Assembly Bill No. 1298

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Passed the Assembly September 5, 1995

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Chief Clerk of the Assembly

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Passed the Senate September 1, 1995

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Secretary of the Senate

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This bill was received by the Governor this ___ day

of _____, 1995, at ___ o'clock __M.

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Private Secretary of the Governor

CHAPTER ____

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, 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.

Appropriation: yes.

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

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

22119.5. (a) ''Creditable service'' means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code or under the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges or under the provisions of an approved charter for the operation of a charter

school for which the employer is eligible to receive state apportionment:

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

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

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

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

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

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

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

(8) Services as a school librarian.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22602. (a) Persons employed on a substitute basis, who are not already members when they become

employed and who perform less than 100 complete days of service during the school year are excluded from membership in the system.

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

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

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

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

22604. (a) Persons employed on a part-time basis who are not already members when they become employed, and who perform less than 60 hours of service per pay period or less than 10 days of service in a pay period on a daily basis, are excluded from membership in the system.

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

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

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

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

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

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

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

PART 14. STATE TEACHERS' RETIREMENT SYSTEM CASH BALANCE PLAN

CHAPTER 1. GENERAL PROVISIONS

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

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

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

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

26003. If any provision of this part or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications

of this part that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

26004. Notwithstanding any other provision of law:

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

(b) The amount of compensation that is taken into account in computing benefits under the plan for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the respective annual compensation limit applicable to that period.

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

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

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity,

payment of the annuity shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70 1/2 years or the calendar year in which the member terminates employment in all positions covered by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

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

(d) If a person becomes entitled to a distribution from the plan that constitutes an ''eligible rollover distribution'' within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an ''eligible retirement plan'' within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution by the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

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

CHAPTER 2. DEFINITIONS

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

26101. ‘‘Actuarial equivalent’’ means a benefit that has the same present value as the benefit it replaces based on interest rates and mortality tables recommended by the actuary and adopted by the board as a plan amendment.

26102. ‘‘Actuary’’ means a person professionally trained in the technical and mathematical aspects of insurance, pensions, and related fields who has been appointed by the board for the purpose of performing the services under Section 26211.

26103. ‘‘Additional earnings credit’’ means a percentage determined by the board for a plan year by means of a plan amendment and credited to employee accounts and employer accounts on a specified date.

26104. ‘‘Administrative costs’’ means the costs of administering the plan for the plan year as determined by the board.

26105. ‘‘Annuitant Reserve’’ means the reserve account established by the board within the State Teachers’ Retirement System Cash Balance Fund for the payment of monthly annuities.

26106. ‘‘Annuity’’ means an amount of money payable in monthly installments for a period determined by the option elected by the participant or beneficiary.

26107. ‘‘Basis of employment’’ means the standard of time over which the employer expects service to be performed by an employee in the position during the school year.

26108. ‘‘Beneficiary’’ means any person or persons or entity designated by the participant pursuant to this part or otherwise entitled by law to receive the death benefit under the plan.

26109. ‘‘Board’’ means the Teachers’ Retirement Board.

26111. ‘‘Cash Balance Plan Expense Account’’ means the account established by the board within the State Teachers’ Retirement System Cash Balance Fund for the payment of costs of the board for administration of the plan.

26112. ‘‘Cash Balance Plan’’ means the State Teachers’ Retirement System Cash Balance Plan.

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

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

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

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

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

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

(6) School activities related to, and an outgrowth of, the instructional and guidance program of the school when performed in addition to other activities described in this section.

(7) Services as a school librarian.

(8) The work of county and district superintendents and other employees who are responsible for the

supervision of persons or administration of the duties described in this section.

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

26114. ‘‘Death benefit’’ means the benefit payable under the plan upon the death of the participant.

26115. ‘‘Defined Benefit Plan’’ means the State Teachers’ Retirement System Defined Benefit Plan as set forth in Part 13 (commencing with Section 22000).

26116. ‘‘Disability benefit’’ means a benefit for permanent and total disability that is an amount equal to the sum of the participant’s employee account and employer account as of the disability date.

26117. ‘‘Disability date’’ means the date the benefit becomes payable to a participant who has applied for a disability benefit from the plan and has been determined to have a total and permanent disability.

26118. ‘‘Employee’’ means a person engaged to perform creditable service.

