

AMENDED IN SENATE AUGUST 21, 1995

AMENDED IN ASSEMBLY MAY 30, 1995

AMENDED IN ASSEMBLY MAY 18, 1995

AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1298

Introduced by Assembly Members Ducheny and Alpert

February 23, 1995

An act to amend Sections 22602 and 22604 of, to add Section 22119.5 to, and to add Part 14 (commencing with Section 26000) to, to repeal Sections 22502, 22503, 22505, 22506, 22507, 22603, 22605, 22606, 22607, and 22608 of, to repeal and add Section 22146 of, the Education Code, relating to educational employees, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1298, as amended, Ducheny. Teachers' retirement: Cash Balance Plan membership.

The State Teachers' Retirement Law regulates, and prescribes the provisions of, the State Teachers' Retirement System.

This bill would revise various provisions relating to eligibility for membership.

This bill would also establish the State Teachers' Retirement System Cash Balance Plan. The plan would prescribe retirement, disability, and death benefits for part-time

educational employees. This bill would provide for the administration and operation of the plan. The bill would create the Cash Balance Fund and would continuously appropriate the fund for the purposes of the plan.

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

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

1 SECTION 1. Section 22119.5 is added to the
2 Education Code, to read:

3 22119.5. (a) "Creditable service" means any of the
4 following activities performed for an employer in a
5 position requiring a credential, certificate, or permit
6 pursuant to this code or under the appropriate minimum
7 standards adopted by the Board of Governors of the
8 California Community Colleges or under the provisions
9 of an approved charter for the operation of a charter
10 school for which the employer is eligible to receive state
11 apportionment:

12 (1) The work of teachers, instructors, district interns,
13 and academic employees employed in the instructional
14 program for pupils, including special programs such as
15 adult education, regional occupation programs, child
16 care centers, and prekindergarten programs pursuant to
17 Section 22161.

18 (2) Education or vocational counseling, guidance, and
19 placement services.

20 (3) The work of directors, coordinators, and assistant
21 administrators who plan courses of study to be used in
22 California public schools, or research connected with the
23 evaluation or efficiency of the instructional program.

24 (4) The selection, collection, preparation,
25 classification, demonstration, or evaluation of
26 instructional materials of any course of study for use in the
27 development of the instructional program in California
28 public schools, or other services related to school
29 curriculum.



1 (5) The examination, selection, in-service training, or
2 assignment of teachers, principals or other *similar*
3 personnel involved in the instructional program.

4 (6) School activities related to, and an ~~out-growth~~
5 *outgrowth* of, the instructional and guidance program of
6 the school when performed in addition to other activities
7 described in this section within the hours considered
8 normal ~~for full-time employees on a full-time basis~~ *on a*
9 *full-time basis for full-time employees* of the employer.

10 (7) The work of nurses, physicians, speech therapists,
11 psychologists, audiometrists, audiologists, and other
12 supervised employees in the school health program.

13 (8) Services as a school librarian.

14 (9) The work of county and district superintendents
15 and other employees who are responsible for the
16 supervision of persons or administration of the duties
17 described in this section.

18 (b) The board shall have final authority for
19 determining creditable service to cover any activities not
20 specified.

21 SEC. 2. Section 22146 of the Education Code is
22 repealed.

23 SEC. 3. Section 22146 is added to the Education Code,
24 to read:

25 22146. (a) "Member" means any person, unless
26 excluded under other provisions of this part, who has
27 performed creditable service as defined in Section
28 22119.5 for an employer and has earned compensation for
29 that service and has not received a refund for that service.
30 A member's rights and obligations under this part shall be
31 determined by the applicability of subdivision (a), (b),
32 (c), or (d) to the member during a school year, unless the
33 member's rights and obligations are determined under
34 other provisions of this part.

35 (b) An active member is a member who earns
36 compensation during the school year.

37 (c) An inactive member is a member who, by the pay
38 period ending June 30, has not earned compensation
39 during the school year.



1 (d) A disabled member is a member to whom a
2 disability allowance is payable under Section 24006.

3 (e) A retired member is a member who has
4 terminated employment and has retired for service
5 under the provisions of Section 24204 or has retired for
6 disability under the provisions of Section 24105, and to
7 whom a retirement allowance is therefore payable.

8 SEC. 4. Section 22502 of the Education Code is
9 repealed.

10 SEC. 5. Section 22503 of the Education Code is
11 repealed.

12 SEC. 6. Section 22505 of the Education Code is
13 repealed.

14 SEC. 7. Section 22506 of the Education Code is
15 repealed.

16 SEC. 8. Section 22507 of the Education Code is
17 repealed.

18 SEC. 9. Section 22602 of the Education Code is
19 amended to read:

20 22602. (a) Persons employed on a substitute basis,
21 who are not already members when they become
22 employed and who perform less than 100 complete days
23 of service during the school year are excluded from
24 membership in the system.

25 (b) Persons employed on a substitute basis who have
26 performed 100 or more complete days of substitute
27 service in one school district or county superintendent's
28 office in that school year shall become members on the
29 first day of the following pay period during which the
30 additional service was performed.

31 (c) This section shall apply to employers who do not
32 provide benefits for their employees under Part 14
33 (commencing with Section 26000).

34 SEC. 10. Section 22603 of the Education Code is
35 repealed.

36 SEC. 11. Section 22604 of the Education Code is
37 amended to read:

38 22604. (a) Persons employed on a part-time basis
39 who are not already members when they become
40 employed, and who perform less than 60 hours of service



1 per pay period or less than 10 days of service in a pay
2 period on a daily basis, are excluded from membership in
3 the system.

4 (b) Persons employed on a part-time basis who have
5 performed 60 or more hours of service in a pay period, or
6 10 days or more of service in a pay period on a daily basis
7 in one school district or county superintendent's office
8 shall become members on the first day of the following
9 pay period during which the additional service was
10 performed.

11 (c) This section shall apply to employers who do not
12 provide benefits for their employees under Part 14
13 (commencing with Section 26000).

14 SEC. 12. Section 22605 of the Education Code is
15 repealed.

16 SEC. 13. Section 22606 of the Education Code is
17 repealed.

18 SEC. 14. Section 22607 of the Education Code is
19 repealed.

20 SEC. 15. Section 22608 of the Education Code is
21 repealed.

22 SEC. 16. Part 14 (commencing with Section 26000) is
23 added to the Education Code, to read:

24

25 PART 14. STATE TEACHERS' RETIREMENT
26 SYSTEM CASH BALANCE PLAN

27

28 CHAPTER 1. GENERAL PROVISIONS

29

30 26000. The State Teachers' Retirement System Cash
31 Balance Plan is hereby created and established on July 1,
32 1996, to provide a retirement plan for persons employed
33 to perform creditable service for less than 50 percent of
34 the full-time equivalent for the position. This part shall be
35 known and may be cited as the Cash Balance Plan.

36 The governing board of a school district, community
37 college district, or county office of education may, by
38 formal action, elect to provide the benefits of this part for
39 their employees.



1 26001. The design and administration of the plan shall
2 comply with the applicable provisions of the Internal
3 Revenue Code and the Revenue and Taxation Code. The
4 Teachers' Retirement Board may amend the plan to
5 comply with the applicable federal laws and regulations
6 to the extent permitted by law, to establish or revise the
7 minimum interest rate, to declare additional earnings
8 credit, to declare additional annuity credit, and to adopt
9 and amend actuarial assumptions for all purposes under
10 the plan.

11 26002. The Cash Balance Plan shall be administered
12 by the Teachers' Retirement Board with all of the powers,
13 responsibilities and duties for administration of the
14 system set forth in Chapter 3 (commencing with Section
15 22200) through Chapter 7 (commencing with Section
16 22375) of Part 13. In administering the plan, the board
17 and its officers and employees shall exercise their
18 fiduciary duties set forth in Chapter 4 (commencing with
19 Section 22250) of Part 13.

20 26003. If any provision of this part or the application
21 thereof to any person or circumstance is held invalid, that
22 invalidity shall not affect other provisions or applications
23 of this part that can be given effect without the invalid
24 provision or application, and to this end the provisions of
25 this part are severable.

26 26004. Notwithstanding any other provision of law:

27 (a) The benefits payable to any participant or
28 beneficiary under the plan shall be subject to the
29 limitations imposed by Section 415 of Title 26 of the
30 United States Code.

