

AMENDED IN ASSEMBLY MAY 22, 1998

AMENDED IN ASSEMBLY MAY 4, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2765**

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

February 26, 1998

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An act to amend Sections 22104, 22117, 22120, 22121, 22132, 22138.6, 22143, 22146, 22147, 22154, 22156, 22161, 22162, 22163, 22165, 22216, 22221, 22222, 22252, 22327, 22450, 22501, 22508, 22515, 22601.5, 22602, 22604, 22653, 22664, 22705, 22706, 22711, 22713, 22714, 22955, 23801, 23805, 23851, 23880, 24001, 24101, 24214, 24216, 24216.5, 24505, 24609, 24700, 24701, 24702, 26113, 26127, 26133, 26301, 26302, 26400, 26401, 26502, 26504, 26507, 26807, 26906, 27410, 27411, 28100, 44929, and 87488 of, to add Sections 22502, 22503, 22504, ~~and 22705.5~~ 22705.5, and 26301.5 to, to add and repeal Section 24216.8 of, and to repeal 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) *Existing law authorizes school governing boards to encourage retirements by providing additional service credit*



and provides until July 1, 2000, that certain types of postretirement school employment is exempted from postretirement school employment limitations.

This bill would extend that exemption to July 1, 2003.

(10) 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 *by the board* as a plan  
6 amendment ~~by the board~~ *with respect to the Defined*  
7 *Benefit Program.*

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

10 22117. "Contribution rate for additional service  
11 credit" means the contribution rate adopted *by the board*  
12 as a plan amendment ~~by the board~~ *with respect to the*  
13 *Defined Benefit Program* for the purchase of service  
14 credit. This rate shall be based upon the most recent



1 valuation of the plan *with respect to the Defined Benefit*  
2 *Program* and increased to include any subsequently  
3 required contribution rates designated for funding  
4 subsequent allowance increases.

5 SEC. 3. Section 22120 of the Education Code is  
6 amended to read:

7 22120. “Credited interest” means interest that is  
8 credited to *active members’ and inactive members’*,  
9 accumulated retirement contributions, and accumulated  
10 annuity deposit contributions at a rate set annually *by the*  
11 *board* as a plan amendment ~~by the board~~ *with respect to*  
12 *the Defined Benefit Program*.

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

15 22121. “Credited service” means service for which  
16 the required contributions have been paid.

17 SEC. 5. Section 22132 of the Education Code is  
18 amended to read:

19 22132. “Employed” or “employment” means  
20 employment to perform creditable service subject to  
21 coverage by the State Teachers’ Retirement—~~System~~  
22 ~~Defined Benefit Plan Program~~, except as otherwise  
23 specifically provided under this part.

24 SEC. 6. Section 22138.6 of the Education Code is  
25 amended to read:

26 22138.6. “Full-time equivalent” means the days or  
27 hours of creditable service that a person who is employed  
28 on a part-time basis would be required to perform in a  
29 school year if he or she were employed full time in that  
30 position.

31 SEC. 6.5. Section 22143 of the Education Code is  
32 amended to read:

33 22143. “Investment manager” and “investment  
34 adviser” mean any person, firm, or custodian referred to  
35 in Section 22359, either appointed by or under contract  
36 with the board to engage in investment transactions or to  
37 manage or advise in the management of the assets of the  
38 Teachers’ Retirement Fund *with respect to the Defined*  
39 *Benefit Program under this part* and the Cash Balance



1 ~~Fund~~ *Benefit Program* under Part 14 (commencing with  
2 Section 26000).

3 SEC. 7. Section 22146 of the Education Code is  
4 amended to read:

5 22146. “Member” means any person, unless excluded  
6 under other provisions of this part, who has performed  
7 creditable service as defined in Section 22119.5 and has  
8 earned creditable compensation for that service and has  
9 not received a refund for that service. A member’s rights  
10 and obligations under this part shall be determined by the  
11 applicability of subdivision (a), (b), (c), or (d), and  
12 subject to any applicable exceptions under other  
13 provisions of this part.

14 (a) An active member is a member who is not retired  
15 or disabled and who earns creditable compensation  
16 during the school year.

