

AMENDED IN ASSEMBLY MAY 4, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2765

**Introduced by Committee on Public Employees, Retirement
and Social Security (Honda (Chair), Migden, Scott, Shelley,
and Wildman)**

February 26, 1998

An act to amend Sections 22104, 22117, 22120, 22121, 22132, 22138.6, 22146, 22147, 22154, 22156, 22161, 22162, 22163, 22165, ~~22175~~, 22216, 22221, 22222, 22252, 22327, 22450, 22501, 22508, 22515, 22601.5, 22602, 22604, 22653, 22664, 22705, 22711, 22713, 22714, 22955, 23801, 23805, 23851, 23880, 24001, 24101, 24214, 24216.5, 24505, 24609, 24700, 24702, 26113, 26127, 26133, 26301, 26302, 26400, 26401, 26502, 26504, 26507, 26807, 26906, 27411, 28100, 44929, and 87488 of, to add Sections 22502, 22503, 22504, and 22705.5 to, *to add and repeal Section 24216.8 of*, and to repeal—~~Section~~ Sections 22175, 22358, and 22600 of, the Education Code, *and to amend Sections 3543.2, 22009.1, 22208, and 22302 of*, and to amend and repeal Sections 22009.03 and 22156 of, the Government Code, relating to the State Teachers' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

AB 2765, as amended, Committee on Public Employees, Retirement and Social Security. State Teachers' Retirement System: generally.

(1) The State Teachers' Retirement Law prescribes the rights and benefits of members of the State Teachers' Retirement System.

This bill would make technical, nonsubstantive changes in various provisions of that law.

(2) Existing law defines the term regular interest for purposes of various calculations and charges.

This bill would revise that term *and would require the board to annually adopt that rate.*

(3) Existing law requires the system's governing board upon the recommendation of the actuary, to adopt mortality and other tables and interest rates.

This bill would instead require the board to adopt certain information and would delete the actuary recommendation requirement.

(4) Existing law authorizes the governing board of a school district or community college district or a county office of education to provide, that an additional 2 years of service be credited to members who retire. That authority expires on January 1, 1999.

This bill would extend that authority to January 1, 2004.

(5) Existing law limits postretirement school employment.

This bill would permit retired members to be employed by school districts to meet the objectives of the Class Size Reduction Program.

(6) *Existing law requires a quarterly report on assets to be submitted to the Legislature.*

This bill would delete that requirement.

(7) *Existing law authorizes assessment of penalties against employers for late reports or unacceptable forms of not less than \$500.*

This bill would delete that limitation.

(8) *Existing law provides that the employee contribution rate to the State Teacher's Retirement System Cash Balance Plan shall not exceed the employer contribution rate.*

This bill would provide that the employee rate may exceed the employer rate but that the employer contribution vote may not be less than 4%.

(9) *Pursuant to existing law, the Board of Administration of the Public Employees' Retirement System administers an*



agreement with the federal government for social security coverage of employees of the state and the political subdivisions thereof which contract for coverage. The existing law authorizes each school district, from July 1, 1990, to July 1, 1993, and the State Teachers' Retirement System, on and after July 1, 1993, to apply to the Board of Administration of the Public Employees' Retirement System for elections among their respective certificated employees who are members of the State Teachers' Retirement System for the election of Medicare coverage of those certificated employees who elect it. The existing law also makes certain of these provisions inoperative on July 1, 1999, and repeals them as of January 1, 2000.

This bill would extend the repeal date of certain of these provisions from January 1, 2000, to January 1, 2005.

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

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

1 SECTION 1. Section 22104 of the Education Code is
2 amended to read:

3 22104. "Actuarial equivalent" means an allowance of
4 equal value when computed upon the basis of the tables
5 and interest rates that are adopted as a plan amendment
6 by the board.

7 SEC. 2. Section 22117 of the Education Code is
8 amended to read:

9 22117. "Contribution rate for additional service
10 credit" means the contribution rate adopted as a plan
11 amendment by the board for the purchase of service
12 credit. This rate shall be based upon the most recent
13 valuation of the ~~system~~ plan and increased to include any
14 subsequently required contribution rates designated for
15 funding subsequent allowance increases.

16 SEC. 3. Section 22120 of the Education Code is
17 amended to read:

18 22120. "Credited interest" means interest that is
19 credited to members' and inactive members',
20 accumulated retirement contributions, and accumulated



1 annuity deposit contributions at a rate set annually as a
2 plan amendment by the board.

3 SEC. 4. Section 22121 of the Education Code is
4 amended to read:

5 22121. "Credited service" means service for which
6 the required contributions have been paid.

7 SEC. 5. Section 22132 of the Education Code is
8 amended to read:

9 22132. "Employed" or "employment" means
10 employment to perform creditable service subject to
11 coverage by the State Teachers' Retirement System
12 Defined Benefit Plan, except as otherwise specifically
13 provided under this part.

14 SEC. 6. Section 22138.6 of the Education Code is
15 amended to read:

16 22138.6. "Full-time equivalent" means the days or
17 hours of creditable service that a person who is employed
18 on a part-time basis would be required to perform in a
19 school year if he or she were employed full time in that
20 position.

21 SEC. 7. Section 22146 of the Education Code is
22 amended to read:

23 22146. "Member" means any person, unless excluded
24 under other provisions of this part, who has performed
25 creditable service as defined in Section 22119.5 and has
26 earned creditable compensation for that service and has
27 not received a refund for that service. A member's rights
28 and obligations under this part shall be determined by the
29 applicability of subdivision (a), (b), (c), or (d), and
30 subject to any applicable exceptions under other
31 provisions of this part.

32 (a) An active member is a member who is not retired
33 or disabled and who earns creditable compensation
34 during the school year.

35 (b) An inactive member is a member who is not
36 retired or disabled and who, by the pay period ending
37 June 30, has not earned creditable compensation during
38 the school year.



1 (c) A disabled member is a member to whom a
2 disability allowance is payable under Chapter 25
3 (commencing with Section 24001).

4 (d) A retired member is a member who has
5 terminated employment and has retired for service
6 under the provisions of Chapter 27 (commencing with
7 Section 24201, or has retired for disability under the
8 provisions of Chapter 26 (commencing with Section
9 24100), and to whom a retirement allowance is therefore
10 payable.

11 SEC. 8. Section 22147 of the Education Code is
12 amended to read:

13 22147. (a) "Month" means 20 working days or four
14 weeks of five working days each, including legal holidays,
15 with respect to the computation and crediting of service.

16 (b) "Month," for all other purposes, means a period
17 commencing on any day of a calendar month and
18 extending through the day preceding the corresponding
19 day of the succeeding calendar month, if there is any such
20 corresponding day, and if not, through the last day of the
21 succeeding calendar month.

22 SEC. 9. Section 22154 of the Education Code is
23 amended to read:

24 22154. "Pay period" means a payroll period of not less
25 than four weeks or more than one calendar month.

26 SEC. 10. *Section 22156 of the Education Code is*
27 *amended to read:*

28 22156. "Plan vesting" means the rights of the member
29 upon completion of the minimum number of required
30 years of credited service provided in the retirement plan
31 to entitle the member or his or her beneficiary to a
32 monthly retirement allowance, disability allowance,
33 survivor *benefit allowance*, family *allowance*, or death
34 benefit at a future date, prior to the completion of which
35 the member upon resignation from service is entitled
36 only to a refund of his or her accumulated retirement
37 contributions as provided in this part.

38 *SEC. 10.5.* Section 22161 of the Education Code is
39 amended to read:



1 22161. "Public school" means any day or evening
2 elementary school, and any day and evening secondary
3 school, community colleges, technical schools,
4 kindergarten schools, and prekindergarten schools
5 established by the Legislature, or by municipal or district
6 authority.

7 SEC. 11. Section 22162 of the Education Code is
8 amended to read:

9 22162. "Regular interest" is interest that is
10 compounded annually based upon the annual equivalent
11 of the weighted average yield on purchased investment
12 grade fixed-income securities with final maturities
13 greater than 24 months. *The regular interest rate shall be*
14 *adopted annually by the board as a plan amendment.*

15 SEC. 12. Section 22163 of the Education Code is
16 amended to read:

17 22163. "Reinstatement" means the terminating of a
18 service or disability retirement allowance and the
19 changing of status from a retired member to an inactive
20 member or an active member.

21 SEC. 13. Section 22165 of the Education Code is
22 amended to read:

23 22165. "Retirement" means a change in status from
24 an inactive member or an active member to a retired
25 member.

26 ~~SEC. 14. Section 22175 of the Education Code is~~
27 ~~amended to read:~~

28 ~~22175. "Teaching units" means the instructional~~
29 ~~workload component of a community college instructor's~~
30 ~~full-time assignment, which may also be expressed by~~
31 ~~community college districts in other terms including, but~~
32 ~~not limited to, "teaching hours," "lecture hour~~
33 ~~equivalents," "academic units," "load hours," or "load~~
34 ~~units."~~

35 ~~SEC. 14. Section 22175 of the Education Code is~~
36 ~~repealed.~~

37 ~~22175. "Teaching units" means the instructional~~
38 ~~workload component of a community college instructor's~~
39 ~~full-time assignment, which may also be expressed by~~
40 ~~community college districts in other terms including, but~~



1 ~~not limited to, “lecture hour equivalents,” “academic~~
2 ~~units,” “load hours,” or “load units.”~~

3 SEC. 15. Section 22216 of the Education Code is
4 amended to read:

5 22216. (a) The board as a plan amendment shall
6 annually adopt the rate of credited interest to be credited
7 to members’ accumulated retirement contributions for
8 service performed after June 30, 1935, and the
9 accumulated annuity deposit contributions excluding all
10 accumulated contributions while being paid as
11 allowances under Sections 23804, 24006, and 24007.

12 (b) The board shall credit interest to all other
13 accumulated reserves at the actuarially assumed interest
14 rate.

15 SEC. 16. Section 22221 of the Education Code is
16 amended to read:

17 22221. The board as a plan amendment shall adopt,
18 certain information, that shall include, but not be limited
19 to, actuarial assumptions, rates, factors, and tables that are
20 necessary to administer the plan and make any
21 determination or calculation necessary to carry out this
22 part.

23 SEC. 17. Section 22222 of the Education Code is
24 amended to read:

25 22222. The board may adjust the amounts of the death
26 payments based on changes in the All Urban California
27 Consumer Price Index, and as a plan amendment shall
28 adopt any adjusted amount, provided that the most
29 recent actuarial valuation report indicates that the
30 adjustment would not increase the normal cost.

31 SEC. 18. *Section 22252 of the Education Code is*
32 *amended to read:*

33 22252. Except as otherwise provided by law, the
34 board and its officers and employees of the system shall
35 not cause the system to engage in a transaction if they
36 know or should know that the transaction constitutes a
37 direct or indirect:

38 (a) Sale or exchange, or leasing, of any property from
39 the system to a member or beneficiary for less than



1 adequate consideration, or from a member or beneficiary
2 to the system for more than adequate consideration.

3 (b) Lending of money or other extension of credit
4 from the system to a member or beneficiary without the
5 receipt of adequate security and a reasonable rate of
6 interest, or from a member or beneficiary with the
7 provision of excessive security or an unreasonably high
8 rate of interest.

9 (c) Furnishing of goods, services, or facilities from the
10 system to a member or beneficiary for less than adequate
11 consideration, or from a member, ~~retirant,~~ or beneficiary
12 to the system for more than adequate consideration.