31 (b) The amount of compensation that is taken into
32 account in computing benefits under the plan for a plan
33 year shall not exceed the annual compensation limit
34 applicable to that plan year in accordance with Section
35 401(a)(17) of Title 26 of the United States Code as that
36 section read on the effective date of this section and as
37 that section may be amended after that date. The
38 determination of compensation for a 12-month period
39 shall be subject to the annual compensation limit in effect
40 for the calendar year in which the 12-month period



1 begins. In a determination of average compensation over
2 more than one 12-month period, the amount of
3 compensation taken into account for each 12-month
4 period shall be subject to the respective annual
5 compensation limit applicable to that period.

6 (c) Distributions from the plan shall be made in
7 accordance with Section 401(a)(9) of Title 26 of the
8 United States Code, including the incidental death
9 benefit requirements of Section 401(a)(9)(G) and the
10 regulations thereunder. The required beginning date of
11 benefit payments that represent the entire interest of the
12 participant shall be as follows:

13 (1) In the case of a lump-sum distribution of a
14 retirement benefit, disability benefit, or termination
15 benefit, the lump-sum payment shall be made not later
16 than April 1 of the calendar year following the later of the
17 calendar year in which the participant attains the age of
18 70 1/2 years or the calendar year in which the participant
19 terminates employment in all positions covered by the
20 plan.

21 (2) In the case of a retirement benefit or disability
22 benefit that is to be paid in the form of an annuity,
23 payment of the annuity shall begin not later than April 1
24 of the calendar year following the later of the calendar
25 year in which the participant attains the age of 70 1/2
26 years or the calendar year in which the member
27 terminates employment in all positions covered by the
28 plan, with the annuity to continue over the life of the
29 participant or the life of the participant and the
30 participant's option beneficiary, or over a period not to
31 exceed the life expectancy of the participant or the life
32 expectancy of the participant and the participant's option
33 beneficiary.

34 (3) In the case of a death benefit, distributions shall
35 commence no later than the date provided in Section
36 27001.

37 (d) If a person becomes entitled to a distribution from
38 the plan that constitutes an "eligible rollover
39 distribution" within the meaning of Section 401(a)(31) of
40 Title 26 of the United States Code, the person may elect



1 under terms and conditions established by the board to
2 have the distribution or a portion thereof paid directly to
3 a plan that constitutes an “eligible retirement plan”
4 within the meaning of Section 401(a)(31), as specified by
5 that person. Upon the exercise of the election by a person
6 with respect to a distribution or a portion thereof, the
7 distribution by the plan of the amount so designated, once
8 distributable under the terms of the plan, shall be made
9 in the form of a direct rollover to the eligible retirement
10 plan so specified.

11 (e) The amount of any benefit under the plan which
12 is determined on the basis of actuarial assumptions shall
13 be based on actuarial assumptions adopted by the board
14 pursuant to Section 26213 as a plan amendment and those
15 assumptions shall preclude employer discretion and
16 comply with Section 401(a)(25) of Title 26 of the United
17 States Code.

18

19

CHAPTER 2. DEFINITIONS

20

21 26100. Unless otherwise specified, the definitions set
22 forth in this chapter govern the construction of this part.

23 26101. “Actuarial equivalent” means a benefit that
24 has the same present value as the benefit it replaces based
25 on interest rates and mortality tables recommended by
26 the actuary and adopted by the board as a plan
27 amendment.

28 26102. “Actuary” means a person professionally
29 trained in the technical and mathematical aspects of
30 insurance, pensions, and related fields who has been
31 appointed by the board for the purpose of performing the
32 services under Section 26211.

33 26103. “Additional earnings credit” means a
34 percentage determined by the board for a plan year by
35 means of a plan amendment and credited to employee
36 accounts and employer accounts on a specified date.

37 26104. “Administrative costs” means the costs of
38 administering the plan for the plan year as determined by
39 the board.



1 26105. “Annuitant Reserve” means the reserve
2 account established by the board within the State
3 Teachers’ Retirement System Cash Balance Fund for the
4 payment of monthly annuities.

5 26106. “Annuity” means an amount of money payable
6 in monthly installments for a period determined by the
7 option elected by the participant or beneficiary.

8 26107. “Basis of employment” means the standard of
9 time over which the employer expects service to be
10 performed by an employee in the position during the
11 school year.

12 26108. “Beneficiary” means any person or persons or
13 entity designated by the participant pursuant to this part
14 or otherwise entitled by law to receive the death benefit
15 under the plan.

16 26109. “Board” means the Teachers’ Retirement
17 Board.

18 26111. “Cash Balance Plan Expense Account” means
19 the account established by the board within the State
20 Teachers’ Retirement System Cash Balance Fund for the
21 payment of costs of the board for administration of the
22 plan.

23 26112. “Cash Balance Plan” means the State
24 Teachers’ Retirement System Cash Balance Plan.

25 26113. (a) “Creditable Service” means any of the
26 following activities performed for an employer in a
27 position requiring a credential, certificate, or permit
28 pursuant to this code or under the appropriate minimum
29 standards adopted by the Board of Governors of the
30 California Community Colleges or under the provisions
31 of an approved charter for the operation of a charter
32 school for which the employer is eligible to receive state
33 apportionment:

34 (1) The work of teachers, instructors, district interns
35 and academic employees employed in the instructional
36 program for pupils, including special programs such as
37 adult education, regional occupational programs, child
38 care centers, and prekindergarten programs pursuant to
39 Section 22161.



- 1 (2) Education or vocational counseling, guidance, and
2 placement services.
- 3 (3) The work of directors, coordinators, and assistant
4 administrators who plan courses of study to be used in
5 California public schools, or research connected with the
6 evaluation or efficiency of the instructional program.
- 7 (4) The selection, collection, preparation,
8 classification, demonstration, or evaluation of
9 instructional materials of any course of study for use in the
10 development of the instructional program in California
11 public schools, or other services related to school
12 curriculum.
- 13 (5) The examination, selection, in-service training, or
14 assignment of teachers, principals or other similar
15 personnel involved in the instructional program.
- 16 (6) School activities related to, and an outgrowth of,
17 the instructional and guidance program of the school
18 when performed in addition to other activities described
19 in this section.
- 20 (7) Services as a school librarian.
- 21 (8) The work of county and district superintendents
22 and other employees who are responsible for the
23 supervision of persons or administration of the duties
24 described in this section.
- 25 (b) The board shall have final authority for
26 determining creditable service to cover any activities not
27 already specified.
- 28 26114. "Death benefit" means the benefit payable
29 under the plan upon the death of the participant.
- 30 26115. "Defined Benefit Plan" means the State
31 Teachers' Retirement System Defined Benefit Plan as set
32 forth in Part 13 (commencing with Section 22000).
- 33 26116. "Disability benefit" means a benefit for
34 permanent and total disability that is an amount equal to
35 the sum of the participant's employee account and
36 employer account as of the disability date.
- 37 26117. "Disability date" means the date the benefit
38 becomes payable to a participant who has applied for a
39 disability benefit from the plan and has been determined
40 to have a total and permanent disability.



1 26118. “Employee” means a person engaged to
2 perform creditable service.

3 26119. “Employee account” means the nominal
4 account of the participant to which employee
5 contributions and interest and any additional earnings
6 credits in respect thereof are credited under the plan.

7 26120. “Employee contribution rate” means the
8 percentage of the participant’s salary withheld by the
9 employer as an employee contribution under the plan.

10 26121. “Employee contribution” means the amount
11 withheld from the participant’s salary by the employer as
12 a contribution by the employee under the plan.

13 26122. “Employer” means the state or any agency or
14 political subdivision thereof that engages persons to
15 perform creditable service subject to coverage by the
16 plan.

17 26123. “Employer account” means the nominal
18 account of the participant in which employer
19 contributions on behalf of the participant and interest
20 and any additional earnings credits in respect thereof are
21 credited under the plan.

22 26124. “Employer contribution rate” means the
23 percentage of salary that determines the amount the
24 employer contributes to the plan with respect to each
25 employee who is a participant.

26 26125. “Employer contribution” means the amount
27 contributed by the employer to the plan with respect to
28 the participant.

29 26126. “Employed” means employed to perform
30 creditable service subject to coverage by the plan.

31 26127. “Full time equivalent” means the time that a
32 person who is employed on a part-time basis would be
33 required to serve in a school year if he or she were
34 employed full time, as defined by Section 22138.5, in that
35 position.

36 26128. “Fund” means the Cash Balance Fund.