17 (b) An inactive member is a member who is not  
18 retired or disabled and who, by the pay period ending  
19 June 30, has not earned creditable compensation during  
20 the school year.

21 (c) A disabled member is a member to whom a  
22 disability allowance is payable under Chapter 25  
23 (commencing with Section 24001).

24 (d) A retired member is a member who has  
25 terminated employment and has retired for service  
26 under the provisions of Chapter 27 (commencing with  
27 Section ~~24201~~ 24201), or has retired for disability under  
28 the provisions of Chapter 26 (commencing with Section  
29 24100) *or retired for service or disability under the*  
30 *provisions of Chapter 21 (commencing with Section*  
31 *23400)*, and to whom a retirement allowance is therefore  
32 payable.

33 SEC. 8. Section 22147 of the Education Code is  
34 amended to read:

35 22147. (a) “Month” means 20 working days or four  
36 weeks of five working days each, including legal holidays,  
37 with respect to the computation and crediting of service.

38 (b) “Month,” for all other purposes, means a period  
39 commencing on any day of a calendar month and  
40 extending through the day preceding the corresponding



1 day of the succeeding calendar month, if there is any such  
2 corresponding day, and if not, through the last day of the  
3 succeeding calendar month.

4 SEC. 9. Section 22154 of the Education Code is  
5 amended to read:

6 22154. "Pay period" means a payroll period of not less  
7 than four weeks or more than one calendar month.

8 SEC. 10. Section 22156 of the Education Code is  
9 amended to read:

10 22156. "Plan vesting" means the ~~rights~~ *right* of the  
11 member upon completion of the minimum number of  
12 required years of credited service ~~provided in the~~  
13 ~~retirement plan required by this part~~ to entitle the  
14 member or his or her beneficiary to a monthly retirement  
15 allowance, disability allowance, survivor benefit  
16 allowance, family allowance, or death benefit at a future  
17 date, prior to the completion of which the member upon  
18 resignation from service is entitled only to a refund of his  
19 or her accumulated retirement contributions as provided  
20 in this part.

21 SEC. 10.5. Section 22161 of the Education Code is  
22 amended to read:

23 22161. "Public school" means any day or evening  
24 elementary school, and any day and evening secondary  
25 school, community ~~colleges, technical schools~~ *college,*  
26 *technical school,* kindergarten ~~schools~~ *school,* and  
27 prekindergarten ~~schools~~ *school* established by the  
28 Legislature, or by municipal or district authority.

29 SEC. 11. Section 22162 of the Education Code is  
30 amended to read:

31 22162. "Regular interest", *with respect to the Defined*  
32 *Benefit Program,* is interest that is compounded annually  
33 based upon the annual equivalent of the ~~weighted prior~~  
34 *year's average yield to maturity* on ~~purchased the~~  
35 investment grade fixed-income securities with ~~final~~  
36 ~~maturities greater than 24 months~~ *respect to the Defined*  
37 *Benefit Program.* The regular interest rate shall be  
38 adopted annually by the board as a plan amendment.

39 SEC. 12. Section 22163 of the Education Code is  
40 amended to read:



1 22163. “Reinstatement” means the terminating of a  
2 service or disability retirement allowance and the  
3 changing of status from a retired member to an inactive  
4 member or an active member.

5 SEC. 13. Section 22165 of the Education Code is  
6 amended to read:

7 22165. “Retirement” means a change in status from  
8 an inactive member or an active member to a retired  
9 member.

10 SEC. 14. Section 22175 of the Education Code is  
11 repealed.

12 SEC. 15. Section 22216 of the Education Code is  
13 amended to read:

14 22216. (a) The board ~~as a plan amendment~~ shall  
15 annually adopt *as a plan amendment with respect to the*  
16 *Defined Benefit Program* the rate of credited interest to  
17 be credited to members’ accumulated retirement  
18 contributions for service performed after June 30, 1935,  
19 and the accumulated annuity deposit contributions  
20 excluding all accumulated contributions while being paid  
21 as allowances under Sections 23804, 24006, and 24007.

