this subdivision if any annuity beneficiary is more than

1 exactly 10 years younger than the member, unless that annuity
2 beneficiary is the member's spouse or former spouse who has been
3 awarded a community property interest in the member's benefits
4 under this part.

5 (2) Pursuant to Section 401(a)(9) of the Internal Revenue Code,
6 the member shall not designate the 75 percent beneficiary annuity
7 type under this subdivision if any annuity beneficiary is more than
8 exactly 19 years younger than the member, unless that annuity
9 beneficiary is the member's spouse or former spouse who has been
10 awarded a community property interest in the member's benefits
11 under this part.

12 (c) (1) If the member predeceases an annuity beneficiary, the
13 annuity beneficiary may designate, on a properly executed form
14 provided by the system, a payee to receive an amount that may be
15 payable in a lump sum pursuant to Section 25023 upon the death
16 of the annuity beneficiary.

17 (2) Unless otherwise specified in the trust instrument, the trustee
18 *or beneficiary* of the trust that is an annuity beneficiary is entitled
19 to name a subsequent beneficiary if the trust is valid. If the trust
20 is determined to be invalid or terminates, any election by the trustee
21 pursuant to this paragraph shall be void and the beneficiary shall
22 be entitled to exercise all rights provided to annuity beneficiaries
23 under this part.

24 SEC. 13. Section 26106.5 is added to the Education Code, to
25 read:

26 26106.5. (a) For purposes of this part, "annuity beneficiary"
27 means the person or trust designated by a participant pursuant to
28 Section 26807, 26807.5, 26906, or 26906.5 to receive an annuity
29 upon the participant's death.

30 (b) For purposes of this section, "trust" means an irrevocable
31 trust with the following characteristics:

32 (1) The trust satisfies the requirements of subparagraph (A) or
33 (C) of paragraph (4) of subdivision (d) of Section 1396p of Title
34 42 of the United States Code.

35 (2) The trust satisfies the requirements of Section 1.401(a)(9)-4
36 of Title 26 of the Code of Federal Regulations.

37 (3) The trust, or the account in a pooled trust, is for the sole
38 benefit of a single beneficiary and other beneficiaries to the trust,
39 if any, are successor beneficiaries.

1 (4) The beneficiary of the trust who is beneficiary with respect
 2 to the trust’s interest in the ~~member’s~~ *participant’s* benefit shall
 3 be considered the designated beneficiary for the purpose of
 4 determining eligibility for, and the amount and duration of, benefits
 5 under the program.

6 SEC. 14. Section 26306 of the Education Code is amended to
 7 read:

8 26306. (a) Upon request by the system, a participant or
 9 beneficiary with respect to the Cash Balance Benefit Program shall
 10 provide to the system any information affecting his or her status
 11 as a participant or beneficiary.

12 (b) Upon request by the system, the participant shall provide
 13 proof of his or her date of birth.

14 (c) A participant who has not contributed to the Cash Balance
 15 Benefit Program during the immediately preceding plan year shall
 16 provide the system with his or her current mailing address and
 17 beneficiary information.

18 (d) For a trust as defined in subdivision (b) of Section 26106.5
 19 that is designated as a joint and survivor annuity beneficiary, the
 20 following documentation is required:

21 (1) The participant shall provide an acknowledged certification
 22 that includes each declaration prescribed by clause A-6 of Section
 23 1.401(a)(9)-4 of Title 26 of the Code of Federal Regulations and
 24 a declaration that the trust meets the requirements and conditions
 25 as defined in subdivision (b) of Section 26106.5. The certification
 26 shall be submitted to the system at the time of election of the
 27 beneficiary and is required for the election to be valid. The
 28 certification shall be in the form of an acknowledged declaration
 29 signed by the participant and by all then-acting trustees of the trust.

30 (2) After the participant’s death, the then-acting trustee or
 31 trustees of the trust shall provide an acknowledged certification
 32 that includes each of the declarations prescribed by clause A-6 of
 33 Section 1.401(a)(9)-4 of Title 26 of the Code of Federal
 34 Regulations and a declaration that the trust meets the requirements
 35 and conditions as defined in subdivision (b) of Section 26106.5.
 36 The certification by the trustee or trustees of the trust shall be
 37 submitted to the system upon the participant’s death and shall
 38 additionally certify that the trust has not been revoked, modified,
 39 or amended in any manner which would cause the representations
 40 contained in the certification to be incorrect. The certification shall

1 contain a statement that it is being signed by all of the then-acting
2 trustees of the trust and shall be in the form of an acknowledged
3 declaration signed by all the then-acting trustees.