37 26129. “Gain and Loss Reserve” means the reserve
38 account established by the board within the Cash Balance
39 Fund to be drawn upon to the extent necessary to credit
40 interest to employee accounts and employer accounts at



1 the minimum interest rate during years in which the
2 investment earnings are not sufficient for that purpose,
3 and where necessary, to provide additions to the
4 Annuitant Reserve for monthly annuity payments.

5 26130. “Investment earnings” means income
6 received or receivable during the plan year by the plan
7 from investment of employee contributions, employer
8 contributions, and prior investment earnings.

9 26131. “Minimum interest rate” means the annual
10 rate determined for the plan year by the board by means
11 of an amendment to the plan in accordance with
12 applicable federal laws and regulations.

13 26132. “Participant” means a person who has
14 performed creditable service subject to coverage under
15 the plan, and who has contributions credited under the
16 plan or is receiving an annuity under the plan by reason
17 of creditable service.

18 26133. “Pay period” means a period of not less than
19 four weeks or more than one calendar month.

20 26134. “Plan” means the State Teachers’ Retirement
21 System Cash Balance Plan.

22 26135. “Plan year” means the period commencing on
23 July 1 and ending on June 30 in the following year.

24 26136. “Retirement” means termination of
25 employment and completion of all conditions precedent
26 to receiving a retirement benefit.

27 26137. “Retirement benefit” means a benefit payable
28 in the event of retirement that is an amount equal to the
29 sum of the participant’s employee account and employer
30 account as of the retirement date.

31 26138. “Retirement date” means the date the benefit
32 becomes payable to a participant who has applied for a
33 retirement benefit from the plan.

34 26139. (a) “Salary” means remuneration paid by the
35 employer to the participant for creditable service. Salary
36 shall include:

37 (1) Money paid for actual work performed or time
38 served.

39 (2) Money paid for an approved leave of absence from
40 performance of creditable service.



1 (3) Employee contributions picked up by the
2 employer under Section 414(h)(2) of Title 26 of the
3 United States Code and Section 17501 of the Revenue and
4 Taxation Code.

5 (4) Any amount deducted from the participant's
6 salary for participation in a deferred compensation plan,
7 or for the purchase of annuity contracts, tax-deferred
8 retirement plans, or other insurance programs, including,
9 but not limited to, plans that meet the requirements of
10 Section 125, 401(k), or 403(b) of Title 26 of the United
11 States Code.

12 (5) Money paid under a salary schedule for years of
13 training and years of experience.

14 (6) Any other payments the board may determine to
15 be "salary."

16 (b) Salary shall not include:

17 (1) Money paid, allocated, or reimbursed for
18 job-related expenses.

19 (2) Money paid for unused accumulated leave.

20 (3) Money paid as compensatory damages or
21 severance pay, or as a compromise settlement, that
22 exceeds salary as defined in subdivision (a).

23 (4) Money paid as a bonus to a selected employee or
24 employees and not to the entire class of employees on a
25 systematic basis.

26 (5) Fringe benefits paid for by the employer in lieu of
27 salary as defined in subdivision (a).

28 (6) Money not available for payment of salaries that is
29 paid by the employer for purchase of annuity contracts,
30 tax-deferred retirement programs, or other insurance
31 programs, including, but not limited to, plans that meet
32 the requirements of Section 125, 401(k), or 403(b) of Title
33 26 of the United States Code.

34 (7) Any other payments the board may determine not
35 to be "salary."

36 26140. "Spouse" means the person married to the
37 participant on the date the participant files a beneficiary
38 designation, or an application for a benefit, or on the date
39 of the participant's death.



1 26142. “System” means the State Teachers’
2 Retirement System.

3 26143. “Termination benefit” means a benefit that is
4 an amount equal to the sum of the participant’s employee
5 account and employer account payable under the
6 provisions of the plan upon termination of all
7 employment covered by the plan.

8 26144. “Total and permanent disability” means any
9 medically determinable physical or mental incapacity
10 that is expected to prevent the participant from
11 performing creditable service for the employer for a
12 continuous period of at least one year.

13 26145. “Unfunded actuarial obligation” means any
14 negative balance in the Gain and Loss Reserve.

15

16 CHAPTER 3. PLAN ADMINISTRATION

17

18 26200. There is in the State Treasury a special trust
19 fund to be known as the Cash Balance Fund. There shall
20 be deposited in that fund the assets of the Cash Balance
21 Plan, consisting of employee contributions, employer
22 contributions, investment earnings, and any other
23 amounts provided under this part. Disbursement of
24 money from the fund shall be made upon claims made
25 pursuant to Section 26209 and duly audited in the manner
26 prescribed for the disbursement of other public funds.
27 Notwithstanding Section 13340 of the Government Code,
28 the Cash Balance Fund is continuously appropriated for
29 the payment of benefits, ~~administrative costs,~~ and
30 investment transactions pursuant to this part.
31 Disbursements may be made to return funds deposited in
32 the Cash Balance Fund in error and to reimburse any
33 funds transferred from the Teachers’ Retirement Fund.

34 26201. Investment earnings shall be collected by the
35 Treasurer, and together with any other moneys received
36 for the Cash Balance Fund, shall be immediately
37 deposited to the credit of the Cash Balance Fund and
38 reported to the system.

39 26202. (a) The board shall establish a Gain and Loss
40 Reserve within the Cash Balance Fund. The board has



1 sole authority to administer the Gain and Loss Reserve to
2 be drawn upon to the extent necessary to credit interest
3 to employee accounts and employer accounts at the
4 minimum interest rate during years in which the
5 investment earnings are not sufficient for that purpose,
6 and, where necessary, to provide additions to the
7 Annuitant Reserve for monthly annuity payments.

8 (b) The board shall establish and periodically review
9 goals regarding the sufficiency of the Gain and Loss
10 Reserve based on the recommendation of the actuary.

11 (c) In the event that the total amount of investment
12 earnings of the plan for any plan year exceeds the sum of
13 the total amount required to credit all employee and
14 employer accounts at the minimum interest rate for the
15 plan year plus the administrative costs of the plan for the
16 plan year, the board shall determine the amount, if any,
17 that is to be credited to the Gain and Loss Reserve for the
18 plan year. That determination shall be made not later
19 than December 31 of the year following the plan year. In
20 determining whether an amount is to be credited to the
21 Gain and Loss Reserve, the board shall consider the
22 sufficiency of the reserve in light of the goal established
23 for the sufficiency and the recommendations of the
24 actuary.

25 26203. The board may amortize any unfunded
26 actuarial obligation in accordance with standards
27 established by the Actuarial Standards Board and
28 Governmental Accounting Standards Board.

29 26204. The board shall establish an Annuitant Reserve
30 within the Cash Balance Fund. The board has sole
31 authority to administer the Annuitant Reserve for the
32 payment of annuities. The board may transfer the credits
33 from a participant's employee account and employer
34 account to the Annuitant Reserve upon election of an
35 annuity by the participant or beneficiary of the
36 participant.

37 26205. The board may transfer amounts between the
38 Gain and Loss Reserve and the Annuitant Reserve upon
39 the recommendation of the actuary.



1 26206. The board may establish and administer a Cash
2 Balance Plan Expense Account within the Cash Balance
3 Fund. The Cash Balance Plan Expense Account shall be
4 funded first through assessment against the investment
5 earnings of the plan. All administrative costs of the board
6 for the plan shall be paid from the Cash Balance Plan
7 Expense Account.

8 26207. (a) The board may authorize the transfer of
9 funds of up to one million dollars (\$1,000,000) from the
10 Teachers' Retirement Fund to the Cash Balance Plan
11 Expense Account to cover administrative costs incurred
12 during the first year of operation of the plan.

13 (b) Any funds transferred pursuant to subdivision (a)
14 shall be repaid from the investment earnings of the plan
15 during years in which the total investment earnings for
16 the plan year exceed the sum of the total amount required
17 to credit all employee and employer accounts at the
18 minimum interest rate plus administrative costs of the
19 plan for the year.

20 (c) Investment earnings in excess of the sum of the
21 total amount credited to all accounts under the minimum
22 interest rate and administrative costs for the plan year
23 shall first be applied to the repayment of funds
24 transferred from the Teachers' Retirement Fund.

25 (d) The funds shall be repaid with interest at the
26 regular interest rate as set forth in Part 13 (commencing
27 with Section 22000).

28 (e) Except as set forth in this section, the board shall
29 not authorize funds or assets of the Teachers' Retirement
30 Fund to be pledged, loaned, transferred, furnished,
31 provided, or otherwise encumbered to provide funding
32 for the plan.