22 (b) The board shall credit interest to all other  
23 accumulated reserves at the actuarially assumed interest  
24 rate.

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

27 22221. The board as a plan amendment shall adopt,  
28 certain information, that shall include, but not be limited  
29 to, actuarial assumptions, rates, factors, and tables that are  
30 necessary to administer the plan and make any  
31 determination or calculation necessary to carry out this  
32 part.

33 SEC. 17. Section 22222 of the Education Code is  
34 amended to read:

35 22222. The board may adjust the amounts of the death  
36 payments based on changes in the All Urban California  
37 Consumer Price Index, and ~~as a plan amendment~~ shall  
38 adopt *as a plan amendment with respect to the Defined*  
39 *Benefit Program* any adjusted amount, provided that the



1 most recent actuarial valuation report indicates that the  
2 adjustment would not increase the normal cost.

3 SEC. 18. Section 22252 of the Education Code is  
4 amended to read:

5 22252. Except as otherwise provided by law, the  
6 board and its officers and employees of the system shall  
7 not cause the system to engage in a transaction if they  
8 know or should know that the transaction constitutes a  
9 direct or indirect:

10 (a) Sale or exchange, or leasing, of any property from  
11 the system to a member or beneficiary for less than  
12 adequate consideration, or from a member or beneficiary  
13 to the system for more than adequate consideration.

14 (b) Lending of money or other extension of credit  
15 from the system to a member or beneficiary without the  
16 receipt of adequate security and a reasonable rate of  
17 interest, or from a member or beneficiary with the  
18 provision of excessive security or an unreasonably high  
19 rate of interest.

20 (c) Furnishing of goods, services, or facilities from the  
21 system to a member or beneficiary for less than adequate  
22 consideration, or from a member, or beneficiary to the  
23 system for more than adequate consideration.

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

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

29 SEC. 18.1. Section 22327 of the Education Code is  
30 amended to read:

31 22327. Notwithstanding any other provision of law,  
32 the Employment Development Department shall  
33 disclose to the board information in its possession relating  
34 to the earnings of any person who is receiving a disability  
35 benefit from the plan. The earnings information shall be  
36 released to the board only upon written request from the  
37 board specifying that the person is receiving disability  
38 benefits from the plan. The request may be made by the  
39 chief executive officer of the system or by an employee  
40 of the system so authorized and identified by name and



1 title by the chief executive officer in writing. The board  
2 shall notify recipients of disability benefits that earnings  
3 information shall be obtained from the Employment  
4 Development Department upon request by the board.  
5 The board shall not release any earnings information  
6 received from the Employment Development  
7 Department to any person, agency, or other entity. The  
8 system shall reimburse the Employment Development  
9 Department for all reasonable administrative expenses  
10 incurred pursuant to this section.

11 SEC. 18.5. Section 22358 of the Education Code is  
12 repealed.

13 SEC. 18.7. Section 22450 of the Education Code is  
14 amended to read:

15 22450. (a) Each member and beneficiary shall  
16 furnish to the board any information affecting his or her  
17 status as a member or beneficiary of the ~~plan~~ *Defined*  
18 *Benefit Program* as the board requires.

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

23 SEC. 19. Section 22501 of the Education Code is  
24 amended to read:

25 22501. (a) Any person employed to perform  
26 creditable service on a full-time basis who is not already  
27 a member of the ~~plan~~ *Defined Benefit Program* shall  
28 become a member as of the first day of employment,  
29 unless excluded from membership pursuant to Section  
30 22601.

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

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

36 SEC. 20. Section 22502 is added to the Education  
37 Code, to read:

38 22502. (a) Any person employed to perform  
39 creditable service on a part-time basis who is not already  
40 a member of the ~~plan~~ *Defined Benefit Program* shall



1 become a member as of the first day of employment to  
2 perform creditable service for 50 percent or more of the  
3 full-time equivalent for the position, ~~unless excluded~~  
4 ~~from membership pursuant to Section 22601.~~

5 (b) This section shall apply to persons *who perform*  
6 *service subject to coverage under this part and to persons*  
7 *who are* employed by employers who provide benefits for  
8 their employees under Part 14 (commencing with  
9 Section 26000).