13 (d) Transfer to, or use by or for the benefit of, a
14 member or beneficiary of any assets of the plan for less
15 than adequate consideration.

16 (e) Acquisition, on behalf of the system, of any
17 employer security, real property, or loan.

18 *SEC. 18.1. Section 22327 of the Education Code is*
19 *amended to read:*

20 22327. Notwithstanding any other provision of law,
21 the Employment Development Department shall
22 disclose to the board information in its possession relating
23 to the earnings of any person who is receiving a disability
24 benefit from the plan. The earnings information shall be
25 released to the board only upon written request from the
26 board specifying that the person is receiving disability
27 benefits from the plan. The request may be made by the
28 chief executive officer of the system or by an employee
29 of the system so authorized and identified by name and
30 title by the chief executive officer in writing. The board
31 shall notify recipients of disability benefits that earnings
32 information—~~from~~ shall be obtained from the
33 Employment Development—~~Department's~~ *Department*
34 upon request by the board. The board shall not release
35 any earnings information received from the Employment
36 Development Department to any person, agency, or
37 other entity. The system shall reimburse the
38 Employment Development Department for all
39 reasonable administrative expenses incurred pursuant to
40 this section.



1 SEC. 18.5. Section 22358 of the Education Code is
2 repealed.

3 ~~22358. The board shall submit a review of the plan's~~
4 ~~assets to the Legislature on a quarterly basis, which shall~~
5 ~~include all of the following:~~

6 ~~(a) Concentration and current holdings at cost and~~
7 ~~market value of all assets by type.~~

8 ~~(b) Rate of return of the fund by type of asset.~~

9 ~~(c) Portfolio return comparisons that compare~~
10 ~~investment returns with universes and indexes.~~

11 SEC. 18.7. Section 22450 of the Education Code is
12 amended to read:

13 22450. (a) Each member and beneficiary shall
14 furnish to the board any information affecting his or her
15 status as a member or beneficiary of the plan as the board
16 requires.

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

21 SEC. 19. Section 22501 of the Education Code is
22 amended to read:

23 22501. (a) Any person employed to perform
24 creditable service on a full-time basis who is not already
25 a member of the plan shall become a member as of the
26 first day of employment, unless excluded from
27 membership pursuant to Section 22601.

28 (b) Creditable service in more than one position shall
29 not be aggregated for the purpose of determining
30 mandatory membership under this section.

31 (c) This section shall be deemed to have become
32 operative on July 1, 1996.

33 SEC. 20. Section 22502 is added to the Education
34 Code, to read:

35 22502. (a) Any person employed to perform
36 creditable service on a part-time basis who is not already
37 a member of the plan shall become a member as of the
38 first day of employment to perform creditable service for
39 50 percent or more of the full-time equivalent for the



1 position, unless excluded from membership pursuant to
2 Section 22601.

3 (b) This section shall apply to persons employed by
4 employers who provide benefits for their employees
5 under Part 14 (commencing with Section 26000).

6 (c) This section shall be deemed to have become
7 operative on July 1, 1996.

8 SEC. 21. Section 22503 is added to the Education
9 Code, to read:

10 22503. (a) Any person employed to perform
11 creditable service as a substitute teacher who is not
12 already a member of the plan shall become a member as
13 of the first day of the pay period following the pay period
14 in which the person performed 100 or more complete
15 days of creditable service during the school year in one
16 school district, community college district, or county
17 superintendent's office, unless excluded from
18 membership pursuant to Section 22601.

19 (b) This section shall not apply to persons employed by
20 employers who provide benefits for their employees
21 under Part 14 (commencing with Section 26000).

22 (c) This section shall be deemed to have become
23 operative on July 1, 1996.

24 SEC. 22. Section 22504 is added to the Education
25 Code, to read:

26 22504. (a) Any person employed on a part-time basis
27 who is not already a member of the plan shall become a
28 member on the first day of the pay period following the
29 pay period in which the person performed at least 60
30 hours of creditable service, if employed on an hourly
31 basis, or 10 days of creditable service, if employed on a
32 daily basis, in one school district, community college
33 district, or county superintendent's office, unless
34 excluded from membership pursuant to Section 22601.

35 (b) This section shall not apply to employers who
36 provide benefits for their employees under Part 14
37 (commencing with Section 26000).

38 (c) This section shall be deemed to have become
39 operative on July 1, 1996.



1 SEC. 23. Section 22508 of the Education Code is
2 amended to read:

3 22508. (a) A member who becomes employed by the
4 same or a different school district, community college
5 district, or a county superintendent to perform service
6 that requires membership in a different public
7 retirement system, may elect to have that service subject
8 to coverage by this plan and excluded from coverage by
9 the other public retirement system. The election shall be
10 made in writing on a form prescribed by this system
11 within 60 days from the date of hire in the position
12 requiring membership in the other public retirement
13 system. If that election is made, the service performed for
14 the employer after the date of hire shall be considered
15 creditable service for purposes of this part.

16 (b) A member of the Public Employees' Retirement
17 System who is employed by a school district, community
18 college district, or a county superintendent and who is
19 subsequently employed to perform creditable service
20 subject to coverage by this plan may elect to have that
21 service subject to coverage by the Public Employees'
22 Retirement System and excluded from coverage by this
23 plan. The election shall be made in writing on a form
24 prescribed by this system within 60 days from the date of
25 hire to perform creditable service. If that election is
26 made, creditable service performed for the employer
27 after the date of hire shall be subject to coverage by the
28 Public Employees' Retirement System.

29 SEC. 24. Section 22515 of the Education Code is
30 amended to read:

31 22515. Persons excluded from membership pursuant
32 to Sections 22601.5, 22602, and 22604 may elect
33 membership in the plan at any time while employed to
34 perform creditable service. The election is irrevocable,
35 and shall remain in effect until the member terminates
36 employment and receives a refund of accumulated
37 retirement contributions. The amendments to this
38 section enacted during the 1995-96 Regular Session shall
39 be deemed to have become operative on July 1, 1996.



1 SEC. 25. Section 22600 of the Education Code is
2 repealed.

3 SEC. 26. Section 22601.5 of the Education Code is
4 amended to read:

5 22601.5. (a) Any person who is not already a member
6 of the plan who is employed to perform creditable service
7 and whose basis of employment is less than 50 percent of
8 the full-time equivalent for the position is excluded from
9 mandatory membership in the plan.

10 (b) This section shall apply to persons employed by
11 employers who provide benefits for their employees
12 under Part 14 (commencing with Section 26000).

13 (c) This section shall be deemed to have become
14 operative on July 1, 1996.

15 SEC. 27. Section 22602 of the Education Code is
16 amended to read:

17 22602. (a) Any person who is not already a member
18 of the plan who is employed as a substitute and who
19 performs less than 100 complete days of creditable service
20 in one school district, community college district, or
21 county superintendent’s office during the school year is
22 excluded from mandatory membership in the plan.

23 (b) This section shall not apply to employers who
24 provide benefits for their employees under Part 14
25 (commencing with Section 26000).

26 (c) The amendments to this section enacted during
27 the 1995–96 Regular Session shall be deemed to have
28 become operative on July 1, 1996.

29 SEC. 28. Section 22604 of the Education Code is
30 amended to read:

31 22604. (a) Any person who is not already a member
32 of the plan who is employed on a part-time basis, and who
33 performs less than 60 hours of creditable service in a pay
34 period if employed on an hourly basis, or less than 10 days
35 of creditable service in a pay period if employed on a daily
36 basis, in one school district, community college district, or
37 county superintendent’s office is excluded from
38 mandatory membership in the plan.



1 (b) This section shall not apply to employers who
2 provide benefits for their employees under Part 14
3 (commencing with Section 26000).

4 (c) The amendments to this section enacted during
5 the 1995–96 Regular Session shall be deemed to have
6 become operative on July 1, 1996.

7 SEC. 29. *Section 22653 of the Education Code is*
8 *amended to read:*

9 22653. (a) The nonmember spouse who is awarded a
10 separate account pursuant to Section 22652 is not a
11 member of the plan based on that award. The
12 nonmember spouse is entitled only to rights and benefits
13 based on that award explicitly established by this chapter.

14 (b) This section shall not be construed to limit any
15 right arising from the account of a nonmember spouse
16 under this part that exists because the nonmember
17 spouse is or was employed to perform creditable service
18 subject to coverage by the plan.

19 SEC. 29.5. Section 22664 of the Education Code is
20 amended to read:

21 22664. The nonmember spouse who is awarded a
22 separate account shall have the right to a service
23 retirement allowance.

24 (a) The nonmember spouse shall be eligible to retire
25 for service if the following conditions are satisfied:

26 (1) The member had performed at least five years of
27 creditable California service during the period of
28 marriage, at least one year of which had been performed
29 subsequent to the most recent refund to the member of
30 accumulated retirement contributions, if five of the
31 member's six years of credited service immediately
32 before the dissolution or legal separation had been in
33 California. The credited service may include service
34 credited to the account of the member as of the date of
35 the dissolution or legal separation, previously refunded
36 service, and permissive service credit which the member
37 is eligible to purchase at the time of the dissolution or
38 legal separation.

1 (2) The nonmember spouse has at least two and
2 one-half years of credited service in his or her separate
3 account.

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

6 (b) A service retirement allowance of a nonmember
7 spouse shall become effective upon any date designated
8 by the nonmember spouse, provided:

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

10 (2) The nonmember spouse has filed an application for
11 service retirement on a form provided by the system,
12 which is executed no earlier than six months before the
13 effective date of the retirement allowance.

14 (3) The effective date is no earlier than the first day of
15 the month in which the application is received at the
16 system's office in Sacramento and the effective date is
17 after the date the judgment was entered.

18 (c) Upon service retirement at or over normal
19 retirement age, the nonmember spouse shall receive a
20 retirement allowance that shall consist of an annual
21 allowance payable in monthly installments equal to 2
22 percent of final compensation for each year of credited
23 service. If the nonmember spouse's retirement is
24 effective at less than normal retirement age and between
25 early retirement age and normal retirement age, the
26 retirement allowance shall be reduced by one-half of 1
27 percent for each full month, or fraction of a month, that
28 will elapse until the nonmember spouse would have
29 reached normal retirement age.

30 (1) In computing the retirement allowance of the
31 nonmember spouse, the age of the nonmember spouse on
32 the last day of the month in which the retirement
33 allowance begins to accrue shall be used.

34 (2) Final compensation, for purposes of calculating the
35 service retirement allowance of the nonmember spouse
36 under this subdivision, shall be calculated according to
37 the definition of final compensation in Section 22134—~~or~~
38 ~~Section 22135~~, 22135, *or* 22136, whichever is applicable,
39 and shall be based on the compensation earnable of the
40 member up to the date the parties separated, as



1 established in the judgment or court order pursuant to
2 Section 22652.

3 The nonmember spouse shall not be entitled to use any
4 other calculation of final compensation.

5 (d) If the member is or was receiving a disability
6 allowance with an effective date before or on the date the
7 parties separated as established in the judgment or court
8 order pursuant to Section 22652, or at any time applies for
9 and receives a disability allowance with an effective date
10 that is before or coincides with the date the parties
11 separated as established in the judgment or court order
12 pursuant to Section 22652, the nonmember spouse shall
13 not be eligible to retire until after the disability allowance
14 of the member terminates.