33 26705.5. Funding for the plan shall be provided only
34 from the specific sources set forth in this part and in no
35 event shall the funding of the plan be a liability of the state
36 or the General Fund, nor shall the General Fund be used
37 to offset or fund the liabilities of the plan.

38 26208. The board shall establish and maintain an
39 adequate system of records and accounts following
40 recognized accounting principles and controls.



1 26209. The board may authorize the transfer and
2 disbursement of funds from the Cash Balance Fund for
3 the purpose of carrying into effect the plan upon the
4 signature of its chairperson, vice chairperson, the chief
5 executive officer, or any employee of the system
6 designated by the chief executive officer.

7 26210. The board has exclusive control of the
8 investment of the Cash Balance Fund. In investing the
9 fund, the board and its officers and employees shall
10 exercise their fiduciary duties set forth in Chapter 4
11 (commencing with Section 22250) and Chapter 6
12 (commencing with Section 22350) of Part 13.

13 26211. The board shall acquire the services of an
14 actuary to:

15 (a) Perform an actuarial investigation of the
16 demographic and economic experience of the plan at
17 least once every four years and make recommendations
18 to the board for the adoption of actuarial assumptions for
19 the plan that are, in the aggregate, reasonably related to
20 the past experience of the plan and the actuary's best
21 estimate of the future experience of the plan.

22 (b) Perform an annual actuarial valuation of the assets
23 and liabilities of the plan, using the actuarial assumptions
24 adopted by the board.

25 (c) Recommend to the board all rates and factors
26 necessary to administer the plan, including, but not
27 limited to, mortality tables, annuity factors, interest rates,
28 additional earnings credits, and employer contribution
29 rates.

30 (d) Recommend to the board the goal for maintaining
31 a sufficient Gain and Loss Reserve, the amount to be
32 transferred to the Gain and Loss Reserve from
33 investment earnings each year, and a strategy for the
34 amortization of any unfunded actuarial obligation.

35 (e) Recommend to the board transfers of amounts
36 between the Gain and Loss Reserve and the Annuitant
37 Reserve.

38 (f) Perform any other actuarial services that may be
39 required for the administration of the plan, as requested
40 by the board.



1 26212. The board shall maintain all data necessary for
2 the actuarial investigation of the demographic and
3 economic experience of the plan, and for the actuarial
4 valuation of the assets and liabilities of the plan.

5 26213. The board shall adopt actuarial assumptions,
6 rates, factors and tables necessary to administer the plan
7 as an amendment to the plan.

8 26214. The board shall issue, after the end of the plan
9 year, to each participant having a balance in his or her
10 employee account or employer account, a statement
11 setting forth the balance as of the close of the plan year
12 and amounts credited for the year. The board shall
13 prescribe the form and content of the account statement.

14 26215. (a) Information filed by a participant or
15 beneficiary with the plan is confidential. No official or
16 employee of the plan who has access to the individual
17 records shall divulge any information concerning the
18 records to any person other than the participant or
19 beneficiary to whom the information relates, or his or her
20 authorized representative, the governing board of the
21 employer by which the participant is employed, or any
22 state department or agency. The information shall be
23 used by the plan for the sole purpose of carrying this part
24 into effect.

25 (b) The information is not open to inspection by
26 anyone except the board and its officers and employees,
27 and any person authorized by the Legislature to make
28 inspections.

29 (c) Information filed with the board in a beneficiary
30 designation form may be released after the death of the
31 participant to those persons who can provide information
32 necessary for the distribution of benefits.

33 26216. The board may administer the plan through an
34 agreement with a qualified third-party administrator that
35 shall provide custodial, recordkeeping, or other
36 administrative services specified under the agreement.
37



1 CHAPTER 4. EMPLOYER AND PARTICIPANT
2 RESPONSIBILITIES

3
4 26300. (a) Not later than 10 working days following
5 commencement of employment, the employer shall
6 make available to the employee the following
7 information:

8 (1) The employee's rights and responsibilities as a
9 participant in the plan, the employer's responsibilities
10 under the plan, and the benefits payable under the plan.

11 (2) The employee's right to elect membership in the
12 State Teachers' Retirement System, or in an alternative
13 retirement plan if offered by the employer, in lieu of
14 participation in the Cash Balance Plan, the rights and
15 responsibilities of a member and the employer under the
16 State Teachers' Retirement System, or in an alternative
17 retirement plan if offered by the employer, and benefits
18 payable under the State Teachers' Retirement System, or
19 in an alternative retirement plan if offered by the
20 employer.

21 (b) Written acknowledgment by the employee that he
22 or she has received this information shall be retained in
23 the employer's files on the form prescribed by the plan.

24 26301. (a) Employers shall report, on a form
25 prescribed by the plan, salary earned by each participant
26 in each pay period, along with all other information
27 required by the plan, within 30 calendar days following
28 the last day of the pay period in which the salary was
29 earned, and are delinquent 15 calendar days immediately
30 thereafter.

31 (b) If the employer submits a report late or in an
32 unacceptable form, the board may assess a penalty
33 against the employer, based on the sum of the employee
34 contributions and employer contributions required by
35 the report and at the minimum interest rate, or a fee of
36 five hundred dollars (\$500), whichever is greater.

37 26302. (a) If more or less than the required
38 contributions are paid to the plan based on any salary
39 payment to a participant, proper adjustment shall be
40 made by the employer within 60 days of discovery or of

1 notification by the plan, and any contributions deducted
2 in error from the participant's salary shall be returned to
3 the participant by the employer within the same time
4 period.

5 (b) If a report contains erroneous information and the
6 plan, acting in good faith, disburses funds based on that
7 information, the employer that submitted the report shall
8 reimburse the fund in full for the amount of the erroneous
9 disbursement, plus interest on the amount of the
10 erroneous disbursement at the minimum interest rate
11 from the date of disbursement to the date of
12 reimbursement, immediately upon notification by the
13 plan.

14 26303. (a) Employers shall transmit the employee
15 contributions and employer contributions for salary
16 earned by each participant in each pay period to the plan
17 within five working days following the last day of the pay
18 period in which the salary was earned.

19 (b) Payments shall be delinquent on the sixth working
20 day thereafter, and interest shall begin to accrue at the
21 minimum interest rate from that day until payment is
22 received by the plan. Interest for late payment under this
23 subdivision shall be due from the employer.

24 26304. An employer shall provide timely notice to the
25 plan of the employment, death, or termination of
26 employment of a participant.

27 26305. Upon request of the plan, an employer shall
28 provide the plan with copies of documents respecting the
29 salary paid or to be paid to employees in a plan year. The
30 documents may include, but shall not be limited to,
31 employment contracts, salary schedules, and employer
32 board minutes.

33 26306. (a) Upon request by the plan, a participant or
34 beneficiary shall provide to the plan any information
35 affecting his or her status as a participant or beneficiary.

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

38 (c) A participant who has not contributed to the plan
39 during the immediately preceding plan year shall



1 provide the plan with his or her current mailing address
2 and beneficiary information.

3
4 CHAPTER 5. ELIGIBILITY
5

6 26400. A person employed by an employer to perform
7 creditable service for less than 50 percent of the full-time
8 equivalent for the position shall become a participant on
9 the first day on which creditable service is performed on
10 or after July 1, 1996, provided he or she is not a member
11 of the State Teachers' Retirement System. Participation
12 shall terminate if the participant's basis of employment
13 changes to employment by an employer to perform
14 creditable service for 50 percent or more of the full-time
15 equivalent for the position.

16 26401. A member of the State Teachers' Retirement
17 System who is employed on July 1, 1996, to perform
18 creditable service for less than 50 percent of the full-time
19 equivalent for the position may elect to become a
20 participant and no longer contribute to the State
21 Teachers' Retirement System for creditable service
22 subject to coverage by the plan. The election shall be filed
23 with the employer prior to January 1, 1997, and on a form
24 prescribed by the plan. The election shall become
25 effective on the first day of the pay period following the
26 date the election is filed with the employer.

27 26402. A person who is employed prior to July 1, 1996,
28 to perform creditable service for less than 50 percent of
29 the full-time equivalent for the position, and who has
30 coverage for that service under social security or an
31 alternative retirement plan through the employer, shall
32 become participants in the Cash Balance Plan unless he
33 or she elects by September 1, 1996, to retain coverage in
34 social security or the alternative retirement plan. The
35 employing agency shall inform employees of this election
36 and the election shall be filed with the employer on a
37 form prescribed by the plan. The election shall become
38 effective on the first day of the pay period following the
39 date the election is filed with the employer.