26119. ‘‘Employee account’’ means the nominal account of the participant to which employee contributions and interest and any additional earnings credits in respect thereof are credited under the plan.

26120. ‘‘Employee contribution rate’’ means the percentage of the participant’s salary withheld by the employer as an employee contribution under the plan.

26121. ‘‘Employee contribution’’ means the amount withheld from the participant’s salary by the employer as a contribution by the employee under the plan.

26122. ‘‘Employer’’ means the state or any agency or political subdivision thereof that engages persons to perform creditable service subject to coverage by the plan.

26123. ‘‘Employer account’’ means the nominal account of the participant in which employer contributions on behalf of the participant and interest and any additional earnings credits in respect thereof are credited under the plan.

26124. ‘‘Employer contribution rate’’ means the percentage of salary that determines the amount the employer contributes to the plan with respect to each employee who is a participant.

26125. ‘‘Employer contribution’’ means the amount contributed by the employer to the plan with respect to the participant.

26126. ‘‘Employed’’ means employed to perform creditable service subject to coverage by the plan.

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

26128. ‘‘Fund’’ means the Cash Balance Fund.

26129. ‘‘Gain and Loss Reserve’’ means the reserve account established by the board within the Cash Balance Fund to be drawn upon to the extent necessary to credit interest to employee accounts and employer accounts at the minimum interest rate during years in which the investment earnings are not sufficient for that purpose, and where necessary, to provide additions to the Annuitant Reserve for monthly annuity payments.

26130. ‘‘Investment earnings’’ means income received or receivable during the plan year by the plan from investment of employee contributions, employer contributions, and prior investment earnings.

26131. ‘‘Minimum interest rate’’ means the annual rate determined for the plan year by the board by means of an amendment to the plan in accordance with applicable federal laws and regulations.

26132. ‘‘Participant’’ means a person who has performed creditable service subject to coverage under the plan, and who has contributions credited under the plan or is receiving an annuity under the plan by reason of creditable service.

26133. ‘‘Pay period’’ means a period of not less than four weeks or more than one calendar month.

26134. ‘‘Plan’’ means the State Teachers’ Retirement System Cash Balance Plan.

26135. ‘‘Plan year’’ means the period commencing on July 1 and ending on June 30 in the following year.

26136. ‘‘Retirement’’ means termination of employment and completion of all conditions precedent to receiving a retirement benefit.

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

26138. ‘‘Retirement date’’ means the date the benefit becomes payable to a participant who has applied for a retirement benefit from the plan.

26139. (a) ‘‘Salary’’ means remuneration paid by the employer to the participant for creditable service. Salary shall include:

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

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

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

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

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

(6) Any other payments the board may determine to be ‘‘salary.’’

(b) Salary shall not include:

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

(2) Money paid for unused accumulated leave.

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

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

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

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

(7) Any other payments the board may determine not to be ''salary.''

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

26142. ''System'' means the State Teachers' Retirement System.

26143. ''Termination benefit'' means a benefit that is an amount equal to the sum of the participant's employee account and employer account payable under the provisions of the plan upon termination of all employment covered by the plan.

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

26145. ''Unfunded actuarial obligation'' means any negative balance in the Gain and Loss Reserve.

CHAPTER 3. PLAN ADMINISTRATION

26200. There is in the State Treasury a special trust fund to be known as the Cash Balance Fund. There shall be deposited in that fund the assets of the Cash Balance

Plan, consisting of employee contributions, employer contributions, investment earnings, and any other amounts provided under this part. Disbursement of money from the fund shall be made upon claims made pursuant to Section 26209 and duly audited in the manner prescribed for the disbursement of other public funds. Notwithstanding Section 13340 of the Government Code, the Cash Balance Fund is continuously appropriated for the payment of benefits and investment transactions pursuant to this part. Disbursements may be made to return funds deposited in the Cash Balance Fund in error and to reimburse any funds transferred from the Teachers' Retirement Fund.

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

26202. (a) The board shall establish a Gain and Loss Reserve within the Cash Balance Fund. The board has sole authority to administer the Gain and Loss Reserve to be drawn upon to the extent necessary to credit interest to employee accounts and employer accounts at the minimum interest rate during years in which the investment earnings are not sufficient for that purpose, and, where necessary, to provide additions to the Annuitant Reserve for monthly annuity payments.