15 If the member who is or was receiving a disability
16 allowance returns to employment to perform creditable
17 service subject to coverage by the plan or has his or her
18 allowance terminated under Section 24015, the
19 nonmember spouse may not be paid a retirement
20 allowance until at least six months after termination of the
21 disability allowance and the return of the member to
22 employment to perform creditable service subject to
23 coverage by the plan, or the termination of the disability
24 allowance and the employment or self-employment of
25 the member in any capacity, notwithstanding Section
26 22132. If at the end of the six-month period, the member
27 has not had a recurrence of the original disability or has
28 not had his or her earnings fall below the amounts
29 described in Section 24015, the nonmember spouse may
30 be paid a retirement allowance if all other eligibility
31 requirements are met.

32 (1) The retirement allowance of the nonmember
33 spouse under this subdivision shall be calculated as
34 follows: the disability allowance the member was
35 receiving, exclusive of the benefits for dependent
36 children, shall be divided between the share of the
37 member and the share of the nonmember spouse. The
38 share of the nonmember spouse shall be the amount
39 obtained by multiplying the disability allowance,
40 exclusive of the benefits for dependent children, by the



1 years of service credited to the separate account of the
2 nonmember spouse, including service projected to the
3 date of separation, and dividing by the projected service
4 of the member. The nonmember spouse's retirement
5 allowance shall be the lesser of the share of the
6 nonmember spouse under this subdivision or the
7 retirement allowance under subdivision (c).

8 (2) The share of the member shall be the total
9 disability allowance reduced by the share of the
10 nonmember spouse. The share of the member shall be
11 considered the disability allowance of the member for
12 purposes of Section 24213.

13 (e) The nonmember spouse who receives a
14 retirement allowance is not a retired member. However,
15 the allowance of the nonmember spouse shall be
16 increased by application of the improvement factor and
17 shall be eligible for the application of supplemental
18 increases and other benefit maintenance provisions,
19 including, but not limited to, Sections 24411, 24412, and
20 24415 based on the same criteria used for the application
21 of these benefit maintenance increases to the service
22 retirement allowances of members.

23 SEC. 30. *Section 22705 of the Education Code is*
24 *amended to read:*

25 22705. No service shall be included for which a
26 member is entitled to receive a retirement benefit in a
27 lump sum or installment payments, for other than
28 military service, from any public retirement system other
29 than this system, or under the American Gratuities Act No.
30 4151 relating to service in the Philippine Islands under
31 which 15 or more years of creditable service has accrued,
32 ~~or a local system~~ *the San Francisco City and County*
33 *Employees Retirement System*. If a retired member
34 becomes entitled to such a retirement benefit, his or her
35 retirement allowance shall be reduced thereafter to
36 exclude the service upon which the retirement benefit is
37 based, without other change in his or her retirement
38 status.

39 SEC. 30.5. Section 22705.5 is added to the Education
40 Code, to read:



1 22705.5. Service subject to coverage by the San
2 Francisco City and County Retirement System pursuant
3 to Section 24701 is excluded from coverage in the plan.
4 The member shall retain the right to receive a retirement
5 allowance for creditable service that is subject to
6 coverage under the plan unless he or she withdraws his
7 or her accumulated retirement contributions for that
8 service.

9 SEC. 31. Section 22711 of the Education Code is
10 amended to read:

11 22711. (a) A member shall be granted service credit
12 for time during which the member serves as an elected
13 officer of an employee organization while on a
14 compensated leave of absence pursuant to Section 44987
15 or 87768.5, if all of the following conditions are met:

16 (1) The member was employed and performed
17 creditable service subject to coverage by the plan in the
18 month prior to commencement of the leave of absence.

19 (2) The member makes contributions to the Teachers'
20 Retirement Fund in the amount that the member would
21 have contributed had the member performed creditable
22 service on a full-time basis during the period the member
23 served as an elected officer of the employee organization.

24 (3) The member's employer contributes to the
25 Teachers' Retirement Fund at a rate adopted as a plan
26 amendment by the board an amount based upon the
27 creditable compensation that would have been paid to
28 the member had the member performed creditable
29 service on a full-time basis during the period the member
30 served as an elected officer of the employee organization.

31 (b) The maximum period of time during which a
32 member may serve as an elected officer and receive
33 service credit pursuant to this section shall not exceed 12
34 calendar years.

35 SEC. 32. *Section 22713 of the Education Code is*
36 *amended to read:*

37 22713. (a) Notwithstanding any other provision of
38 this chapter, the governing board of a school district or a
39 community college district or a county superintendent of
40 schools may establish regulations that allow an employee



1 who is a member to reduce his or her workload from full
2 time to part time, and receive the service credit the
3 member would have received if the member had been
4 employed on a full-time basis and have his or her
5 retirement allowance, as well as other benefits that the
6 member is entitled to under this part, based, in part, on
7 final compensation determined from the compensation
8 earnable the member would have been entitled to if the
9 member had been employed on a full-time basis.

10 (b) The regulations shall include, but shall not be
11 limited to, the following:

12 (1) The option to reduce the member's workload shall
13 be exercised at the request of the member and can be
14 revoked only with the mutual consent of the employer
15 and the member.

16 (2) The member shall have been employed full time
17 to perform creditable service subject to coverage by the
18 plan for at least 10 years including five years immediately
19 preceding the reduction in workload.

20 (3) The member shall not have had a break in service
21 during the five years immediately preceding the
22 reduction in workload. For purposes of this subdivision,
23 sabbaticals and other approved leaves of absence shall not
24 constitute a break in service. However, time spent on a
25 sabbatical or other approved leave of absence shall not be
26 used in computing the five-year full-time service
27 requirement prescribed by this subdivision.

28 (4) The member shall have reached the age of 55 years
29 prior to the reduction in workload.

30 (5) The period of the reduced workload shall not
31 exceed 10 years.

32 (6) The reduced workload shall be equal to at least
33 one-half of the full-time equivalent required by the
34 member's contract of employment during his or her final
35 year of full-time employment.

36 (7) The member shall be paid creditable
37 compensation that is the pro rata share of the creditable
38 compensation the member would have been paid had the
39 member not reduced his or her workload.



1 (c) Prior to the reduction of a member's workload
2 under this section, the employer in conjunction with the
3 administrative staff of the State Teachers' Retirement
4 System and the Public Employees' Retirement System,
5 shall verify the member's eligibility for the reduced
6 workload program.

7 (d) The member shall make contributions to the
8 Teachers' Retirement Fund in the amount that the
9 member would have contributed had the member
10 performed creditable service on a full-time basis.

11 (e) The employer shall contribute to the Teachers'
12 Retirement Fund at a rate specified by the board *as a plan*
13 *amendment* an amount based upon the creditable
14 compensation that would have been paid to the member
15 had the member performed creditable service on a
16 full-time basis.

17 (f) The employer shall maintain the necessary records
18 to separately identify each member who participates in
19 the reduced workload program pursuant to this section.

20 *SEC. 32.5.* Section 22714 of the Education Code is
21 amended to read:

22 22714. (a) Whenever the governing board of a school
23 district or a community college district or a county office
24 of education, by formal action taken prior to January 1,
25 2004, determines pursuant to Section 44929 or 87488 that
26 because of impending curtailment of or changes in the
27 manner of performing services, the best interests of the
28 district or county office of education would be served by
29 encouraging certificated employees or academic
30 employees to retire for service and that the retirement
31 will either: result in a net savings to the district or county
32 office of education; result in a reduction of the number of
33 certificated employees or academic employees as a result
34 of declining enrollment; or result in the retention of
35 certificated employees who are credentialed to teach in,
36 or faculty who are qualified to teach in, teacher shortage
37 disciplines, including, but not limited to, mathematics
38 and science, an additional two years of service shall be
39 credited to a member if all of the following conditions
40 exist:



1 (1) The member is credited with five or more years of
2 service and retires for service under the provisions of
3 Chapter 27 (commencing with Section 24201) during a
4 period of not more than 120 days or less than 60 days,
5 commencing no sooner than the effective date of the
6 formal action of the employer that shall specify the
7 period.

8 (2) The employer transfers to the retirement fund an
9 amount determined by the Teachers' Retirement Board
10 to equal the actuarial equivalent of the difference
11 between the allowance the member receives after
12 receipt of service credit under this section and the
13 amount the member would have received without the
14 service credit and an amount determined by the
15 Teachers' Retirement Board to equal the actuarial
16 equivalent of the difference between the purchasing
17 power protection supplemental payment the member
18 receives after receipt of additional service credit
19 pursuant to this section and the amount the member
20 would have received without the additional service
21 credit. The payment for purchasing power shall be
22 deposited in the Supplemental Benefit Maintenance
23 Account established by Section 22400 and shall be subject
24 to Sections 24414 and 24415. The transfer to the
25 retirement fund shall be made in a manner, and time
26 period not to exceed four years, that is acceptable to the
27 Teachers' Retirement Board. The employer shall transfer
28 the required amount for all eligible employees who retire
29 pursuant to this section.

30 (3) The employer transmits to the retirement fund the
31 administrative costs incurred by the system in
32 implementing this section, as determined by the
33 Teachers' Retirement Board.

34 (4) The employer has considered the availability of
35 teachers or academic employees to fill the positions that
36 would be vacated pursuant to this section.

37 (b) (1) The school district shall demonstrate and
38 certify to the county superintendent that the formal
39 action taken would result in either: (A) a net savings to
40 the district; (B) a reduction of the number of certificated



1 employees as a result of declining enrollment, as
2 computed pursuant to Section 42238.5; or (C) the
3 retention of certificated employees who are credentialed
4 to teach in teacher shortage disciplines.

5 (2) The county superintendent shall certify to the
6 Teachers' Retirement Board that a result specified in
7 paragraph (1) can be demonstrated. The certification
8 shall include, but not be limited to, the information
9 specified in subdivision (b) of Section 14502. A district
10 that qualifies under clause (B) of paragraph (1) shall also
11 certify that it qualifies as a declining enrollment district
12 as computed pursuant to Section 42238.5.

13 (3) The school district shall reimburse the county
14 superintendent for all the costs of the county
15 superintendent that result from the certification.

16 (c) (1) The county office of education shall
17 demonstrate and certify to the Superintendent of Public
18 Instruction that the formal action taken would result in
19 either: (A) a net savings to the county office of education;
20 (B) a reduction of the number of certificated employees
21 as a result of declining enrollment; or (C) the retention
22 of certificated employees who are credentialed to teach
23 in teacher shortage disciplines.

24 (2) The Superintendent of Public Instruction shall
25 certify to the Teachers' Retirement Board that a result
26 specified in paragraph (1) can be demonstrated. The
27 certification shall include, but not be limited to, the
28 information specified in subdivision (b) of Section 14502.

29 (3) The Superintendent of Public Instruction may
30 request reimbursement from the county office of
31 education for all administrative costs that result from the
32 certification.

33 (d) (1) The community college district shall
34 demonstrate and certify to the chancellor's office that the
35 formal action taken would result in either: (A) a net
36 savings to the district; (B) a reduction in the number of
37 academic employees as a result of declining enrollment,
38 as computed pursuant to subdivision (c) of Section 84701;
39 or (C) the retention of faculty who are qualified to teach
40 in teacher shortage disciplines.



1 (2) The chancellor shall certify to the Teachers'
2 Retirement Board that a result specified in paragraph (1)
3 can be demonstrated. The certification shall include, but
4 not be limited to, the information specified in subdivision
5 (c) of Section 84040.5. A community college district that
6 qualifies under clause (B) of paragraph (1) of subdivision
7 (b) of this section shall also certify that it qualifies as a
8 declining enrollment district as computed pursuant to
9 subdivision (c) of Section 84701.