40

CHAPTER 6. CONTRIBUTIONS

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2
3 26500. Acceptance of employment in a position
4 requiring participation in the plan constitutes consent to
5 have contributions deducted from the employee's salary
6 as required by Section 26501.

7 26501. The participant shall contribute an amount
8 equivalent to 4 percent of salary.

9 26502. The employer shall pick up, for the sole
10 purpose of and in accordance with the requirements of
11 Section 414(h)(2) of Title 26 of the United States Code
12 and Section 17501 of the Revenue and Taxation Code, all
13 of the amounts otherwise due as employee contributions,
14 which shall be paid by the employer in lieu of employee
15 contributions and which shall be deducted from the
16 employee's salary.

17 26503. Except as provided in Section 26507, the
18 employer shall contribute an amount equivalent to 4
19 percent of salary for each participant employed by the
20 employer.

21 26504. The employer may enter into a collective
22 bargaining agreement to pay a different employer
23 contribution rate and a different employee contribution
24 rate, provided all of the following conditions are met:

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

28 (b) The employee contribution rate shall not exceed
29 the employer contribution rate.

30 (c) The employee contribution rate and employer
31 contribution rate shall be the same for each participant
32 employed by the employer.

33 (d) The employee contribution rate and employer
34 contribution rate shall be in one-quarter percent
35 increments.

36 (e) The employee contribution rate and employer
37 contribution rate as determined under the collective
38 bargaining agreement shall become effective on the first
39 day of the plan year following notice to the plan and
40 remain in effect for at least one plan year. However, the



1 employee contribution rate and the employer
2 contribution rate as determined under the collective
3 bargaining agreement may become effective as of the
4 first day of the plan year in which notice is given if it is
5 provided in the collective bargaining agreement and if a
6 lump-sum contribution is made to the plan equal to the
7 additional employee and employer contributions, if any,
8 that would have been required if the contribution rates
9 were in effect on the first day of the plan year. Interest
10 shall be credited at the minimum interest rate with
11 respect to the additional contribution commencing with
12 respect to the first month after the contribution is made.

13 (f) The employer has filed notice of the employee
14 contribution rate and the employer contribution rate on
15 a form prescribed by the plan.

16 26505. In the case of a participant who has retired and
17 is receiving an annuity under the plan, if the participant
18 becomes reemployed prior to 60 years of age or becomes
19 reemployed on or after 60 years of age but within one year
20 of his or her retirement date, to perform creditable
21 service under the plan, the annuity shall be terminated,
22 the employee account and the employer account of the
23 participant shall be credited with respective balances
24 that reflect the actuarial equivalent of the participant's
25 retirement benefit as of the date of the reemployment
26 and the Annuitant Reserve shall be reduced by the
27 amount of the credits. In the case of a participant who has
28 retired and is receiving an annuity under the plan, if the
29 participant becomes reemployed on or after age 60 and
30 more than one year after retirement to perform
31 creditable service under the plan, the annuity shall
32 continue and employee contributions and employer
33 contributions in respect of the participant shall be made
34 under the plan and shall be credited to new employee and
35 employer accounts established on behalf of the
36 participant.

37 26506. Participants shall not be permitted to make
38 voluntary pretax or aftertax contributions, rollovers into
39 the plan from other plans, or redeposits of previously
40 withdrawn employee accounts or employer accounts.



1 26507. The board may adjust the mandatory
2 employer contribution rate specified under Section 26503
3 for a fixed period of plan years when it has determined
4 that increased contributions are required to achieve the
5 board's goal regarding the sufficiency of the Gain and
6 Loss Reserve. The adjusted rate shall be based on the
7 recommendation of the actuary, and shall not increase by
8 more than one-fourth of one percentage point for each
9 plan year. The adjusted rate shall become effective no
10 earlier than the first day of the plan year immediately
11 following adoption by the board.

12

13 CHAPTER 7. EMPLOYEE AND EMPLOYER ACCOUNTS

14

15 26600. All contributions based on salary earned by a
16 participant, together with amounts credited under the
17 minimum interest rate and additional earnings credit
18 amounts, shall be treated as credits to individual accounts
19 in the name of the participant. These accounts shall be
20 nominal accounts used to determine the amount of
21 retirement benefit, disability benefit, death benefit, or
22 termination benefit of the participant or beneficiary. The
23 participant shall have no actual individual account and
24 shall have no claim to any particular assets of the plan or
25 the fund.

26 26601. All employee contributions and interest
27 credited under the minimum interest rate and additional
28 earnings credits in respect of those contributions shall be
29 treated as credits to the participant's employee account.

30 26602. All employer contributions on behalf of the
31 participant and interest credited under the minimum
32 interest rate and additional earnings credits in respect of
33 those contributions shall be treated as credits to the
34 participant's employer account.

35 26603. All employee contributions shall be credited to
36 employee accounts and all employer contributions shall
37 be credited to employer accounts as of the last day of the
38 month in which the contributions are made.

39 26604. (a) Beginning June 1, 1996, prior to the plan
40 becoming effective, and each June thereafter, the board,



1 by plan amendment, shall declare the minimum interest
2 rate to be used to credit employee accounts and employer
3 accounts during the plan year beginning July 1.

4 (b) Interest under the minimum interest rate shall be
5 computed for each month for the employee account and
6 the employer account on the basis of the balance of the
7 respective account as of the first day of that month and
8 shall be credited to the respective account as of the last
9 day of that month.

10 (c) Interest shall not be credited to employee accounts
11 and employer accounts that have been transferred to the
12 Annuitant Reserve for payment of an annuity.

13 26605. In the event that the total amount of
14 investment earnings of the plan for any plan year exceeds
15 the sum of the total amount required to credit all
16 employee and employer accounts at the minimum
17 interest rate for the plan year plus the administrative
18 costs of the plan for the plan year, then following the
19 determination by the board with respect to additions to
20 the Gain and Loss Reserve described in subdivision (c) of
21 Section 26202 the board may declare by means of plan
22 amendment an additional earnings credit for the plan
23 year with respect to the employee and employer accounts
24 of the plan participants.

25 26606. Any additional earnings credit declared shall
26 be determined as a specified percentage increase in the
27 closing balance of each employee account and employer
28 account measured as of the last day of the plan year. The
29 additional earnings credit shall be credited to employee
30 account and employer account balances as of the date the
31 board declares the additional earnings credit is to be
32 applied. The additional earnings credit shall not be
33 credited to employee accounts and employer accounts
34 that have been transferred to the Annuitant Reserve for
35 payment of an annuity.

36 26607. (a) The board may declare by means of plan
37 amendment an additional annuity credit applicable to
38 annuities being paid under the plan.

39 (b) The declaration authorized by subdivision (a) may
40 be made only when the board by plan amendment



1 declares an additional earnings credit as provided in
2 Section 26605 and if the total amount of investment
3 earnings of the plan for the plan year exceeds the sum of
4 the total amount required to credit all employee and
5 employer accounts at the minimum interest rate, the
6 administrative costs of the plan for the plan year, any
7 addition to be made to the Gain and Loss Reserve under
8 subdivision (c) of Section 26202, and the total amount
9 required to credit all employee and employer accounts in
10 respect of the additional earnings credit so declared.

11 (c) Any additional annuity credit shall be based upon
12 the annuity of the participant or beneficiary for the plan
13 year and shall be paid as a lump sum to the participant or
14 beneficiary on the date specified by the board.

15

16 CHAPTER 8. RIGHTS TO BENEFITS

17

18 26700. A participant has a vested right to a retirement
19 benefit equal in amount to the total balance of credits in
20 his or her employee account and employer account. The
21 right accrues when a person becomes a participant.

22 26701. The right of a participant to a benefit, whether
23 lump sum or annuity, is not subject to execution or any
24 other process whatsoever, except to the extent permitted
25 by Section 704.110 of the Code of Civil Procedure, and is
26 unassignable except as specifically provided under this
27 part.

28 26702. (a) For the purposes of payments into or out
29 of the fund for adjustments of errors or omissions, the
30 period of limitation shall be applied as follows:

31 (1) No action may be commenced by or against the
32 board or the plan more than three years after all
33 obligations to or on behalf of the participant or
34 beneficiary have been discharged.