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

(c) In the event that the total amount of investment earnings of the plan for any plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate for the plan year plus the administrative costs of the plan for the plan year, the board shall determine the amount, if any, that is to be credited to the Gain and Loss Reserve for the plan year. That determination shall be made not later than December 31 of the year following the plan year. In determining whether an amount is to be credited to the

Gain and Loss Reserve, the board shall consider the sufficiency of the reserve in light of the goal established for the sufficiency and the recommendations of the actuary.

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

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

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

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

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

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

(c) Investment earnings in excess of the sum of the total amount credited to all accounts under the minimum

interest rate and administrative costs for the plan year shall first be applied to the repayment of funds transferred from the Teachers' Retirement Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26215. (a) Information filed by a participant or beneficiary with the plan is confidential. No official or employee of the plan who has access to the individual records shall divulge any information concerning the records to any person other than the participant or beneficiary to whom the information relates, or his or her authorized representative, the governing board of the employer by which the participant is employed, or any

state department or agency. The information shall be used by the plan for the sole purpose of carrying this part into effect.

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

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

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

CHAPTER 4. EMPLOYER AND PARTICIPANT RESPONSIBILITIES

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

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

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

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

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

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

26302. (a) If more or less than the required contributions are paid to the plan based on any salary payment to a participant, proper adjustment shall be made by the employer within 60 days of discovery or of notification by the plan, and any contributions deducted in error from the participant's salary shall be returned to the participant by the employer within the same time period.

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

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

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

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

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

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

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

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

CHAPTER 5. ELIGIBILITY

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

26401. A member of the State Teachers' Retirement System who is employed on July 1, 1996, to perform creditable service for less than 50 percent of the full-time equivalent for the position may elect to become a participant and no longer contribute to the State Teachers' Retirement System for creditable service subject to coverage by the plan. The election shall be filed with the employer prior to January 1, 1997, and on a form prescribed by the plan. The election shall become

effective on the first day of the pay period following the date the election is filed with the employer.

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

CHAPTER 6. CONTRIBUTIONS

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

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

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

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

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

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

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

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

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

(e) The employee contribution rate and employer contribution rate as determined under the collective bargaining agreement shall become effective on the first day of the plan year following notice to the plan and remain in effect for at least one plan year. However, the employee contribution rate and the employer contribution rate as determined under the collective bargaining agreement may become effective as of the first day of the plan year in which notice is given if it is provided in the collective bargaining agreement and if a lump-sum contribution is made to the plan equal to the additional employee and employer contributions, if any, that would have been required if the contribution rates were in effect on the first day of the plan year. Interest shall be credited at the minimum interest rate with respect to the additional contribution commencing with respect to the first month after the contribution is made.

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

26505. In the case of a participant who has retired and is receiving an annuity under the plan, if the participant becomes reemployed prior to 60 years of age or becomes reemployed on or after 60 years of age but within one year of his or her retirement date, to perform creditable service under the plan, the annuity shall be terminated, the employee account and the employer account of the participant shall be credited with respective balances that reflect the actuarial equivalent of the participant's

retirement benefit as of the date of the reemployment and the Annuitant Reserve shall be reduced by the amount of the credits. In the case of a participant who has retired and is receiving an annuity under the plan, if the participant becomes reemployed on or after age 60 and more than one year after retirement to perform creditable service under the plan, the annuity shall continue and employee contributions and employer contributions in respect of the participant shall be made under the plan and shall be credited to new employee and employer accounts established on behalf of the participant.

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

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

CHAPTER 7. EMPLOYEE AND EMPLOYER ACCOUNTS

26600. All contributions based on salary earned by a participant, together with amounts credited under the minimum interest rate and additional earnings credit amounts, shall be treated as credits to individual accounts in the name of the participant. These accounts shall be nominal accounts used to determine the amount of retirement benefit, disability benefit, death benefit, or termination benefit of the participant or beneficiary. The participant shall have no actual individual account and

shall have no claim to any particular assets of the plan or the fund.

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

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

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

26604. (a) Beginning June 1, 1996, prior to the plan becoming effective, and each June thereafter, the board, by plan amendment, shall declare the minimum interest rate to be used to credit employee accounts and employer accounts during the plan year beginning July 1.

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

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

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

year with respect to the employee and employer accounts of the plan participants.