10 (3) The chancellor may request reimbursement from
11 the community college for all administrative costs that
12 result from the certification.

13 (e) The opportunity to be granted service credit
14 pursuant to this section shall be available to all members
15 employed by the school district, community college
16 district, or county office of education who meet the
17 conditions set forth in this section.

18 (f) The amount of service credit shall be two years.

19 (g) Any member who retires for service under the
20 provisions of Chapter 27 (commencing with Section
21 24201) with service credit granted under this section and
22 who subsequently reinstates into the system, shall forfeit
23 the service credit granted under this section.

24 (h) This section shall not be applicable to any member
25 otherwise eligible if the member receives any
26 unemployment insurance payments arising out of
27 employment with an employer subject to this part during
28 a period extending one year beyond the effective date of
29 the formal action, or if the member is not otherwise
30 eligible to retire for service.

31 SEC. 33. Section 23851 of the Education Code is
32 amended to read:

33 23851. (a) A death payment of twenty thousand
34 dollars (\$20,000) shall be paid to the beneficiary, as
35 designated pursuant to Section 23300, upon receipt of
36 proof of death of an active member, who had one or more
37 years of credited service, at least one of which had been
38 performed subsequent to the most recent refund of
39 accumulated retirement contributions, if the member
40 died during any one of the following periods:



1 (1) While in employment for which compensation is
2 paid.

3 (2) Within four months after termination of service or
4 termination of employment, whichever occurs first.

5 (3) Within 12 months of the last day for which
6 compensation was paid, if the member was on an
7 approved leave of absence without compensation for
8 reasons other than disability or military service.

9 (b) A death payment pursuant to this section shall not
10 be payable for the death of a member that occurs within
11 one year commencing with the effective date of
12 termination of the service retirement allowance pursuant
13 to Section 24208 or during the six calendar months
14 commencing with the effective date of termination of the
15 disability retirement allowance pursuant to Section
16 24117.

17 (c) The board may adjust the death payment amount
18 following each actuarial valuation based on changes in
19 the All Urban California Consumer Price Index and adopt
20 as a plan amendment any adjusted amount.

21 (d) A designated beneficiary may waive his or her
22 right to the death payment in accordance with the
23 requirements established by the system.

24 SEC. 34. *Section 22955 of the Education Code is*
25 *amended to read:*

26 22955. (a) Notwithstanding Section 13340 of the
27 Government Code, commencing October 1, 1991, a
28 continuous appropriation is hereby made from the
29 General Fund to the Controller, pursuant to this section,
30 for transfer to the Teachers' Retirement Fund. The total
31 amount of the appropriation for each year shall be equal
32 to 4.3 percent of the total of the creditable compensation
33 of the immediately preceding calendar year upon which
34 members' contributions are based, to be calculated
35 annually on October 1, and shall be divided into four
36 equal quarterly payments. The percentage shall be
37 adjusted to reflect the contribution required to fund the
38 normal cost deficit when the unfunded obligation has
39 been deemed to be eliminated by the board based upon
40 a recommendation from its actuary. If a rate increase or



1 decrease is required, the adjustment may be for no more
2 than 0.25 percent per year and in no case may the transfer
3 exceed 4.3 percent of the total of the creditable
4 compensation of the immediately preceding calendar
5 year upon which members' contributions are based.

6 (b) The funds transferred pursuant to subdivision (a)
7 shall first be applied to meeting the normal cost deficit,
8 if any, for that fiscal year.

9 (c) The transfers made pursuant to this section are in
10 lieu of the state contributions formerly made pursuant to
11 Sections 23401 and 23402 *from 1990*.

12 (d) For the purposes of this section, the term "normal
13 cost deficit" means the difference between the normal
14 cost rate as determined in the actuarial valuation
15 required by Section ~~22226~~ 22311 and the total of the
16 member contribution rate required under Section ~~22804~~
17 22901 and the employer contribution rate required under
18 Section ~~23400~~ 22950, and shall exclude (1) the portion for
19 unused sick leave service granted pursuant to Section
20 ~~22719~~ 22951, and (2) the cost of benefit increases which
21 occur after July 1, 1990. The contribution rates prescribed
22 in Section ~~22804~~ 22901 and Section ~~23400~~ 22950 on July 1,
23 1990, shall be utilized to make the calculations. The
24 normal cost deficit shall then be multiplied by the total of
25 the creditable compensation upon which member
26 contributions are based to determine the dollar amount
27 of the normal cost deficit for the year.

28 (e) Pursuant to Section 22001 and the case law, the
29 members are entitled to a financially sound retirement
30 system. The Legislature recognizes that the system shall,
31 pursuant to this act, receive less funds in the short term
32 than it would have received under former Sections 23401
33 and 23402 (Chapter 282 of the Statutes of 1979). However,
34 it is the intent of the Legislature that this section shall
35 provide the retirement fund stable and full funding over
36 the long term.

37 (f) This section continues in effect but in a somewhat
38 different form, fully performs, and does not in any way
39 unreasonably impair, the contractual obligations



1 determined by the court in California Teachers'
2 Association v. Cory, 155 Cal. App. 3d 494.

3 (g) This section shall not be construed to be applicable
4 to any unfunded liability resulting from any benefit
5 increase or change in contribution rate that occurs after
6 July 1, 1990.

7 (h) The amendments to this section during the
8 1991–92 Regular Session shall be construed and
9 implemented to be in conformity with the judicial intent
10 expressed by the court in California Teachers' Association
11 v. Cory, 155 Cal. App. 3d 494.

12 *SEC. 34.2. Section 23801 of the Education Code is*
13 *amended to read:*

14 23801. (a) A death payment of five thousand dollars
15 (\$5,000) shall be paid to the beneficiary upon receipt of
16 proof of death of a member who had one or more years
17 of credited service, at least one of which had been
18 performed subsequent to the most recent refund of
19 accumulated retirement contributions, if the member
20 died during any one of the following periods:

21 (1) While in employment for which compensation is
22 paid.

23 (2) While disabled, if the disability had been
24 continuous from the last day for which compensation had
25 been paid.

26 (3) Within four months after termination of service or
27 termination of employment, whichever occurs first.

28 (4) Within four months after termination of a
29 disability allowance if no service was performed after the
30 termination.

31 (5) Within 12 months of the last day for which
32 compensation was paid, if the member was on an
33 approved leave of absence without compensation for
34 reasons other than disability or military service.

35 (b) A death payment pursuant to this section shall not
36 be payable for the death of a member that occurs within
37 one year commencing with the effective date of
38 reinstatement from service retirement pursuant to
39 Section 24208.

1 (c) The board may adjust the death payment amount
2 following each actuarial valuation based on changes in
3 the All Urban California Consumer Price Index *and adopt*
4 *any adjusted amount as a plan amendment.*

5 (d) A beneficiary may waive his or her right to the
6 death payment in accordance with the requirements
7 established by the system.

8 *SEC. 34.4. Section 23805 of the Education Code is*
9 *amended to read:*

10 23805. A family allowance is payable in the amount
11 and to the specified persons in the following order of
12 priority:

13 (a) To the deceased member's surviving spouse who
14 has financial responsibility for at least one dependent
15 child, an amount equal to 40 percent of the member's
16 final compensation or the disabled member's projected
17 final compensation plus 10 percent of the member's final
18 compensation or the disabled member's projected final
19 compensation for each child, up to a maximum allowance
20 of 90 percent.

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

29 (c) To the surviving spouse at age 60 years or over if
30 there is no dependent child, an allowance equal to the
31 amount that would have been payable to the spouse as
32 beneficiary under Option 3 as provided in Section 24300,
33 computed on the member's projected final compensation
34 and projected service to normal retirement age. The
35 allowance payable under this subdivision shall be
36 increased by application of the benefit improvement
37 factor for time that elapses between the date the member
38 would have attained normal retirement age and the date
39 the family allowance under this subdivision begins to
40 accrue. The allowance calculation shall include service



1 credit for the unused sick leave that had accrued to the
2 member or ~~disabiltant~~ *disabled member* as of the date of
3 his or her death. Eligibility for the inclusion of service
4 credit for unused sick leave credit and the calculation of
5 that service credit shall be determined pursuant to
6 Section 22717.

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

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

36 (f) If there is no dependent child, a surviving spouse
37 or dependent parent or parents may elect, prior to
38 receipt of the first payment under subdivision (c) or (d),
39 to receive the member's accumulated retirement
40 contributions in a lump sum subject to a reduction for any



1 disability allowance or family allowance payments
2 previously made.

3 *SEC. 34.7.* Section 23880 of the Education Code is
4 amended to read:

5 23880. (a) A death payment of five thousand dollars
6 (\$5,000) shall be paid to the beneficiary, as designated
7 pursuant to Section 23300, upon receipt of proof of death
8 of either of the following:

9 (1) A retired member.

10 (2) A member, if the death payment pursuant to
11 Section 23801 would have otherwise been payable or if
12 the conditions specified pursuant to paragraphs (3) and
13 (5) of subdivision (b) of Section 23854 are met, and if the
14 member's death occurs during one of the following
15 periods:

16 (A) Within one year commencing with the effective
17 date of reinstatement from service retirement pursuant
18 to Section 24208.

19 (B) Within six months commencing with the effective
20 date of reinstatement from disability retirement
21 pursuant to Section 24117.

22 (b) The board may adjust the death payment amount
23 following each actuarial valuation based on changes in
24 the All Urban California Consumer Price Index and adopt
25 as a plan amendment any adjusted amount.

26 *SEC. 35.* Section 24001 of the Education Code is
27 amended to read:

28 24001. (a) A member may apply for a disability
29 allowance under this plan if the member has five or more
30 years of credited service and if all of the following
31 requirements are met:

32 (1) At least four years were credited for actual
33 performance of service subject to coverage by the plan.
34 Credit received because of workers' compensation
35 payments shall be counted toward the four-year
36 requirement in accordance with Section 22710.

37 (2) The last five years of credited service were
38 performed in this state.

39 (3) At least one year was credited for service
40 performed subsequent to the date on which the member



1 terminated the service retirement allowance under
2 Section 24208.

3 (4) At least one year was credited for service
4 performed subsequent to the most recent refund of
5 accumulated retirement contributions.

6 (5) The member has neither attained normal
7 retirement age, nor ~~possess~~ *possesses* sufficient unused
8 sick leave days to receive ~~salary~~ *creditable compensation*
9 on account of sick leave to normal retirement age.

10 (6) The member is not applying for a disability
11 allowance because of a physical or mental condition
12 known to exist at the time the most recent membership
13 in the plan commenced and remains substantially
14 unchanged at the time of application.

15 (b) Nothing in subdivision (a) shall affect the right of
16 a member to a disability allowance if the reason that the
17 member is credited with less than four years of actual
18 service performed subject to coverage by the plan is due
19 to an on-the-job injury or a disease that occurred while
20 the member was employed and the four-year
21 requirement can be satisfied by credit obtained under
22 Chapter 14 (commencing with Section 22800) of this part
23 and Chapter 14.5 (commencing with Section 22850) in
24 addition to any credit received from workers'
25 compensation payments.

26 (c) Nothing in subdivision (a) shall affect the right of
27 a member who has less than five years of credited service
28 to a disability allowance providing the member has at
29 least one year of credited California service and if the
30 reason for the disability is due to an unlawful act of bodily
31 harm committed by another human being on the person
32 of the member while the member was performing his or
33 her official duties in a position subject to coverage by the
34 plan.

