

Assembly Bill No. 1441

CHAPTER 524

An act to amend Sections 23805, 23855, 24300, 24301, 24302, 24303, 24305, 24307, 24309, and 24310 of the Education Code, relating to educational employees.

[Approved by Governor October 4, 1995. Filed
with Secretary of State October 4, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1441, Davis. Teachers' retirement: benefits.

The State Teachers' Retirement Law prescribes the allocation of family allowances and survivor benefit allowances and authorizes a member to elect an option that is an actuarially modified retirement allowance payable throughout the life of the member and his or her option beneficiary.

This bill would recast those provisions and would make conforming changes.

The State Teachers' Retirement Law prescribes that amount that allowances are reduced when a member cancels the election of an option.

This bill would provide that the amount of reduction shall be determined by the Teachers' Retirement Board and would make related changes in other provisions.

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

SECTION 1. Section 23805 of the Education Code is amended to read:

23805. A family allowance is payable in the amount and to the specified persons in the following order of priority:

(a) To the member's or disabilitant's surviving spouse who has financial responsibility for at least one child, an amount equal to 40 percent of the deceased member's final compensation or the disabilitant's projected final compensation plus 10 percent of the deceased member's final compensation or the disabilitant's projected final compensation for each child, up to a maximum allowance of 90 percent.

(b) If there is no surviving spouse or upon the death of the surviving spouse, to each child, an amount equal to 10 percent of the deceased member's final compensation or the disabilitant's projected final compensation, up to a maximum allowance of 50 percent. If there are more than five children, they shall share equally in the maximum allowance of 50 percent.



(c) To the surviving spouse at age 60 years or over if there is no child, an allowance equal to the amount that would have been payable to the spouse as beneficiary under Option 3 as provided in Section 24300, computed on the member's or disabilitant's projected final compensation and projected service to normal retirement age. The allowance payable under this subdivision shall be increased by application of the benefit improvement factor for time that elapses between the date the member or disabilitant would have attained normal retirement age and the date the family allowance under this subdivision begins to accrue. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member or disabilitant as of the date of his or her death. Eligibility for the inclusion of service credit for unused sick leave credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) If there is neither surviving spouse nor child, to the dependent parent, age 60 years or over, an allowance equal to the amount that would have been payable to the dependent parent as beneficiary under Option 3 as provided in Section 24300 computed on the member's or disabilitant's projected final compensation and projected service to normal retirement age. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member or disabilitant as of the date of his or her death. Eligibility for the inclusion of service credit for unused sick leave and the calculation of that service credit shall be determined pursuant to Section 22717. If there are two dependent parents, only one family allowance shall be payable under this subdivision and that allowance shall be computed on the assumption that the younger parent is the option beneficiary and the allowance shall be divided equally for as long as there are two dependent parents. Thereafter, the full allowance shall be payable to the surviving dependent parent.

(e) The surviving spouse or dependent parent may elect to begin receiving the family allowance payable under subdivision (c) or (d) immediately upon the later of the death of the member or disabilitant or when there is no child, or to defer receipt of the allowance to the date the surviving spouse or dependent parent attains age 60 years. If allowance payments commence prior to the date the surviving spouse or dependent parent attains age 60 years, the allowance payable shall be actuarially reduced.

(f) If there is no child who qualifies under Section 22111, a surviving spouse or the dependent parent or parents may elect, prior to receipt of the first payment under subdivision (c) or (d), to receive the member's or disabilitant's accumulated retirement contributions in a lump sum subject to a reduction for any disability allowance or family allowance payments previously made.

SEC. 2. Section 23855 of the Education Code is amended to read:



23855. (a) The survivor benefit allowance is a monthly allowance equal to one-half of the modified retirement allowance the member would have received at age 60 years, if the member had retired and elected Option 3 as provided in Section 24300, naming the spouse as the option beneficiary.

(b) The allowance payable under this subdivision shall be based on the member's actual service credit and final compensation as of the date of his or her death, the age 60 retirement factor, and the member's and spouse's ages as of the member's 60th birthday anniversary. If the member's death occurs after he or she attains age 60 years, his or her actual final compensation, the age 60 retirement factor, and the member's and spouse's ages as of the date of the member's death shall be used in the allowance calculation.

(c) The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of unused sick leave service credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) The surviving spouse may elect to begin receiving the survivor benefit allowance immediately as of the date of the member's death or to defer receipt of the allowance to the date the member would have attained age 60 years. If allowance payments to the surviving spouse commence prior to the date the member would have attained age 60 years, the allowance payable shall be actuarially reduced.

(e) If the spouse elects, pursuant to Section 23852, to receive the survivor benefit allowance, an additional increment of 10 percent of final compensation is payable for each eligible dependent child up to the attainment of age 21 years, up to a maximum of 50 percent of final compensation for the children's increment. The children's increment shall begin to accrue on the day following the member's date of death and shall be payable even if the spouse elects to postpone receipt of the base survivor benefit allowance until the member's 60th birthday anniversary.

SEC. 3. Section 24300 of the Education Code is amended to read:

24300. (a) Any member prior to the effective date of the member's retirement may elect an option that would provide an actuarially modified retirement allowance payable throughout the life of the member and his or her option beneficiary as follows:

(1) Option 2. The modified retirement allowance shall be paid to the retirant and upon the retirant's death, an allowance equal to the modified amount the retirant was receiving shall be paid to the option beneficiary.