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

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

(b) The declaration authorized by subdivision (a) may be made only when the board by plan amendment declares an additional earnings credit as provided in Section 26605 and if the total amount of investment earnings of the plan for the plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate, the administrative costs of the plan for the plan year, any addition to be made to the Gain and Loss Reserve under subdivision (c) of Section 26202, and the total amount required to credit all employee and employer accounts in respect of the additional earnings credit so declared.

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

CHAPTER 8. RIGHTS TO BENEFITS

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

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

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

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

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

(3) In cases where payment was erroneous due to lack of information or inaccurate information regarding eligibility of the participant or beneficiary to receive a benefit under this plan, the period of limitation shall commence with the discovery of the erroneous payment.

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

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

(a) The participant is not married.

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

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

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

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

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

CHAPTER 9. RETIREMENT BENEFIT

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

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

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

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

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

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

26806. The normal form of retirement 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.

26807. (a) Upon the application for retirement, the participant may elect to receive the retirement 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).

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

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

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

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

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

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

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

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

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

CHAPTER 10. DISABILITY BENEFIT

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).

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

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

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

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

(4) A 50-percent joint and survivor annuity, which is the actuarial equivalent of the lump sum payable for the combined lives of the participant and the beneficiary designated under this subdivision, with one-half of the

monthly amount payable to the participant continuing to the surviving beneficiary upon the death of the participant.

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

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

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

CHAPTER 11. DEATH BENEFIT

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

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

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

(b) December 31 of the calendar year in which the participant would have attained the age of $70^1/_2$ years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 12. BENEFICIARY

27100. A participant may at any time designate one or more primary beneficiaries and one or more contingent beneficiaries to receive any lump-sum death benefit that may be payable under the plan. The beneficiary for the

lump-sum death benefit may be a person, trust, or the estate of the participant. The beneficiary shall be designated on a form prescribed by the plan.

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

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

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

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

CHAPTER 13. TERMINATION BENEFIT

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

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

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

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

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

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

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

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

CHAPTER 14. DISTRIBUTION OF BENEFITS

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

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

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

(d) If the participant or beneficiary has elected to transfer all or a specified portion of the lump-sum benefit that is eligible for direct trustee-to-trustee transfer to the trustee of an eligible retirement plan within the meaning of Section 401(a)(31) of Title 26 of the United States Code, deposit in the United States mail of a notice that the

requested transfer has been made constitutes distribution of the benefits.

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

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

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

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

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

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

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

CHAPTER 15. COMMUNITY PROPERTY

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

27401. For purposes of this chapter, ‘‘nonparticipant spouse’’ means the spouse or former spouse who is being or has been awarded a community property interest in the benefits determined by reference to the amounts credited to a participant’s employee and employer account or the participant’s annuity. A nonparticipant spouse who is awarded separate nominal account is not a participant in the plan. A nonparticipant spouse who receives an annuity or is awarded an interest in a participant’s annuity is not a participant in the plan.

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

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

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

27403. The nonparticipant spouse who is awarded separate nominal accounts pursuant to Section 24702 is not a participant of the plan. The nonparticipant spouse

is entitled only to rights and benefits explicitly established by this chapter.

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

27405. Upon the legal separation or dissolution of marriage of a participant, the court may include in the judgment or court order a determination of the community property rights of the parties in the participant's annuity consistent with this section. Upon election under subdivision (d) of Section 2610 of the Family Code, the court order awarding the nonparticipant spouse a community property share in the benefits of a participant receiving an annuity shall be consistent with this section.

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

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

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

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

(b) The distribution is effective when the system deposits in the United States mail a warrant drawn in favor of the nonparticipant spouse and addressed to the latest address for the nonparticipant spouse on file in the

plan. If the nonparticipant spouse has elected on a form provided by the system to transfer all or a specified portion of the accounts that are eligible for direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of a qualified plan under Section 402 of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes a distribution of the nonparticipant spouse's credit balance from the separate nominal accounts.

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

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

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

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

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

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

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

27410. (a) The nonparticipant spouse who is awarded separate nominal accounts shall have the right to designate, pursuant to Sections 27100 to 27102,

inclusive, a beneficiary or beneficiaries to receive the accounts credited to the separate nominal account of the nonparticipant spouse on his or her date of death, and any annuity attributable to the separate nominal account which is unpaid on the date of the death of the nonparticipant spouse.

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

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

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

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

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

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

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

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

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

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

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

Approved _____, 1995

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Governor