35 (d) A member shall not be eligible for disability under
36 this plan while on a leave of absence to serve as a full-time
37 elected officer of an employee organization, even if
38 receiving service credit under Section 22711.

39 SEC. 36. Section 24101 of the Education Code is
40 amended to read:



1 24101. (a) A member may apply for a disability
2 retirement if the member has five or more years of
3 credited service and if all of the following requirements
4 are met:

5 (1) At least four years were credited for actual service
6 performed subject to coverage by the plan. Credit
7 received because of workers' compensation payments
8 shall be counted toward the four-year requirement in
9 accordance with Section 22710.

10 (2) The last five years of credited service have been
11 served in this state.

12 (3) At least one year (1.000) of credited service was
13 earned subsequent to the date on which the member
14 terminated the service retirement allowance under
15 Section 24208.

16 (4) At least one year (1.000) of credited service was
17 earned subsequent to the date on which the member's
18 disability allowance was terminated.

19 (5) At least one year (1.000) of credited service was
20 earned subsequent to the most recent refund of
21 accumulated retirement contributions.

22 (6) The member is not applying for a disability
23 retirement because of a physical or mental condition
24 known to exist at the time the most recent membership
25 in the plan commenced and that remains substantially
26 unchanged at the time of application.

27 (b) Nothing in subdivision (a) shall affect the right of
28 a member to a disability retirement if the reason that the
29 member has performed less than four years of actual
30 service is due to an on-the-job injury or a disease while in
31 employment subject to coverage by the plan and the
32 four-year requirement can be satisfied by credit obtained
33 under Chapter 14 (commencing with Section 22800) and
34 Chapter 14.5 (commencing with Section 22850) in
35 addition to any credit received from workers'
36 compensation payments.

37 (c) Nothing in subdivision (a) shall affect the right of
38 a member who has less than five years of credited service
39 to a disability retirement allowance providing the
40 member has at least one year of credited California



1 service and if the reason for the disability is due to an
2 unlawful act of bodily harm committed by another
3 human being on the person of the member while the
4 member was performing his or her official duties in a
5 position subject to coverage by the plan.

6 (d) A member shall not be eligible for disability
7 retirement from this plan while on a leave of absence to
8 serve as a full-time elected officer of an employee
9 organization, even if receiving service credit under
10 Section 22711.

11 SEC. 37. Section 24214 of the Education Code is
12 amended to read:

13 24214. (a) A member retired for service may
14 perform the activities identified in paragraphs (1) to (9),
15 inclusive, of subdivision (a), or subdivision (b), of Section
16 22119.5 as an employee of an employer, as an employee
17 of a third party, or as an independent contractor within
18 the California public school system, but the member shall
19 not make contributions to the retirement fund or accrue
20 service credit based on compensation earned from that
21 service.

22 (b) The rate of pay for service performed by a
23 member retired for service as an employee of the
24 employer shall not be less than the minimum, nor exceed
25 that paid by the employer to other employees performing
26 comparable duties.

27 (c) A member retired for service shall not be required
28 to reinstate for performing the activities identified in
29 paragraphs (1) to (9), inclusive, of subdivision (a), or
30 subdivision (b), of Section 22119.5, as an employee of an
31 employer, as an employee of a third party, or as an
32 independent contractor within the California public
33 school system.

34 (d) A member retired for service may earn
35 compensation for performing activities identified in
36 paragraphs (1) to (9), inclusive, of subdivision (a), or
37 subdivision (b), of Section 22119.5 in any one school year
38 up to the limitation specified in subdivision (f) as an
39 employee of an employer, as an employee of a third party,
40 or an independent contractor, within the California



1 public school system, without a reduction in his or her
2 retirement allowance.

3 (e) The postretirement compensation limitation
4 provisions set forth in this section shall not be applicable
5 to compensation earned for the performance of the
6 activities described in subdivision (a) for which the
7 employer is not eligible to receive state apportionment or
8 to compensation that is not creditable pursuant to Section
9 22119.2.

10 (f) The limitation that shall apply to the compensation
11 for performance of the activities identified in paragraphs
12 (1) to (9), inclusive, of subdivision (a), or subdivision (b),
13 of Section 22119.5 by a member retired for service either
14 as an employee of an employer, an employee of a third
15 party, or as an independent contractor, shall be fifteen
16 thousand dollars (\$15,000), in any one school year,
17 adjusted annually by the board each July 1 by the annual
18 amount of increase in the All Urban California Consumer
19 Price Index using December 1989 as the base.

20 (g) If a member retired for service earns
21 compensation for performing activities identified in
22 paragraphs (1) to (9), inclusive, of subdivision (a), or
23 subdivision (b), of Section 22119.5 in excess of the
24 limitation specified in subdivision (f), as an employee of
25 an employer, as an employee of a third party, or as an
26 independent contractor, within the California public
27 school system, the member's retirement allowance shall
28 be reduced by the amount of the excess compensation.
29 The amount of the reduction may be equal to the monthly
30 allowance payable but shall not exceed the amount of the
31 annual allowance payable under this part for the fiscal
32 year in which the excess compensation was earned.

33 (h) The amendments to this section enacted during
34 the 1995–96 Regular Session shall be deemed to have
35 become operative on July 1, 1996.

36 SEC. 38. Section 24216.5 of the Education Code is
37 amended to read:

38 24216.5. (a) The compensation earned by a member
39 who retired for service shall be exempt from subdivisions



1 (d), (f), and (g) of Section 24214, if all of the following
2 conditions are met:

3 (1) The member retired for service with an effective
4 date on or before July 1, 1996.

5 ~~(2) The member retired for service is employed by a
6 school district to provide direct instruction to pupils in
7 kindergarten or any of grades 1 through 12 in order for
8 that employing school district to meet the objectives of
9 the Class Size Reduction Program set forth in Chapter
10 6.10 (commencing with Section 52120) of Part 28.~~

11 (2) *The member retired or service is employed by a
12 school district to provide:*

13 (A) *Direct classroom instruction to students in newly
14 created grades kindergarten through 3; or*

15 (B) *Is temporarily filling a position in grades 4 through
16 12 that was vacated due to a teacher transferring to a
17 classroom in grades kindergarten through 3 within the
18 same district that was created to meet the objectives of
19 the Class Size Reduction Program set forth in Chapter
20 6.10 (commencing with Section 52120) of Part 28.*

21 (3) All members retired for service whose
22 employment with a school district meets the conditions
23 specified in this section shall be treated as a distinct class
24 of temporary employees within the existing bargaining
25 unit whose service shall not be included in computing the
26 service required as a prerequisite to attainment of or
27 eligibility for classification as a permanent employee of a
28 school district. The compensation for service performed
29 by this class of employees shall be established in
30 accordance with subdivision (b) of Section 24214 and
31 agreed to in the collective bargaining agreement
32 between the employing school district and the exclusive
33 representative for the existing bargaining unit within
34 which these temporary employees of the school district
35 are treated as a distinct class.

36 (4) The employing school district submits
37 documentation required by the system to substantiate
38 the eligibility of the temporary employment of a member
39 retired for service for the exemption under this
40 subdivision.



1 (b) A school district that employs a member retired
 2 for service pursuant to this section shall maintain
 3 accurate records of the retired member's compensation
 4 earned and shall report that compensation monthly to the
 5 system regardless of the method of payment or the source
 6 of funds from which the compensation is paid.

7 (c) Upon written request to the system, a member
 8 who retired for service with an effective date on or before
 9 July 1, 1996, and who, between July 1, 1996, and 60 days
 10 following the effective date of this section, terminated his
 11 or her service retirement allowance and returned to
 12 employment that qualifies for the exemption specified in
 13 subdivision (a) may cancel his or her reinstatement and
 14 return to status as a member retired for service as if the
 15 service retirement allowance had not been terminated.

16 (d) This section shall not apply to the compensation
 17 earned for creditable service performed by a member
 18 retired for service for a county office of education or a
 19 community college district.

20 (e) This section shall become operative on July 1, 1996,
 21 and shall remain in effect only until July 1, 1999, and as of
 22 that date is repealed unless a later enacted statute which
 23 is enacted before July 1, 1999, deletes or extends that date.

24 SEC. 39. *Section 24216.8 is added to the Education*
 25 *Code, to read:*

26 *24216.8. (a) The compensation earned by a member*
 27 *who retired for service shall be exempt from subdivisions*
 28 *(d), (f), and (g) of Section 24214, if all of the following*
 29 *conditions are met:*

30 *(1) The member retired for service with an effective*
 31 *date on or before July 1, 1998.*

32 *(2) The member retired or service is employed by a*
 33 *school district to provide:*

34 *(A) Direct classroom instruction to students in newly*
 35 *created grades kindergarten through 3; or*

36 *(B) Is temporarily filling a position in grades 4 through*
 37 *12 that was vacated due to a teacher transferring to a*
 38 *classroom in grades kindergarten through 3 within the*
 39 *same district that was created to meet the objectives of*



1 *the Class Size Reduction Program set forth in Chapter*
2 *6.10 (commencing with Section 52120) of Part 28.*

3 (3) *All members retired for service whose*
4 *employment with a school district meets the conditions*
5 *specified in this section shall be treated as a distinct class*
6 *of temporary employees within the existing bargaining*
7 *unit whose service shall not be included in computing the*
8 *service required as a prerequisite to attainment of or*
9 *eligibility for classification as a permanent employee of a*
10 *school district. The compensation for service performed*
11 *by this class of employees shall be established in*
12 *accordance with subdivision (b) of Section 24214 and*
13 *agreed to in the collective bargaining agreement*
14 *between the employing school district and the exclusive*
15 *representative for the existing bargaining unit within*
16 *which these temporary employees of the school district*
17 *are treated as a distinct class.*

18 (4) *The employing school district submits*
19 *documentation required by the system to substantiate*
20 *the eligibility of the temporary employment of a member*
21 *retired for service for the exemption under this*
22 *subdivision.*

23 (b) *A school district that employs a member retired*
24 *for service pursuant to this section shall maintain*
25 *accurate records of the retired member's compensation*
26 *earned and shall report that compensation monthly to the*
27 *system regardless of the method of payment or the source*
28 *of funds from which the compensation is paid.*

29 (c) *Upon written request to the system, a member*
30 *who retired for service with an effective date on or before*
31 *July 1, 1998, and who, between July 1, 1998, and 60 days*
32 *following the effective date of this section, terminated his*
33 *or her service retirement allowance and returned to*
34 *employment that qualifies for the exemption specified in*
35 *subdivision (a) may cancel his or her reinstatement and*
36 *return to status as a member retired for service as if the*
37 *service retirement allowance had not been terminated.*

38 (d) *This section shall not apply to the compensation*
39 *earned for creditable service performed by a member*



1 *retired for service for a county office of education or a*
2 *community college district.*

3 *(e) This section shall become operative on July 1, 1996,*
4 *and shall remain in effect only until July 1, 2002, and as of*
5 *that date is repealed unless a later enacted statute which*
6 *is enacted before July 1, 2002, deletes or extends that date.*

7 *SEC. 40. Section 24505 of the Education Code is*
8 *amended to read:*

9 24505. Actions brought by the board or its agent
10 under contract pursuant to this chapter shall be
11 commenced within three years after the liability of the
12 system to pay benefits under the plan is fixed. Liability of
13 the plan is fixed at the time the board approves the
14 payment of benefits under ~~the~~ *this plan.*

15 *SEC. 41. Section 24609 of the Education Code is*
16 *amended to read:*

17 24609. Any allowance payable to a retired member,
18 that has accrued and remains unpaid at the time of his or
19 her death, shall be paid to either of the following:

20 (a) The *option* beneficiary entitled to payment in
21 accordance with an ~~optional settlement chosen~~ *option*
22 *elected* by the member.