4 (3) At any time, upon demand by the system, the ~~member~~
5 *participant* or trustee of the trust shall provide a copy of the trust
6 instrument.

7 SEC. 15. Section 26811 of the Education Code is amended to
8 read:

9 26811. (a) Except as provided in subdivision (b), the annuity
10 beneficiary under the joint and survivor annuity elected pursuant
11 to paragraph (3) or (4) of subdivision (b) of Section 26807 or
12 ~~paragraphs (2) to (5), inclusive, paragraph (2), (3), or (4)~~ of
13 subdivision (a) of Section 26807.5 shall be the person designated
14 by the participant on the application for a retirement benefit under
15 this part, and shall not be changed after the original retirement date
16 unless the beneficiary has predeceased the participant.

17 (b) (1) A participant may change the annuity beneficiary
18 designated pursuant to this section without penalty by designating
19 a trust as beneficiary if all of the following requirements are met:

20 (A) The trust conforms to the definition of trust in Section
21 26105.5.

22 (B) The beneficiary of the trust is the same person as the
23 previously named *annuity* beneficiary.

24 (C) The member files an application and any required documents
25 in a form prescribed by the system.

26 (2) If a trust is determined to be invalid or terminates after the
27 system commences payment to the trust, beginning on the effective
28 date of termination of the trust, the benefit shall be paid to, and all
29 associated rights and responsibilities shall accrue to, the beneficiary
30 of the trust so long as that beneficiary is eligible to receive a
31 ~~benefit.~~ *benefit pursuant to this section.*

32 SEC. 16. Section 26910 of the Education Code is amended to
33 read:

34 26910. (a) Except as provided in subdivision (b), the
35 beneficiary under the joint and survivor option elected pursuant
36 to paragraph (3) or (4) of subdivision (b) of Section 26906 or
37 ~~paragraphs (1) to (4), inclusive, paragraph (2), (3), or (4)~~ of
38 subdivision (a) of Section 26906.5 shall be the person or trust
39 designated by the participant on the application for a disability
40 benefit under this part, and shall not be changed after the original

1 disability date unless the beneficiary has predeceased the
2 participant.

3 (b) (1) A participant may change the annuity beneficiary
4 designated pursuant to this section without penalty by designating
5 a trust as beneficiary if all of the following requirements are met:

6 (A) The trust conforms to the definition of trust in Section
7 26105.5.

8 (B) The beneficiary of the trust is the same person as the
9 previously named *annuity* beneficiary.

10 (C) The member files an application and any required documents
11 in a form prescribed by the system.

12 (2) If a trust is determined to be invalid or terminates after the
13 system commences payment to the trust, beginning on the effective
14 date of termination of the trust, the benefit shall be paid to, and all
15 associated rights and responsibilities shall accrue to, the beneficiary
16 of the trust so long as that beneficiary is eligible to receive a
17 ~~benefit.~~ *benefit pursuant to this section.*

18 *SEC. 17. Section 27004 of the Education Code is amended to*
19 *read:*

20 27004. (a) A beneficiary, other than an ~~entity~~, *entity except a*
21 *trust as defined in Section 26106.5*, may elect to receive the final
22 benefit payable under the Cash Balance Benefit Program as an
23 annuity payable in monthly installments provided that the sum of
24 the employee account and the employer account that is payable to
25 the beneficiary equals at least three thousand five hundred dollars
26 (\$3,500).

27 (b) A beneficiary who elects to receive an annuity pursuant to
28 this section shall elect a period certain annuity. This form of
29 payment is an annuity equal to the actuarial equivalent of the sum
30 of the balance of the employee account and the employer account
31 on the date of the participant's death. The annuity shall be payable
32 in whole year increments over a period of years specified by the
33 beneficiary, from a minimum of three years to a maximum of 10
34 years. However, the annuity period shall not exceed the life
35 expectancy of the ~~beneficiary.~~ *The beneficiary of the trust that is*
36 *beneficiary with respect to the trust's interest in the plan.*

37 (c) *The* beneficiary may designate a payee to receive the
38 remaining balance of payments if the beneficiary dies prior to the
39 end of the period certain. *Unless otherwise specified in the trust*
40 *instrument, the trustee or beneficiary of the trust that is an annuity*

1 *beneficiary is entitled to name a subsequent beneficiary if the trust*
2 *is valid. If the trust is determined to be invalid or terminated, any*
3 *election by the trustee pursuant to this subdivision shall be void*
4 *and the beneficiary shall be entitled to exercise all rights provided*
5 *to annuity beneficiaries under this part.*

O