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



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

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

(5) Option 6. The modified retirement allowance shall be paid to the retirant and upon the retirant's death, an allowance equal to the modified amount the retirant was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retirant, the retirement allowance without modification for the option shall be payable to the retirant.

(6) Option 7. The modified retirement allowance shall be paid to the retirant and upon the retirant's death, an allowance equal to one-half of the modified amount the retirant was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retirant, the retirement allowance without modification for the option shall be payable to the retirant.

(b) The option beneficiary, for purposes of this section, shall have been designated by the retirant by written designation duly executed and filed with the system at the time of the member's retirement.

(c) A member may revoke or change his or her election of an option at any time prior to the effective date of the member's retirement.

SEC. 5. Section 24301 of the Education Code is amended to read:

24301. (a) Any member who has filed an application for a disability retirement pursuant to Chapter 26 (commencing with Section 24100) may elect, as provided in Section 24300 to receive an actuarially modified disability retirement allowance. After receipt of a disability retirement application from a member, the board shall mail an acknowledgment notice to the member. A 30-day period shall commence with the mailing of the notice, during which time the member may change the option election made on the disability retirement application.

(b) The option shall be effective on the effective date of the disability retirement allowance. The modification of the disability retirement allowance under the option elected shall be based on the ages of the disability retirant and the named option beneficiary as of the effective date of the disability retirement. The modification shall be applicable only to the disability retirement allowance payable pursuant to subdivision (a) of Section 24106.



(c) The elected option may not be revoked or changed after the later of the effective date of the disability retirement allowance or 30 days after the mailing of the acknowledgment notice pursuant to this section.

(d) If a member dies prior to electing an unmodified allowance or an option, the death benefits shall be payable under Chapter 23 (commencing with Section 23850), regardless of whether the disability retirement application is or would have been approved.

SEC. 6. Section 24302 of the Education Code is amended to read:

24302. Upon reinstatement from service retirement pursuant to Section 24208, any option elected pursuant to Section 24300 and in effect at the time of reinstatement shall be considered to be a preretirement election of an option elected as of the effective date of that retirement and shall be subject to the same provisions as an option elected under Section 24307.

SEC. 7. Section 24303 of the Education Code is amended to read:

24303. Reinstatement from service retirement pursuant to Section 24208 shall not cancel an option elected under the provisions of Section 24300 or 24307. The option shall remain in effect unchanged and shall be reapplied to the allowance payable upon the subsequent service retirement.

SEC. 8. Section 24305 of the Education Code is amended to read:

24305. (a) An option elected under Section 24300 may be canceled by a retirant if the option beneficiary is the retirant's spouse or former spouse and a final decree of dissolution of marriage or a judgment of nullity has been entered or an order of separate maintenance has been made on or after January 1, 1978, by a court of competent jurisdiction. A retirant may cancel the option before or after issuance of the first retirement allowance payment.

(b) The retirant shall notify the board in writing of his or her cancellation of the option, and notification shall not be earlier than the effective date of the decree, judgment, or order. Notification shall include a certified copy of the final decree of dissolution, or judgment of nullity, or an order of separate maintenance, and any property settlement agreement.

(c) Upon notification to the board, the retirant may elect (1) to receive the unmodified retirement allowance from the date of receipt of the notification; or (2) a new joint and survivor option under Section 24300 and may name a new option beneficiary. Modification of the retirement allowance under the newly elected option shall be based on the ages of the retirant and the new option beneficiary as of the effective date of the new option. The election of a new joint and survivor option shall be consistent with the final decree of dissolution, judgment of nullity, order of separate maintenance, or property settlement agreement, and shall not result in any additional liability to the Teachers' Retirement Fund. The



effective date of the unmodified allowance or the new option shall be the date notification is received by the board.

SEC. 9. Section 24307 of the Education Code is amended to read:

24307. (a) Any member who has qualified to make application for retirement under Section 24201 or Section 24203 may make a preretirement election of an option, as provided in Section 24300 without right of revocation or change after the effective date of his or her retirement, except as provided in this part. The preretirement election of an option shall become effective on the date the election is signed, providing the election is received in the system's office in Sacramento within 30 days after the date of signature.

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

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

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

(e) A member who reinstates from service retirement pursuant to Section 24208 shall not be eligible to file a preretirement election of an option until one calendar year elapses from the date of reinstatement.

(f) The system shall inform members who are qualified to make application for a preretirement election of an option, through the annual statements of account, that the option is available.

SEC. 10. Section 24309 of the Education Code is amended to read:



24309. (a) A member may cancel the election of an option made pursuant to Section 24307, providing written cancellation is received by the board on or before the day preceding the effective date of retirement or during the period between reinstatement pursuant to Section 24208 or 24117 and the effective date of the subsequent retirement. Regardless of how the member elects to receive his or her retirement allowance, that allowance shall be reduced by an amount determined by the board to be the actuarial equivalent of the coverage the member received as a result of the preretirement election and that does not result in any adverse funding to the system.

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

SEC. 11. Section 24310 of the Education Code is amended to read:

24310. If a member cancels an election under Section 24309, the member may again elect an option under Section 24307. If the member elects to change an option during any year, the reduction for that year shall be that for the option to which the greater reduction under Section 24309 is applicable.