23 (b) The beneficiary entitled to receive the lump-sum
24 death benefit provided upon death of a retired member
25 if the member has not ~~chosen~~ *elected* an ~~optional~~
26 ~~settlement~~ *option.*

27 *SEC. 42. Section 24700 of the Education Code is*
28 *amended to read:*

29 24700. On July 1, 1972, and thereafter all persons who
30 first enter employment in the San Francisco Unified
31 School District and the San Francisco Community
32 College District to perform creditable service subject to
33 coverage by the plan are members of the ~~system~~ *plan* in
34 accordance with Section 22501. These new members are
35 excluded from coverage under Subchapter II
36 (commencing with Section 401) of Chapter 7 of Title 42
37 of the United States Code, for service performed as a
38 member of the plan.

39 *SEC. 43. Section 24702 of the Education Code is*
40 *amended to read:*



1 24702. (a) All persons on the San Francisco system
2 retired rolls on June 30, 1972, shall remain on the local
3 rolls. The State Teachers' Retirement System shall
4 continue the subvention in Section 24706 for those
5 persons, shall apply the percentage update and annual
6 improvement factor to payments being made ~~by the~~ from
7 the Defined Benefit Plan directly to those persons, and
8 shall pay the retired death payment upon their death.

9 (b) The allowance that would have been payable had
10 the member retired solely under the Defined Benefit
11 Plan, including the percentage update calculated under
12 Sections 14332, 14333, and 14334, as enacted by Chapter
13 2 of the Statutes of 1959, as those sections read on
14 December 31, 1974, shall be taken into account in
15 computing the amount of increase for the ten dollar (\$10)
16 a month per year of service minimum benefit.

17 *SEC. 44. Section 26113 of the Education Code is*
18 *amended to read:*

19 26113. (a) "Creditable Service" means any of the
20 following activities performed for an employer in a
21 position requiring a credential, certificate, or permit
22 pursuant to this code or under the appropriate minimum
23 standards adopted by the Board of Governors of the
24 California Community Colleges or under the provisions
25 of an approved charter for the operation of a charter
26 school for which the employer is eligible to receive state
27 apportionment or pursuant to a contract between a
28 community college district and the United States
29 Department of Defense to provide vocational training:

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

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

38 (3) The work of directors, coordinators, and assistant
39 administrators who plan courses of study to be used in



1 California public schools, or research connected with the
2 evaluation or efficiency of the instructional program.

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

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

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

16 (7) The work of nurses, physicians, speech therapists,
17 psychologists, audiometrists, audiologists, and other
18 school health professionals.

19 (8) Services as a school librarian.

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

24 (b) “Creditable service” also means the work of
25 superintendents of California public schools.

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

29 *SEC. 45. Section 26127 of the Education Code is*
30 *amended to read:*

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

36 *SEC. 46. Section 26133 of the Education Code is*
37 *amended to read:*

38 26133. “Pay period” means a *payroll* period specified
39 by the employer but not more than 30 calendar days.



1 SEC. 47. Section 26301 of the Education Code is
2 amended to read:

3 26301. (a) Employers shall report, on a form
4 prescribed by the system, contributions paid on behalf of
5 each participant in each pay period, along with all other
6 information required by the system, no later than 15
7 calendar days following the last day of the pay period in
8 which the salary was paid, and the report is delinquent
9 immediately thereafter.

10 (b) ~~If the employer submits a report late or in an~~
11 ~~unacceptable form, the~~ The board may assess a penalty
12 against the employer, based on the sum of the employee
13 contributions and employer contributions required by
14 the report and at the minimum interest rate, or a fee of
15 five hundred dollars (\$500), whichever is greater for a
16 report submitted late or in an unacceptable form.

17 SEC. 48. Section 26302 of the Education Code is
18 amended to read:

19 26302. (a) If more or less than the required
20 contributions are paid to the plan based on salary paid to
21 a participant, proper adjustment shall be made by the
22 employer within 60 days of discovery or of notification by
23 the system, and any contributions deducted in error from
24 the participant's salary shall be returned to the
25 participant by the employer within the same time period.

26 (b) If a report contains erroneous information and the
27 system, acting in good faith, makes a distribution from the
28 ~~plan~~ Cash Balance Fund based on that information, the
29 employer who submitted the report shall reimburse the
30 fund in full for the amount of the erroneous
31 disbursement, plus interest on the amount of the
32 erroneous disbursement at the minimum interest rate
33 from the date of disbursement to the date of
34 reimbursement, immediately upon notification by the
35 system.

36 SEC. 49. Section 26400 of the Education Code is
37 amended to read:

38 26400. (a) A person employed to perform creditable
39 service for less than 50 percent of the full-time equivalent
40 for the position shall become a participant on the later of



1 the first day on which creditable service is performed for
2 an employer that provides the plan or the effective date
3 of the employer's governing board's action to provide the
4 Cash Balance Plan, provided the person is not subject to
5 mandatory membership in the Defined Benefit Plan
6 except as provided in Section 26402.

7 (b) If the employer's governing board's action to
8 provide the Cash Balance Plan gives employees the right
9 to elect coverage under social security or an alternative
10 retirement plan offered by the employer in addition to
11 the Cash Balance Plan, the employee may elect within 60
12 *calendar* days of the later of the first day on which
13 creditable service is performed, the date of the
14 employer's governing board's action to provide the Cash
15 Balance Plan, or the effective date of the employer's
16 governing board's action to provide the Cash Balance
17 Plan to be covered by social security or to participate in
18 the alternative retirement plan in lieu of participating in
19 the Cash Balance Plan. Any election shall not preclude an
20 employee from participating in the Cash Balance Plan at
21 a later date so long as the Cash Balance Plan is provided
22 by the employer and the employee is eligible to
23 participate in the Cash Balance Plan.

24 (c) If subdivision (b) is applicable, the employer shall
25 inform employees pursuant to subdivision (c) of Section
26 26300 of their right to make an election and the election
27 shall be made on a form prescribed by the system and
28 filed with the employer. The election shall become
29 effective on the later of the first day on which creditable
30 service is performed or the effective date of the
31 employer's governing board's action to provide the plan.

32 (d) If the participant's basis of employment with an
33 employer that provides the Cash Balance Plan changes to
34 employment to perform creditable service for 50 percent
35 or more of the full-time equivalent for the position,
36 contributions to the Cash Balance Plan on behalf of the
37 participant shall no longer be made and creditable
38 service performed for that employer and all other
39 employers shall be subject to coverage by the Defined
40 Benefit Plan as of the first day of the pay period in which



1 the change in the participant's basis of employment
2 occurred, except as provided in Section 26402.

3 *SEC. 50. Section 26401 of the Education Code is*
4 *amended to read:*

5 26401. (a) A member of the Defined Benefit Plan
6 who is employed to perform creditable service for less
7 than 50 percent of the full-time equivalent for the
8 position for an employer that provides the Cash Balance
9 Plan may elect to become a participant for creditable
10 service subject to coverage by the Cash Balance Plan for
11 that employer provided that the creditable service is not
12 performed for the same employer with whom the
13 member is also subject to mandatory membership in the
14 Defined Benefit Plan.

15 (b) The election shall be made on a form prescribed by
16 the system and shall be filed with the employer within 60
17 *calendar* days of the later of the first day of employment
18 with an employer that provides the Cash Balance Plan,
19 the date of the employer's governing board's action to
20 provide the Cash Balance Plan, or the effective date of
21 the employer's governing board's action to provide the
22 Cash Balance Plan.

23 (c) Employers shall make available to employees
24 specified in subdivision (a) information and forms
25 provided by the system for making an election regarding
26 participation, and shall maintain the written election by
27 the employee in employer files. The election shall
28 become effective on the first day of the month following
29 the month in which the election is made.

30 (d) If an election is made pursuant to subdivision (a)
31 and the participant's basis of employment with that
32 employer changes to employment to perform creditable
33 service for 50 percent or more of the full-time equivalent
34 for the position, contributions to the Cash Balance Plan
35 on behalf of the participant shall no longer be made and
36 creditable service performed for that employer and all
37 other employers shall be subject to coverage by the
38 Defined Benefit Plan as of the first day of the pay period
39 in which the change in the participant's basis of



1 employment occurred, except as provided in Section
2 26402.

3 *SEC. 51. Section 26502 of the Education Code is*
4 *amended to read:*

5 26502. The employer ~~shall~~ *may* pick up, for the sole
6 purpose of and in accordance with the requirements of
7 Section 414(h)(2) of Title 26 of the United States Code
8 and Section 17501 of the Revenue and Taxation Code, all
9 of the amounts otherwise due as employee contributions,
10 which shall be paid by the employer in lieu of employee
11 contributions and which shall be deducted from the
12 employee's salary.

13 *SEC. 52. Section 26504 of the Education Code is*
14 *amended to read:*

15 26504. The employer may enter into a collective
16 bargaining agreement to pay a different employer
17 contribution rate and a different employee contribution
18 rate, provided all of the following conditions are met:

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

22 (b) The employee contribution rate ~~shall not~~ *may*
23 exceed the employer contribution rate *but in no event*
24 *shall the employer contribution rate be less than 4*
25 *percent.*

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

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

32 (e) The employee contribution rate and employer
33 contribution rate as determined under the collective
34 bargaining agreement shall become effective on the first
35 day of the plan year following notice to the system and
36 remain in effect for at least one plan year. However, the
37 employee contribution rate and the employer
38 contribution rate as determined under the collective
39 bargaining agreement may become effective as of the
40 first day of the plan year in which notice is given if it is



1 provided in the collective bargaining agreement and if a
2 lump-sum contribution is made to the plan equal to the
3 additional employee and employer contributions, if any,
4 that would have been required if the contribution rates
5 were in effect on the first day of the plan year. Interest
6 shall be credited at the minimum interest rate with
7 respect to the lump-sum contribution commencing with
8 the first month the contribution is made.

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

12 *SEC. 53. Section 26507 of the Education Code is*
13 *amended to read:*

14 26507. (a) The board may adjust the mandatory
15 employer contribution rate specified under Section 26503
16 for a fixed period of plan years when it has determined
17 based upon the recommendation of the actuary, that
18 increased contributions are required. The adjustment
19 shall not exceed one-fourth of one ~~percentage point~~
20 *percent* for any plan year. The mandatory employer
21 contribution rate as adjusted shall not exceed 4.25 percent
22 of salary in any plan year for each participant employed
23 by the employer, except as provided in subdivision (b).

24 (b) The adjustment to the employer contribution rate
25 specified in subdivision (a) shall be applied to the
26 employer contribution rate specified in a collective
27 bargaining agreement pursuant to Section 26504 and in
28 effect on the first day of the plan year in which the
29 adjustment to the employer contribution rate takes
30 effect.

31 (c) The adjusted employer contribution rate shall
32 become effective no earlier than the first day of the plan
33 year immediately following adoption by the board.