35 (2) In cases where the plan has made an error resulting
36 in incorrect payment to the participant or beneficiary,
37 the plan's right to commence recovery shall expire three
38 years from the date of payment.

39 (3) In cases where payment was erroneous due to lack
40 of information or inaccurate information regarding



1 eligibility of the participant or beneficiary to receive a
2 benefit under this plan, the period of limitation shall
3 commence with the discovery of the erroneous payment.

4 (b) Notwithstanding any other provision of this
5 section, where any erroneous payment has been made on
6 the basis of fraud or intentional misrepresentation by a
7 participant or beneficiary, or other party in relation to or
8 on behalf of a participant or beneficiary, the three-year
9 period of limitation shall not be deemed to commence or
10 to have commenced until the discovery of the error or
11 omissions.

12 26703. The signature of the spouse of a participant
13 shall be required on a designation of beneficiary form, or
14 an application for a retirement benefit or termination
15 benefit under the plan unless the participant declares in
16 writing, under penalty of perjury, that one of the
17 following conditions exists:

18 (a) The participant is not married.

19 (b) The participant does not know, and has taken all
20 reasonable steps to determine, the whereabouts of the
21 spouse.

22 (c) The spouse is incapable of executing the
23 acknowledgment because of an incapacitating mental or
24 physical condition.

25 (d) The participant and spouse have executed a
26 marriage settlement agreement pursuant to Part 5
27 (commencing with Section 1500) of Division 4 of the
28 Family Code that makes the community property law
29 inapplicable to the marriage.

30 (e) The current spouse has no identifiable community
31 property interest in the benefit.

32 26704. If a spouse refuses to sign a beneficiary
33 designation, or application for a retirement benefit or
34 termination benefit, the participant may bring an action
35 in court to enforce the spousal signature requirement or
36 to waive the spousal signature requirement. Either party
37 may bring an action pursuant to Section 1101 of the
38 Family Code to determine the rights of the party.

39



CHAPTER 9. RETIREMENT BENEFIT

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2

3 26800. The normal retirement age for the plan is 60
4 years of age.

5 26801. A participant's retirement date shall be no
6 earlier than the date on which the participant attains the
7 age of 55 years.

8 26802. Distribution of the retirement benefit shall
9 commence no later than the required beginning date
10 specified in subdivision (c) of Section 26004.

11 26803. All creditable service shall be terminated prior
12 to the retirement date.

13 26804. Application for a retirement benefit shall be
14 made on an application form prescribed by the plan. The
15 application for a retirement benefit shall be received in
16 the office of the plan at least 30 days, and not more than
17 90 days, prior to the retirement date.

18 26805. The retirement benefit is a benefit payable in
19 the event of retirement that is an amount equal to the
20 sum of the employee account and the employer account
21 as of the retirement date.

22 26806. The normal form of retirement benefit is a
23 lump-sum payment. Upon distribution of the lump-sum
24 payment to the participant, no further benefits shall be
25 payable from the plan.

26 26807. (a) Upon the application for retirement, the
27 participant may elect to receive the retirement benefit in
28 the form of an annuity, provided the sum of the employee
29 account and employer account equals or exceeds three
30 thousand five hundred dollars (\$3,500).

31 (b) The participant may elect one of the following
32 options:

33 (1) A single life annuity with a cash refund feature,
34 which is the actuarial equivalent of the lump sum payable
35 for the life of the participant with any balance remaining
36 upon the death of the participant payable in a lump sum
37 to the beneficiary.

38 (2) A single life annuity without a cash refund feature,
39 which is the actuarial equivalent of the lump sum payable
40 for the life of the participant.



1 (3) A 100-percent joint and survivor annuity, which is
2 the actuarial equivalent of the lump sum payable for the
3 combined lives of the participant and the beneficiary,
4 with the monthly amount payable to the participant
5 continuing to the surviving beneficiary upon the death of
6 the participant.

7 (4) A 50-percent joint and survivor annuity, which is
8 the actuarial equivalent of the lump sum payable for the
9 combined lives of the participant and the beneficiary,
10 with one-half of the monthly amount payable to the
11 participant continuing to the surviving beneficiary upon
12 the death of the participant.

13 (5) A period certain annuity, which is the lump sum
14 payable over a specified number of years, from a
15 minimum of three years to a maximum of 10 years but in
16 any event not to exceed the life expectancy of the
17 participant or the life expectancy of the participant and
18 the participant's option beneficiary, until there is no
19 balance remaining in the participant's employee account
20 and employer account.

21 26808. (a) The annuity elected under this chapter
22 shall be determined as a value actuarially equivalent to
23 the sum of the employee account and the employer
24 account as of the retirement date. The annuity shall be
25 calculated using the age of the participant and, if the
26 participant elected a joint and survivor option, the age of
27 the beneficiary on the retirement date.

28 (b) In the case of a participant who previously
29 received an annuity that was terminated pursuant to
30 Section 26505, the portion of the annuity derived from the
31 amounts credited to the employee account and employer
32 account as of the date of reemployment shall be
33 calculated using the actuarial assumptions in effect on the
34 previous retirement date using the age of the participant
35 and, if the participant elected a joint and survivor option,
36 the age of the beneficiary on the current retirement date.

37 26809. Upon election of an annuity, the credits in the
38 participant's employee account and employer account
39 shall be transferred to the Annuitant Reserve.

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CHAPTER 10. DISABILITY BENEFIT

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26900. A participant may apply to receive a disability benefit at any time.

26901. Application for a disability benefit shall be made by the participant, or the guardian or conservator of the participant, on an application form prescribed by the plan.

26902. (a) A disability benefit shall become payable only upon determination by the board that the participant has a total and permanent disability. The board shall require current relevant medical reports by licensed practitioners, including the report of the treating physician, and may make any inquiries necessary to the determination of total and permanent disability. Failure of the participant, or the participant’s guardian or conservator, to provide any documents, complete any forms, or respond to any questions from the board within 45 days of the request may be cause for rejection of the application.

(b) Upon determination by the board that the participant does not have a total and permanent disability, the application for disability benefit, and any designation of beneficiary for the benefit, shall be automatically canceled.

26903. All creditable service shall be terminated prior to the disability date.

26904. The disability benefit is a benefit for total and permanent disability that is an amount equal to the sum of the employee account and the employer account as of the disability date.

26905. The normal form of disability benefit is a lump-sum payment. Upon distribution of the lump-sum payment to the participant, no further benefits shall be payable from the plan.

26906. (a) The participant may elect to receive the disability benefit in the form of an annuity provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars (\$3,500).



1 (b) The participant may elect one of the following
2 options:

3 (1) A single life annuity with a cash refund feature,
4 which is the actuarial equivalent of the lump sum payable
5 for the life of the participant with any balance remaining
6 upon the death of the participant payable in a lump sum
7 to the beneficiary.

8 (2) A single life annuity without a cash refund feature,
9 which is the actuarial equivalent of the lump sum payable
10 for the life of the participant.

11 (3) A 100-percent joint and survivor annuity, which is
12 the actuarial equivalent of the lump sum payable for the
13 combined lives of the participant and the beneficiary
14 designated under this subdivision, with the monthly
15 amount payable to the participant continuing to the
16 surviving beneficiary upon the death of the participant.

17 (4) A 50-percent joint and survivor annuity, which is
18 the actuarial equivalent of the lump sum payable for the
19 combined lives of the participant and the beneficiary
20 designated under this subdivision, with one-half of the
21 monthly amount payable to the participant continuing to
22 the surviving beneficiary upon the death of the
23 participant.

24 (5) A period certain annuity, which is the lump sum
25 payable over a specified number of years, from a
26 minimum of three years to a maximum of 10 years but in
27 any event not to exceed the life expectancy of the
28 participant or the life expectancy of the participant and
29 the participant's option beneficiary, until there is no
30 balance remaining in the participant's employee account
31 and employer account.

32 26907. The annuity under this chapter shall be
33 determined as a value actuarially equivalent to the sum
34 of the employee account and the employer account as of
35 the disability date. The annuity shall be calculated using
36 the age of the participant and, if the participant elected
37 a joint and survivor option, the age of the beneficiary on
38 the disability date.



1 26908. Upon election of an annuity, the credits in the
2 participant's employee account and employer account
3 shall be transferred to the Annuitant Reserve.

4

5

CHAPTER 11. DEATH BENEFIT

6

7 27000. The death benefit shall become payable to the
8 beneficiary upon receipt of proof of the participant's
9 death.

