

Assembly Bill No. 1875

Passed the Assembly May 5, 2016

Chief Clerk of the Assembly

Passed the Senate August 19, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22105.5, 22149, 22450, 22451.5, 23301, 24300, 24300.1, 24307, 24309, 24331, 25015, 26306, 26811, 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, 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 changes and, with respect to the Cash Balance Benefit Program, revise the circumstances under which a participant may change an option beneficiary after retirement changes.

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

SECTION 1. Section 22105.5 of the Education Code is amended to read:

22105.5. “Annuity beneficiary” means the person or trust designated by a member pursuant to Section 25011, 25011.1, 25018, or 25018.1 to receive an annuity under the Defined Benefit Supplement Program upon the member’s death.

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

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

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

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

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

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

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

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

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

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

(2) Employment, legal, or medical documentation.

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

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

(1) The member shall provide an acknowledged certification that includes each declaration prescribed by clause A-6 of Section 1.401(a)(9)-4 of Title 26 of the Code of Federal Regulations and a declaration that the trust meets the requirements and conditions as defined in Section 22149. The certification shall be submitted to the system at the time of election of the beneficiary and is required for the election to be valid. The certification shall be in the form of an acknowledged declaration signed by the member and by all then-acting trustees of the trust.

(2) After the member’s death, the then-acting trustee or trustees of the trust shall provide an acknowledged certification that

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

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

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

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

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

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

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

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

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

23301. A corporation, trust, eleemosynary, parochial institution, or public entity may be designated as a beneficiary under this part,

but they shall not be designated as option beneficiaries, except a trust as defined in Section 22149.

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

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

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

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

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

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

(5) Option 6. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to the modified amount that the retired member was receiving shall be paid to the option beneficiary.

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

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

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

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

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

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

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

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

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

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

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

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

(f) Any member or participant who retired and elected an option or a joint and survivor annuity, or who filed a preretirement election of an option prior to the effective date of the plan amendment made pursuant to subdivision (d), may elect to change to a different

option or joint and survivor annuity, as modified by the board as a plan amendment pursuant to subdivision (d), if the member or participant meets all the criteria established by the board to prevent a change in an option or joint and survivor annuity from having an adverse actuarial impact on the retirement fund, including, but not limited to, the effective date of a new designation or limitations on any changes if a member or participant, as the case may be, or beneficiary, or both, is currently not living or afflicted with a known terminal illness. The member or participant shall designate the change during the six-month period that begins with the effective date of the plan amendment, on a form prescribed by the system. Any member changing an option election pursuant to this subdivision is not subject to the allowance reduction prescribed in Section 24309 or 24310 as a result of the election. If a member or participant elects to change his or her option or joint and survivor annuity under this subdivision, the member or participant shall retain the same option beneficiary or beneficiaries as named in the prior designation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) If a trust is determined to be invalid or terminates after the system commences payment to the trust, beginning on the effective date of termination of the trust, the benefit shall be paid to, and all associated rights and responsibilities shall accrue to, the beneficiary

of the trust so long as that beneficiary is eligible to receive a benefit pursuant to this section.

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

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

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

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

24307. (a) A member who qualifies to apply for retirement under Section 24201 or 24203 may make a preretirement election of an option, as provided in Section 24300.1 without right of revocation or change after the benefit effective date, except as provided in this part. The preretirement election of an option shall become effective as of the date of the member's signature on a

properly executed form prescribed by the system, subject to the following requirements:

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

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

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

(c) Upon the member's death prior to the benefit effective date, the beneficiary who was designated under the option elected and who survives shall receive an allowance calculated under the option, under the assumption that the member retired for service pursuant to Chapter 27 (commencing with Section 24201) on the date of death. The payment of the allowance to the option beneficiary shall be in lieu of the family allowance provided in Section 23804, the payment provided in paragraph (1) of subdivision (a) of Section 23802, the survivor benefit allowance provided in Section 23854, and the payment provided in subdivisions (a) and (b) of Section 23852, except that if the beneficiary dies before all of the member's accumulated retirement contributions are paid, the balance, if any, shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the death payment provided in Sections 23801 and 23851 shall be paid to the beneficiary in a lump sum.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the day following the date of death and the member's

subsequent retirement allowance under this part shall be subject to the allowance reduction prescribed in this section.