34 *SEC. 54. Section 26807 of the Education Code is*
35 *amended to read:*

36 26807. (a) Upon application for a retirement benefit,
37 the participant may elect to receive the retirement
38 benefit in the form of an annuity, provided the sum of the
39 employee account and employer account equals or
40 exceeds three thousand five hundred dollars (\$3,500).



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

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

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

11 (3) A 100-percent joint and survivor annuity, which is
12 the actuarial equivalent of the lump sum payable for the
13 combined lives of the participant and the beneficiary,
14 with the monthly amount payable to the participant
15 continuing to the surviving beneficiary upon the death of
16 the participant. However, if the option beneficiary
17 predeceases the participant, the annuity without
18 modification for the option shall be payable to the
19 participant *upon notification to the board and shall*
20 *commence to accrue to the participant as of the day*
21 *following the date of death of the option beneficiary.*
22 *Notification to the board shall include proof of death of*
23 *the option beneficiary.*

24 (4) A 50-percent joint and survivor annuity, which is
25 the actuarial equivalent of the lump sum payable for the
26 combined lives of the participant and the beneficiary,
27 with one-half of the monthly amount payable to the
28 participant continuing to the surviving beneficiary upon
29 the death of the participant. However, if the option
30 beneficiary predeceases the participant, the annuity
31 without modification for the option shall be payable to the
32 participant *upon notification to the board and shall*
33 *commence to accrue to the participant as of the day*
34 *following the date of death of the option beneficiary.*
35 *Notification to the board shall include proof of death of*
36 *the option beneficiary.*

37 (5) A period certain annuity, which is the lump sum
38 payable over a specified number of years, from a
39 minimum of three years to a maximum of 10 years but in
40 any event not to exceed the life expectancy of the



1 participant or the life expectancy of the participant and
2 the participant's option beneficiary, until there is no
3 balance remaining in the participant's employee account
4 and employer account.

5 *SEC. 55. Section 26906 of the Education Code is*
6 *amended to read:*

7 26906. (a) Upon application for a disability benefit,
8 the participant may elect to receive the disability benefit
9 in the form of an annuity provided the sum of the
10 employee account and employer account equals or
11 exceeds three thousand five hundred dollars (\$3,500).

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

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

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

22 (3) A 100-percent joint and survivor annuity, which is
23 the actuarial equivalent of the lump sum payable for the
24 combined lives of the participant and the beneficiary
25 designated under this subdivision, with the monthly
26 amount payable to the participant continuing to the
27 surviving beneficiary upon the death of the participant.
28 However, if the option beneficiary predeceases the
29 participant, the annuity without modification for the
30 option shall be payable to the participant *upon*
31 *notification to the board and shall commence to accrue*
32 *to the participant as of the day following the date of death*
33 *of the option beneficiary. Notification to the board shall*
34 *include proof of death of the option beneficiary.*

35 (4) A 50-percent joint and survivor annuity, which is
36 the actuarial equivalent of the lump sum payable for the
37 combined lives of the participant and the beneficiary
38 designated under this subdivision, with one-half of the
39 monthly amount payable to the participant continuing to
40 the surviving beneficiary upon the death of the



1 participant. However, if the option beneficiary
2 predeceases the participant, the annuity without
3 modification for the option shall be payable to the
4 participant *upon notification to the board and shall*
5 *commence to accrue to the participant as of the day*
6 *following the date of death of the option beneficiary.*
7 *Notification to the board shall include proof of death of*
8 *the option beneficiary.*

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

17 *SEC. 56. Section 27411 of the Education Code is*
18 *amended to read:*

19 27411. The nonparticipant spouse who is awarded a
20 separate nominal account shall have the right to an
21 annuity pursuant to paragraphs (1)—~~and (4)~~, (2), or (5)
22 of subdivision (b) of Section 26807.

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

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

28 (2) The nonparticipant spouse has attained the age of
29 55 years or more.

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

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

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

38 *SEC. 57. Section 28100 of the Education Code is*
39 *amended to read:*



1 28100. (a) The employer may discontinue providing
2 the Cash Balance Plan at anytime in accordance with the
3 terms and conditions of the employer's governing board's
4 formal action to provide the plan.

5 (b) The employer shall notify the system of the
6 decision to discontinue the plan no less than 90 *calendar*
7 days prior to the effective date of discontinuance. Such
8 notice shall be submitted on a form prescribed by the
9 system.

10 *SEC. 58.* Section 44929 of the Education Code is
11 amended to read:

12 44929. (a) Whenever the governing board of a school
13 district or a county office of education, by formal action
14 taken prior to January 1, 2004, determines that because of
15 impending curtailment of or changes in the manner of
16 performing services, the best interests of the district or
17 county office of education would be served by
18 encouraging the retirement of certificated employees
19 and that the retirement will either: result in a net savings
20 to the district or county office of education; result in a
21 reduction of the number of certificated employees as a
22 result of declining enrollment; or result in the retention
23 of certificated employees who are credentialed to teach
24 in teacher shortage disciplines, including, but not limited
25 to, mathematics and science, an additional two years of
26 service shall be credited under the State Teachers'
27 Retirement System to a certificated employee pursuant
28 to Section 22714 if all of the following conditions exist:

29 (1) The employee is credited with five or more years
30 of service under the State Teachers' Retirement System
31 and retires during a period of not more than 120 days or
32 less than 60 days, commencing no sooner than the
33 effective date of the formal action of the district or county
34 superintendent of schools that shall specify the period.

35 (2) The district or county office of education transmits
36 to the retirement fund an amount determined by the
37 Teachers' Retirement Board that equals the actuarial
38 equivalent of the difference between the allowance the
39 member receives after the receipt of service credit under
40 this section and Section 22714 and the amount the



1 member would have received without the service credit
2 and an amount determined by the Teachers' Retirement
3 Board that equals the actuarial equivalent of the
4 difference between the purchasing power protection
5 supplemental payment the member receives after
6 receipt of additional service credit pursuant to this
7 section and the amount the member would have received
8 without the additional service credit. The payment for
9 purchasing power shall be deposited in the Supplemental
10 Benefit Maintenance Account established by Section
11 22400 and shall be subject to Sections 24414 and 24415. The
12 transfer to the retirement fund shall be made in a
13 manner, and time period that shall not exceed four years,
14 that is acceptable to the Teachers' Retirement Board. The
15 school district or county office of education shall make the
16 payment with respect to all eligible employees who
17 retired pursuant to this section and Section 22714.

18 (3) The district or county office of education transmits
19 to the retirement fund the administrative costs incurred
20 by the State Teachers' Retirement System in
21 implementing this section, as determined by the
22 Teachers' Retirement Board.

23 (4) The governing board of the school district or the
24 county office of education has considered the availability
25 of teachers to fill the positions that would be vacated
26 pursuant to this section.

27 (b) (1) The school district shall demonstrate and
28 certify to the county superintendent that the formal
29 action taken would result in either: (A) a net savings to
30 the district; (B) a reduction of the number of certificated
31 employees as a result of declining enrollment, as
32 computed pursuant to Section 42238.5; or (C) the
33 retention of certificated employees who are credentialed
34 to teach in teacher shortage disciplines.

35 (2) The county superintendent shall certify to the
36 Teachers' Retirement Board that a result specified in
37 paragraph (1) can be demonstrated. The certification
38 shall include, but not be limited to, the information
39 specified in subdivision (b) of Section 14502. A district
40 that qualifies under clause (B) of paragraph (1) shall also



1 certify that it qualifies as a declining enrollment district
2 as computed pursuant to Section 42238.5.

3 (3) The school district shall reimburse the county
4 superintendent for all the costs of the county
5 superintendent that result from the certification.

6 (c) (1) The county office of education shall
7 demonstrate and certify to the Superintendent of Public
8 Instruction that the formal action taken would result in
9 either: (A) a net savings to the county office of education;
10 (B) a reduction of the number of certificated employees
11 as a result of declining enrollment; or (C) the retention
12 of certificated employees who are credentialed to teach
13 in teacher shortage disciplines.

14 (2) The Superintendent of Public Instruction shall
15 certify to the Teachers' Retirement Board that a result
16 specified in paragraph (1) can be demonstrated. The
17 certification shall include, but not be limited to, the
18 information specified in subdivision (b) of Section 14502.

19 (3) The Superintendent of Public Instruction may
20 request reimbursement from the county office of
21 education for all administrative costs that result from the
22 certification.

23 (d) The service credit made available pursuant to this
24 section shall be available to all members employed by the
25 school district or county office of education who meet the
26 conditions set forth in this section.

27 (e) The amount of service credit shall be two years.

28 (f) Any employee who retires with service credit
29 granted under this section and Section 22714 and who
30 subsequently reinstates into the State Teachers'
31 Retirement System, shall forfeit the service credit
32 granted under this section and Section 22714.

33 (g) This section shall not be applicable to any
34 employee otherwise eligible if the employee receives any
35 unemployment insurance payments arising out of
36 employment with an employer subject to Part 13
37 (commencing with Section 22000) during a period
38 extending one year beyond the effective date of the
39 formal action, or if the employee is not otherwise eligible



1 to retire for service under the State Teachers' Retirement
2 System.

3 ~~SEC. 40.~~

4 *SEC. 59.* Section 87488 of the Education Code is
5 amended to read:

6 87488. (a) Whenever the governing board of a
7 community college district, by formal action taken prior
8 to January 1, 2004, determines that because of impending
9 curtailment of or changes in the manner of performing
10 services, the best interests of the district would be served
11 by encouraging the retirement of academic employees
12 and that the retirement will either: result in a net savings
13 to the district; result in a reduction of the number of
14 academic employees as a result of declining enrollment;
15 or result in the retention of faculty who are qualified to
16 teach in areas of teacher shortage, including, but not
17 limited to, mathematics and science, an additional two
18 years of service shall be credited under the State
19 Teachers' Retirement System to an academic employee
20 pursuant to Section 22714 if all of the following conditions
21 exist:

22 (1) The employee is credited with five or more years
23 of service under the State Teachers' Retirement System
24 and retires during a period not more than 120 days or less
25 than 60 days, commencing no sooner than the effective
26 date of the formal action of the district that shall specify
27 the period.

28 (2) The governing board transmits to the retirement
29 fund an amount determined by the Teachers' Retirement
30 Board that equals the actuarial equivalent of the
31 difference between the allowance the member receives
32 after the receipt of service credit under this section and
33 Section 22714 and the amount the member would have
34 received without the service credit and an amount
35 determined by the Teachers' Retirement Board that
36 equals the actuarial equivalent of the difference between
37 the purchasing power protection supplemental payment
38 the member receives after receipt of additional service
39 credit pursuant to this section and the amount the
40 member would have received without the additional



1 service credit. The payment for purchasing power shall
2 be deposited in the Supplemental Benefit Maintenance
3 Account established by Section 22400 and shall be subject
4 to Sections 24414 and 24415. The transfer to the
5 retirement fund shall be made in a manner and time
6 period that shall not exceed four years, that is acceptable
7 to the Teachers' Retirement Board. The community
8 college district shall make the payment with respect to all
9 eligible employees who retired pursuant to this section
10 and Section 22714.

11 (3) The governing board transmits to the retirement
12 fund the administrative costs incurred by the State
13 Teachers' Retirement System in implementing this
14 section, as determined by the Teachers' Retirement
15 Board.

16 (4) The governing board of the community college
17 district has considered the availability of academic
18 employees to fill the positions that would be vacated
19 pursuant to this section.