10 27001. Notwithstanding Chapter 3 (commencing
11 with Section 13100) of Part 1 of Division 8 of the Probate
12 Code or any other provision of law to the contrary, the
13 death benefit payable under the plan may be requested
14 by the beneficiary and paid by the plan as soon as
15 practicable after receipt of proof of death. The death
16 benefit under the plan shall be paid by December 31 of
17 the calendar year in which the fifth anniversary of the
18 participant's date of death occurs unless the beneficiary
19 is the participant's spouse in which case distributions
20 must commence on or before the later of either of:

21 (a) December 31 of the calendar year immediately
22 following the calendar year in which the participant dies.

23 (b) December 31 of the calendar year in which the
24 participant would have attained the age of 70¹/₂ years.

25 27002. If the participant died prior to
26 commencement of an annuity, the death benefit shall be
27 an amount that is equal to the sum of the participant's
28 employee account and employer account.

29 27003. The normal form of death benefit is a
30 lump-sum payment. Upon distribution of the lump-sum
31 payment to the beneficiary, no further benefits shall be
32 payable from the plan.

33 27004. (a) A beneficiary who is the spouse of the
34 participant may elect to receive the death benefit as an
35 annuity provided the sum of the employee account and
36 employer account equals or exceeds three thousand five
37 hundred dollars (\$3,500).

38 (b) The spouse beneficiary may elect one of the
39 following options:



1 (1) A single life annuity without a cash refund feature,
2 which is the actuarial equivalent of the lump sum payable
3 for the life of the beneficiary.

4 (2) A period certain annuity, which is the lump sum
5 payable over a specified number of years, from a
6 minimum of three years to a maximum of 10 years but in
7 any event not to exceed the life expectancy of the
8 beneficiary, until there is no balance remaining in the
9 participant's employee account and employer account.

10 27005. The annuity elected under this chapter shall be
11 determined as a value actuarially equivalent to the sum
12 of the participant's employee account and employer
13 account as of the date the death benefit becomes payable.
14 The annuity shall be calculated using the age of the
15 beneficiary on the date the benefit becomes payable.

16 27006. Upon the beneficiary's election to receive the
17 death benefit in the form of an annuity, the credits in the
18 participant's employee account and employer account
19 shall be transferred to the Annuitant Reserve.

20 27007. (a) If the participant died while receiving an
21 annuity, the death benefit shall be payable in accordance
22 with the terms of the annuity elected by the participant.

23 (b) Upon the death of a participant who elected a
24 single life annuity with a cash refund feature, any balance
25 remaining in the participant's employee account and
26 employer account shall be payable in a lump sum to the
27 beneficiary.

28 (c) Upon the death of a participant who elected a
29 single life annuity without a cash refund feature, no death
30 benefit shall be payable.

31 (d) Upon the death of a participant who elected a joint
32 and survivor annuity, the annuity shall continue for life
33 to the surviving beneficiary under the joint and survivor
34 option. If the beneficiary under the joint and survivor
35 option has predeceased the participant, no death benefit
36 shall be payable.

37 (e) Upon the death of a participant who elected a
38 period certain annuity prior to the completion of annuity
39 payments due the participant, any balance remaining in



1 the participant's employee account and employer
2 account shall be payable in a lump sum to the beneficiary.

3 27008. Upon the death of a beneficiary who was
4 receiving an annuity due to the death of a participant,
5 payment shall be made as follows:

6 (a) Upon the death of a beneficiary under a joint and
7 survivor option, no amount shall be payable.

8 (b) Upon the death of a beneficiary who elected a
9 single life annuity without a cash refund feature, no
10 amount shall be payable.

11 (c) Upon the death of a beneficiary who elected a
12 period certain annuity prior to the completion of annuity
13 payments due the beneficiary, any balance remaining in
14 the participant's employee account and employer
15 account shall be payable in a lump sum to the estate of the
16 beneficiary.

17

18

CHAPTER 12. BENEFICIARY

19

20 27100. A participant may at any time designate one or
21 more primary beneficiaries and one or more contingent
22 beneficiaries to receive any lump-sum death benefit that
23 may be payable under the plan. The beneficiary for the
24 lump-sum death benefit may be a person, trust, or the
25 estate of the participant. The beneficiary shall be
26 designated on a form prescribed by the plan.

27 27101. In the event the participant dies without a
28 valid beneficiary designation on file with the system, any
29 lump-sum death benefit shall be payable to the estate of
30 the participant.

31 27102. Part 5 (commencing with Section 220) of
32 Division 2 of the Probate Code, when applicable, shall
33 govern the distribution of any lump-sum death benefit
34 payable under this part. In applying Part 5 (commencing
35 with Section 220) of Division 2 of the Probate Code with
36 respect to proceeds payable to a beneficiary,
37 participation in the plan shall be considered as having the
38 same status as an insurance policy issued after December
39 31, 1984.



1 27103. (a) The beneficiary under the joint and
2 survivor option elected pursuant to paragraph (3) or (4)
3 of subdivision (b) of Section 26807 shall be the person
4 designated by the participant upon application for the
5 retirement benefit, and may not be changed after the
6 retirement date.

7 (b) The beneficiary under the joint and survivor option
8 elected pursuant to paragraph (3) or (4) of subdivision
9 (b) of Section 26906 shall be the person designated by the
10 participant on the application for disability benefit, and
11 may not be changed after the disability date.

12
13 CHAPTER 13. TERMINATION BENEFIT
14

15 27200. Upon termination of employment in all
16 positions covered by the plan for any reason other than
17 death, disability, or retirement, a participant may apply
18 for a lump-sum termination benefit which shall be an
19 amount that is equal to the sum of the employee account
20 and the employer account as of the date the benefit is
21 payable.

22 27201. All creditable service shall terminate prior to
23 application for a termination benefit.

24 27202. Application for a termination benefit shall be
25 made on an application form prescribed by the plan.

26 27203. A participant may not apply for a termination
27 benefit if less than five years have elapsed following the
28 date the most recent termination benefit was distributed
29 to the participant.

30 27204. The termination benefit shall not be payable
31 before one year has elapsed following the date of
32 termination of employment. The application for the
33 termination benefit shall be automatically canceled if the
34 participant performs creditable service within the year
35 following the date of termination of employment.

36 27205. A participant may cancel the application for a
37 termination benefit at any time prior to distribution of
38 the benefit.

39 27206. No partial distribution shall be made from an
40 employee account or employer account.

1 27207. Upon distribution of the lump-sum payment to
2 the participant, no further benefits shall be payable from
3 the plan.

4

5 CHAPTER 14. DISTRIBUTION OF BENEFITS

6

7 27300. (a) The plan's obligations to a participant or
8 beneficiary who has applied for a benefit cease upon
9 distribution of the lump-sum benefit.

10 (b) Deposit in the United States mail of a warrant
11 drawn as directed by the participant or beneficiary and
12 addressed as directed by the participant or beneficiary
13 constitutes distribution of the benefits.

14 (c) Deposit in the United States mail of a notice that
15 the requested electronic funds transfer has been made as
16 directed by the participant or beneficiary constitutes
17 distribution of the benefits.

18 (d) If the participant or beneficiary has elected to
19 transfer all or a specified portion of the lump-sum benefit
20 that is eligible for direct trustee-to-trustee transfer to the
21 trustee of an eligible retirement plan within the meaning
22 of Section 401(a)(31) of Title 26 of the United States
23 Code, deposit in the United States mail of a notice that the
24 requested transfer has been made constitutes distribution
25 of the benefits.

26 (e) Distribution under subdivision (b), (c), or (d)
27 pursuant to the board's determination in good faith of the
28 existence, identity, or other facts relating to entitlement
29 of persons constitutes a complete discharge and release of
30 the plan from liability for that payment.

31 27301. (a) The plan's obligations to a participant or
32 beneficiary who elected to receive a benefit in the form
33 of an annuity cease upon distribution of the final monthly
34 payment of the annuity.

35 (b) Deposit in the United States mail of a warrant
36 drawn as directed by the participant or beneficiary and
37 addressed as directed by the participant or beneficiary
38 constitutes distribution of the benefit.

39 (c) Deposit in the United States mail of a notice that
40 the requested electronic funds transfer has been made as



1 directed by the participant or beneficiary constitutes
2 distribution of the benefit.

3 (d) Distribution under subdivision (b) or (c) pursuant
4 to the board's determination in good faith of the
5 existence, identity, or other facts relating to entitlement
6 of persons constitutes a complete discharge and release of
7 the plan from liability for payments.