(c) If the option elected pursuant to Section 24307 is “Option 8” as described in paragraph (7) of subdivision (a) of Section 24300 or the compound option as described in paragraph (4) of subdivision (a) of Section 24300.1, a member may cancel the designation of an option beneficiary. If the member cancels the designation of the option beneficiary or the option beneficiary predeceases the member prior to the member’s retirement, the member may elect to receive that portion of the retirement allowance without modification for the option or elect one or multiple new or existing option beneficiaries as described in Section 24307. Any change or cancellation of the designation of the option beneficiary under this subdivision shall result in the allowance reduction prescribed in this section.

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

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

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

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

24613.5. The board shall not be required to determine the powers of a trustee or the validity of a trust or of any of the terms of a trust that is elected as a beneficiary, option beneficiary, or other payee under the plan. Such a determination by the board shall not be inferred from the fact that a member or trustee has provided a copy of all or part of the trust instrument. The acknowledged certification pursuant to Section 22450 by the member or trustee that the trustee has the powers declared therein

and that the trust meets the requirements described in this part and Part 14 shall be conclusive. Payment of benefits to a trust pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of the trust to receive a benefit under this part constitutes a complete discharge and release of the board, system, and plan from liability for the benefit.

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

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

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

(1) Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not designate the 100 percent beneficiary annuity type under this subdivision if any annuity beneficiary is more than exactly 10 years younger than the member, unless that annuity beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part.

(2) Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not designate the 75 percent beneficiary annuity

type under this subdivision if any annuity beneficiary is more than exactly 19 years younger than the member, unless that annuity beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part.

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

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

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

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

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

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

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

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

(4) The beneficiary of the trust who is beneficiary with respect to the trust's interest in the participant's benefit shall be considered the designated beneficiary for the purpose of determining eligibility for, and the amount and duration of, benefits under the program.

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

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

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

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

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

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

(2) After the participant's death, the then-acting trustee or trustees of the trust shall provide an acknowledged certification that includes each of the declarations prescribed by clause A-6 of Section 1.401(a)(9)-4 of Title 26 of the Code of Federal Regulations and a declaration that the trust meets the requirements and conditions as defined in subdivision (b) of Section 26106.5. The certification by the trustee or trustees of the trust shall be submitted to the system upon the participant's death and shall additionally certify that the trust has not been revoked, modified, or amended in any manner which would cause the representations contained in the certification to be incorrect. The certification shall contain a statement that it is being signed by all of the then-acting trustees of the trust and shall be in the form of an acknowledged declaration signed by all the then-acting trustees.

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

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

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

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

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

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

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

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

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

26910. (a) Except as provided in subdivision (b), the beneficiary under the joint and survivor option elected pursuant to paragraph (3) or (4) of subdivision (b) of Section 26906 or paragraph (2), (3), or (4) of subdivision (a) of Section 26906.5 shall be the person or trust designated by the participant on the application for a disability benefit under this part, and shall not be changed after the original disability date unless the beneficiary has predeceased the participant.

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

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

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

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

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

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

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

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

(c) The beneficiary may designate a payee to receive the remaining balance of payments if the beneficiary dies prior to the end of the period certain. Unless otherwise specified in the trust instrument, the trustee or beneficiary of the trust that is an annuity beneficiary is entitled to name a subsequent beneficiary if the trust is valid. If the trust is determined to be invalid or terminated, any election by the trustee pursuant to this subdivision shall be void and the beneficiary shall be entitled to exercise all rights provided to annuity beneficiaries under this part.

Approved _____, 2016

Governor