20 (b) (1) The community college district shall
21 demonstrate and certify to the chancellor's office that the
22 formal action taken would result in either: (A) a net
23 savings to the district; (B) a reduction in the number of
24 academic employees as a result of declining enrollment,
25 as computed pursuant to subdivision (c) of Section 84701;
26 or (C) the retention of faculty who are qualified to teach
27 in teacher shortage disciplines.

28 (2) The chancellor shall certify to the Teachers'
29 Retirement Board that the results specified in paragraph
30 (1) can be demonstrated. The certification shall include,
31 but not be limited to, the information specified in
32 subdivision (c) of Section 84040.5. A community college
33 district that qualifies under clause (B) of paragraph (1)
34 shall also certify that it qualifies as a declining enrollment
35 district as computed pursuant to subdivision (c) of
36 Section 84701.

37 (3) The chancellor may request reimbursement from
38 the community college district for all administrative costs
39 that result from the certification.



1 (c) The service credit made available pursuant to this
2 section shall be available to all members employed by the
3 community college district who meet the conditions set
4 forth in this section.

5 (d) The amount of service credit shall be two years.

6 (e) Any employee who retires with service credit
7 granted under this section and Section 22714 and
8 subsequently reinstates into the State Teachers'
9 Retirement System, shall forfeit the service credit
10 granted under this section and Section 22714.

11 (f) This section shall not be applicable to any
12 employee otherwise eligible if the employee receives any
13 unemployment insurance payments arising out of
14 employment with an employer subject to Part 13
15 (commencing with Section 22000) during a period
16 extending one year beyond the effective date of the
17 formal action, or if the employee is not otherwise eligible
18 to retire for service under the State Teachers' Retirement
19 System.

20 *SEC. 60. Section 3543.2 of the Government Code is*
21 *amended to read:*

22 3543.2. (a) The scope of representation shall be
23 limited to matters relating to wages, hours of
24 employment, and other terms and conditions of
25 employment. "Terms and conditions of employment"
26 mean health and welfare benefits as defined by Section
27 53200, leave, transfer and reassignment policies, safety
28 conditions of employment, class size, procedures to be
29 used for the evaluation of employees, organizational
30 security pursuant to Section 3546, procedures for
31 processing grievances pursuant to Sections 3548.5, 3548.6,
32 3548.7, and 3548.8, the layoff of probationary certificated
33 school district employees, pursuant to Section 44959.5 of
34 the Education Code, and alternative compensation or
35 benefits for employees adversely affected by pension
36 limitations pursuant to Section—~~22515~~ 22316 of the
37 Education Code, to the extent deemed reasonable and
38 without violating the intent and purposes of Section 415
39 of the Internal Revenue Code. In addition, the exclusive
40 representative of certificated personnel has the right to



1 consult on the definition of educational objectives, the
2 determination of the content of courses and curriculum,
3 and the selection of textbooks to the extent such matters
4 are within the discretion of the public school employer
5 under the law. All matters not specifically enumerated
6 are reserved to the public school employer and may not
7 be a subject of meeting and negotiating, provided that
8 nothing herein may be construed to limit the right of the
9 public school employer to consult with any employees or
10 employee organization on any matter outside the scope
11 of representation.

12 (b) Notwithstanding Section 44944 of the Education
13 Code, the public school employer and the exclusive
14 representative shall, upon request of either party, meet
15 and negotiate regarding causes and procedures for
16 disciplinary action, other than dismissal, including a
17 suspension of pay for up to 15 days, affecting certificated
18 employees. If the public school employer and the
19 exclusive representative do not reach mutual agreement,
20 then the provisions of Section 44944 of the Education
21 Code shall apply.

22 (c) Notwithstanding Section 44955 of the Education
23 Code, the public school employer and the exclusive
24 representative shall, upon request of either party, meet
25 and negotiate regarding procedures and criteria for the
26 layoff of certificated employees for lack of funds. If the
27 public school employer and the exclusive representative
28 do not reach mutual agreement, then the provisions of
29 Section 44955 of the Education Code shall apply.

30 (d) Notwithstanding Section 45028 of the Education
31 Code, the public school employer and the exclusive
32 representative shall, upon request of either party, meet
33 and negotiate regarding the payment of additional
34 compensation based upon criteria other than years of
35 training and years of experience. If the public school
36 employer and the exclusive representative do not reach
37 mutual agreement, then the provisions of Section 45028
38 of the Education Code shall apply.

39 (e) Pursuant to Section 45028 of the Education Code,
40 the public school employer and the exclusive



1 representative shall, upon the request of either party,
2 meet and negotiate a salary schedule based on criteria
3 other than a uniform allowance for years of training and
4 years of experience. If the public school employer and the
5 exclusive representative do not reach mutual agreement,
6 then the provisions of Section 45028 of the Education
7 Code requiring a salary schedule based upon a uniform
8 allowance for years of training and years of experience
9 shall apply. A salary schedule established pursuant to this
10 subdivision shall not result in the reduction of the salary
11 of any teacher.

12 *SEC. 61. Section 22009.03 of the Government Code is*
13 *amended to read:*

14 22009.03. “Public agency” also includes a school
15 district, a county superintendent of schools, and a
16 regional occupational center or program established
17 pursuant to Article 1 (commencing with Section 6500) of
18 Chapter 5 of Division 7 of Title 1, with respect to
19 employees eligible for membership in the State Teachers’
20 Retirement System.

21 This section shall become inoperative on July 1, ~~1999~~
22 ~~2004~~, and, as of January 1, ~~2000~~ 2005, is repealed, unless a
23 later enacted statute, which becomes effective on or
24 before January 1, ~~2000~~ 2005, deletes or extends the dates
25 on which it becomes inoperative and is repealed.

26 *SEC. 62. Section 22009.1 of the Government Code is*
27 *amended to read:*

28 22009.1. “Retirement system” includes:

29 (a) A pension, annuity, retirement or similar fund or
30 system established by a public agency and covering only
31 positions of that agency.

32 (b) The Public Employees’ Retirement System with
33 respect only to employees of the state and employees of
34 the University of California in positions covered by that
35 system.

36 (c) The Public Employees’ Retirement System with
37 respect to employees of all school districts in positions
38 covered under each contract entered into by a county
39 superintendent of schools and the system.



1 (d) The State Teachers' Retirement System with
2 respect to all employees in positions covered by that
3 system except employees of a public agency having any
4 employees in positions covered by such system who are
5 also in positions covered by a local retirement system for
6 the retirement of teachers, or for membership in which
7 public school teachers are eligible, operated by city, city
8 and county, county or other public agency or
9 combination of public agencies of the state.

10 (e) The Legislators' Retirement System with respect
11 to all employees in positions covered by that system.

12 (f) The Judges' Retirement System with respect to all
13 employees in positions covered by that system.

14 (g) The University of California Retirement System
15 only with respect to all employees in positions covered by
16 that system.

17 (h) The San Francisco City and County Employees'
18 Retirement System with respect to all employees in
19 positions covered by that system.

20 (i) Any other retirement system with respect only to
21 employees of any two or more of the public agencies
22 having employees in positions covered by such system, as
23 designated by the board and with regard to which the
24 board authorizes conduct of a referendum.

25 (j) Any retirement system with respect only to
26 employees of a hospital which is an integral part of a city
27 incorporated between January 15, 1898 and July 15, 1898
28 in positions covered by the system, as designated by the
29 board on request of the city.

30 (k) Except as otherwise provided in subdivisions (b)
31 through (j) above, any retirement system with respect to
32 employees of each of the public agencies having
33 employees in positions covered by the system.

34 (l) Each division or part of a retirement system, as
35 defined in subdivisions (a), (b), (c), (e), (g), (h), (i), (j),
36 (k), and (m) of this section, which is divided pursuant to
37 this chapter into two parts:

38 (1) The part composed of the positions of members of
39 such system who desire coverage under the federal
40 system.



1 (2) The part composed of the positions of members of
2 such system who do not desire coverage under the federal
3 system.

4 (m) The State Teachers' Retirement System with
5 respect to all employees of each public agency, as defined
6 by Section 22009.03, in positions covered by that system.
7 This subdivision shall become inoperative on July 1, ~~1999~~
8 2004.

9 *SEC. 63. Section 22156 of the Government Code is*
10 *amended to read:*

11 22156. (a) A division of the State Teachers'
12 Retirement System is hereby authorized by the
13 Legislature to provide Medicare coverage for employees
14 of a public agency as defined in Section 22009.03, upon the
15 request of the public agency.

16 (b) The division authorized by subdivision (a) shall be
17 conducted pursuant to this article.

18 (c) A member of the State Teachers' Retirement
19 System on whose behalf a request is made pursuant to
20 subdivision (a), may elect to be covered by Medicare,
21 pursuant to Section 218 of the federal Social Security Act
22 (42 U.S.C. Sec. 418), and applicable federal regulations if
23 (1) the member was employed in a position covered by
24 the system on March 31, 1986, and (2) the member has not
25 since been mandated into Medicare coverage due to the
26 enactment of Public Law 99-272, and (3) the member is
27 in a position covered or the member is eligible to elect to
28 be covered by the retirement system on the date of the
29 division.

30 (d) The public agency shall, immediately after the
31 elections authorized in subdivision (b) have been made,
32 make application pursuant to Chapter 2 (commencing
33 with Section 22200) of this part for Medicare coverage for
34 those members who have elected to receive Medicare
35 coverage.

36 (e) The effective date of the coverage may be
37 retroactive a maximum of five years but not earlier than
38 January 1, 1987.

39 (f) This section shall become inoperative on July 1,
40 ~~1999~~ 2004, and, as of January 1, ~~2000~~ 2005, is repealed,



1 unless a later enacted statute, which becomes effective on
2 or before January 1, ~~2000~~ 2005, deletes or extends the
3 dates on which it becomes inoperative and is repealed.

4 *SEC. 64. Section 22208 of the Government Code is*
5 *amended to read:*

6 22208. With respect to each retirement system
7 coverage group, the legislative or governing body of
8 every public agency having employees in positions
9 covered by a retirement system, may, upon the
10 affirmative vote of a majority of eligible retirement
11 system employees of the retirement system coverage
12 group at a referendum conducted in accordance with
13 Article 2 (commencing with Section 22300) of this
14 chapter and the rules and regulations promulgated by the
15 board pursuant to this part, make formal application to
16 the board for the inclusion of the employees in each
17 retirement system coverage group in the agreement.
18 With respect to employees in positions covered by the
19 retirement system set forth in subdivision (d) of Section
20 22009.1, the formal application shall be deemed to be
21 made, if made prior to July 1, ~~1999~~ 2004, by the legislative
22 or governing body of a public agency as defined in Section
23 22009.03, or if on or after July 1, ~~1999~~ 2004, by the Teachers'
24 Retirement Board.

25 *SEC. 65. Section 22302 of the Government Code is*
26 *amended to read:*

27 22302. In the case of employees in positions covered
28 by the retirement system set forth in subdivision (d) of
29 Section 22009.1, if prior to July 1, ~~1999~~ 2004, the legislative
30 or governing body of a public agency as defined in Section
31 22009.03, or if on or after July 1, ~~1999~~ 2004, the Teachers'
32 Retirement Board shall conduct the referendum; if the
33 referendum is authorized by the Legislature.

34 In the case of employees in positions covered by the
35 retirement system set forth in subdivision (g) of Section
36 22009.1 the board shall authorize the referendum upon
37 the request of the Regents of the University of California
38 and the Regents shall conduct the referendum.