8 27302. If a benefit cannot be distributed because,
9 after a good faith effort, the participant or beneficiary
10 cannot be located, the balances in the participant's
11 employee account and employer account shall be
12 forfeited by the participant or beneficiary, but if the
13 participant or beneficiary thereafter submits a valid claim
14 to the plan the employee and employer accounts shall be
15 reinstated and shall be credited with all applicable
16 minimum interest rate and additional earnings credit
17 amounts attributable to the period during which the
18 forfeiture was in effect.

19 27303. Any overpayment to a participant or
20 beneficiary shall be deducted from any subsequent
21 benefit payment that may be payable by the plan.

22
23 CHAPTER 15. COMMUNITY PROPERTY
24

25 27400. This chapter establishes the power of a court in
26 a dissolution of marriage or legal separation action with
27 respect to community property rights in benefits under
28 the plan and defines the rights of nonparticipant spouses
29 in the Cash Balance Plan.

30 27401. For purposes of this chapter, "nonparticipant
31 spouse" means the spouse or former spouse who is being
32 or has been awarded a community property interest in
33 the benefits determined by reference to the amounts
34 credited to a participant's employee and employer
35 account or the participant's annuity. A nonparticipant
36 spouse who is awarded separate nominal account is not a
37 participant in the plan. A nonparticipant spouse who
38 receives an annuity or is awarded an interest in a
39 participant's annuity is not a participant in the plan.

1 27402. (a) Upon the legal separation or dissolution of
2 marriage of a participant, the court shall include in the
3 judgment or a court order the date on which the parties
4 separated.

5 (b) The court may order in the judgment or court
6 order that the participant's employee and employer
7 credits in accounts which are attributable to periods of
8 participation in the plan during the marriage be divided
9 into separate nominal accounts in the name of the
10 participant and the nonparticipant spouse, respectively.
11 Any employee or employer account credits that are not
12 explicitly awarded by the judgment or court order shall
13 be deemed the exclusive property of the participant.

14 (c) The determination of the court of the community
15 property rights pursuant to this section shall be consistent
16 with this chapter and shall address the rights of the
17 nonparticipant spouse, including, but not limited to,
18 retirement benefits, disability benefits, death benefits, or
19 termination of the benefits of the participant.

20 27403. The nonparticipant spouse who is awarded
21 separate nominal accounts pursuant to Section 24702 is
22 not a participant of the plan. The nonparticipant spouse
23 is entitled only to rights and benefits explicitly established
24 by this chapter.

25 27404. The nonparticipant spouse is entitled to no
26 benefits or rights from the separate nominal accounts
27 except as otherwise provided in this chapter. However,
28 this section shall not be construed to limit any right arising
29 from the accounts of a nonparticipant with the plan
30 which exists because the nonparticipant spouse is
31 employed in a position requiring participation in the
32 plan.

33 27405. Upon the legal separation or dissolution of
34 marriage of a participant, the court may include in the
35 judgment or court order a determination of the
36 community property rights of the parties in the
37 participant's annuity consistent with this section. Upon
38 election under subdivision (d) of Section 2610 of the
39 Family Code, the court order awarding the
40 nonparticipant spouse a community property share in the



1 benefits of a participant receiving an annuity shall be
2 consistent with this section.

3 (a) If the court does not award the entire annuity to
4 the participant and the participant is receiving an
5 annuity under paragraph (1) or (2) of subdivision (b) of
6 Section 26807, the court shall require only that the plan
7 pay the nonparticipant spouse, by separate warrant, his
8 or her community property share of the participant's
9 annuity, or the option beneficiary's annuity or both.

10 (b) The nonparticipant spouse may designate a
11 beneficiary to receive his or her community property
12 share of the participant's annuity.

13 27406. The nonparticipant spouse who is awarded
14 separate nominal accounts shall have the right to a
15 lump-sum distribution of amounts credited to the
16 account.

17 (a) The nonparticipant spouse shall file an application
18 on a form provided by the plan to obtain the distribution.

19 (b) The distribution is effective when the system
20 deposits in the United States mail a warrant drawn in
21 favor of the nonparticipant spouse and addressed to the
22 latest address for the nonparticipant spouse on file in the
23 plan. If the nonparticipant spouse has elected on a form
24 provided by the system to transfer all or a specified
25 portion of the accounts that are eligible for direct
26 trustee-to-trustee transfer under Section 401(a)(31) of
27 Title 26 of the United States Code to the trustee of a
28 qualified plan under Section 402 of Title 26 of the United
29 States Code, deposit in the United States mail of a notice
30 that the requested transfer has been made constitutes a
31 distribution of the nonparticipant spouse's credit balance
32 from the separate nominal accounts.

33 (c) The nonparticipant spouse is deemed to have
34 permanently waived all rights to an annuity when the
35 distribution becomes effective.

36 (d) The nonparticipant spouse may not cancel a
37 distribution after the distribution is effective.

38 (e) The nonparticipant spouse shall have no right to
39 elect to redeposit the distribution after the distribution is
40 effective.



1 27407. No judgment or court order issued pursuant to
2 this chapter is binding on the plan until the plan has been
3 joined as a party to the action and has been served with
4 a certified copy of the judgment or court order.

5 27408. (a) Sections 26107, 26700, 26802, 26806, 27000,
6 and 27002 and paragraphs (1) and (2) of subdivision (b)
7 of Section 26807 shall apply to a nonparticipant spouse as
8 if she or he were a participant.

9 (b) Notwithstanding subdivision (a), this section shall
10 not be construed to establish any right for the
11 nonparticipant spouse that is not explicitly established in
12 Sections 27400 to 27405, inclusive, and Sections 27409 to
13 27412, inclusive.

14 27409. Upon being awarded separate nominal
15 accounts or an interest in the annuity of a participant, a
16 nonparticipant spouse shall provide the plan with proof
17 of his or her date of birth, social security number, and any
18 other information requested by the plan, in the form and
19 manner requested by the plan.

20 27410. (a) The nonparticipant spouse who is
21 awarded separate nominal accounts shall have the right
22 to designate, pursuant to Sections 27100 to 27102,
23 inclusive, a beneficiary or beneficiaries to receive the
24 accounts credited to the separate nominal account of the
25 nonparticipant spouse on his or her date of death, and any
26 annuity attributable to the separate nominal account
27 which is unpaid on the date of the death of the
28 nonparticipant spouse.

29 (b) This section shall not be construed to provide the
30 nonparticipant spouse with any right to elect a joint and
31 survivor annuity pursuant to paragraphs (3) and (4) of
32 subdivision (b) of Section 26807.

33 27411. The nonparticipant spouse who is awarded a
34 separate nominal account shall have the right to an
35 annuity pursuant to paragraphs (1) and (4) of subdivision
36 (b) of Section 26807.

37 (a) The nonparticipant spouse shall be eligible for an
38 annuity if the following conditions are satisfied:



1 (1) The nonparticipant spouse has at least three
2 thousand five hundred dollars (\$3,500) in his or her
3 separate nominal account.

4 (2) The nonparticipant spouse has attained the age of
5 55 years or more.

6 (b) An annuity of a nonparticipant spouse shall
7 become effective upon any date designated by the
8 nonparticipant spouse, provided:

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

10 (2) The nonparticipant spouse has filed an application
11 for an annuity on a form provided by the plan, which is
12 executed no earlier than 90 days before the effective date
13 of the annuity.

14 27412. The plan shall include the contribution and
15 earnings credited awarded to a nonparticipant spouse in
16 the judgment or court order to determine the eligibility
17 of a member for an annuity.

18 27413. It is the intent of the Legislature to abolish any
19 application of the terminable interest doctrine in
20 California relating to the division of public retirement
21 benefits of a participant in the event of dissolution of
22 marriage or death if the division is made under this
23 chapter.

24 SEC. 17. It is the intent of the Legislature in adding
25 Section 22146 to the Education Code in Section 3 of this
26 act and in repealing Sections 22502, 22503, 22505, 22506,
27 22507, 22602, 22603, 22604, 22605, 22606, 22607, and 22608
28 of the Education Code in Sections 4 to 15, inclusive, of this
29 act to clarify the status of the active, inactive, disabled,
30 and retired members of the State Teachers' Retirement
31 System. Those provisions are intended to be technical and
32 nonsubstantive and shall not be construed to affect in any
33 manner the eligibility or rights of any person to any
34 benefits under the State Teachers' Retirement Law.

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