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

12 SEC. 21. Section 22503 is added to the Education  
13 Code, to read:

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

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

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

29 SEC. 22. Section 22504 is added to the Education  
30 Code, to read:

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



1 (b) This section shall not apply to *persons employed*  
2 *on a part-time basis* by employers who provide benefits  
3 for their employees under Part 14 (commencing with  
4 Section 26000).

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

7 SEC. 23. Section 22508 of the Education Code is  
8 amended to read:

9 22508. (a) A member who becomes employed by the  
10 same or a different school district, community college  
11 district, or a county superintendent to perform ~~service~~  
12 ~~that requires~~ *duties that require* membership in a  
13 different public retirement system, may elect to have  
14 that service subject to coverage by ~~this plan~~ *the Defined*  
15 *Benefit Program* and excluded from coverage by the  
16 other public retirement system. The election shall be  
17 made in writing on a form prescribed by this system  
18 within 60 days from the date of hire in the position  
19 requiring membership in the other public retirement  
20 system. If that election is made, the service performed for  
21 the employer after the date of hire shall be considered  
22 creditable service for purposes of this part.

23 (b) A member of the Public Employees' Retirement  
24 System who is employed by a school district, community  
25 college district, or a county superintendent and who is  
26 subsequently employed to perform creditable service  
27 subject to coverage by ~~this plan~~ *the Defined Benefit*  
28 *Program* may elect to have that service subject to  
29 coverage by the Public Employees' Retirement System  
30 and excluded from coverage by this plan. The election  
31 shall be made in writing on a form prescribed by this  
32 system within 60 days from the date of hire to perform  
33 creditable service. If that election is made, creditable  
34 service performed for the employer after the date of hire  
35 shall be subject to coverage by the Public Employees'  
36 Retirement System.

37 SEC. 24. Section 22515 of the Education Code is  
38 amended to read:

39 22515. Persons excluded from membership pursuant  
40 to Sections 22601.5, 22602, and 22604 may elect



1 membership in the ~~plan~~ *Defined Benefit Program* at any  
2 time while employed to perform creditable service  
3 *subject to coverage under that program. The election*  
4 *shall be in writing on a form prescribed by this system,*  
5 *and shall be filed in the office of this system prior to*  
6 *submission of contributions.* The election is irrevocable,  
7 and shall remain in effect until the member terminates  
8 employment and receives a refund of accumulated  
9 retirement contributions. The amendments to this  
10 section enacted during the 1995–96 Regular Session shall  
11 be deemed to have become operative on July 1, 1996.

12 SEC. 25. Section 22600 of the Education Code is  
13 repealed.

14 SEC. 26. Section 22601.5 of the Education Code is  
15 amended to read:

16 22601.5. (a) Any person who is not already a member  
17 of the plan who is employed to perform creditable service  
18 and whose basis of employment is less than 50 percent of  
19 the full-time equivalent for the position is excluded from  
20 mandatory membership in the plan.

21 (b) This section shall apply to persons *who perform*  
22 *service subject to coverage under this part and to persons*  
23 *who are* employed by employers who provide benefits for  
24 their employees under Part 14 (commencing with  
25 Section 26000).

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

28 SEC. 27. Section 22602 of the Education Code is  
29 amended to read:

30 22602. (a) Any person who is not already a member  
31 of the plan who is employed as a substitute and who  
32 performs less than 100 complete days of creditable service  
33 in one school district, community college district, or  
34 county superintendent's office during the school year is  
35 excluded from mandatory membership in the plan.

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



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

4 SEC. 28. Section 22604 of the Education Code is  
5 amended to read:

6 22604. (a) Any person who is not already a member  
7 of the plan who is employed on a part-time basis, and who  
8 performs less than 60 hours of creditable service in a pay  
9 period if employed on an hourly basis, or less than 10 days  
10 of creditable service in a pay period if employed on a daily  
11 basis, in one school district, community college district, or  
12 county superintendent’s office is excluded from  
13 mandatory membership in the plan.

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

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

20 SEC. 29. Section 22653 of the Education Code is  
21 amended to read:

22 22653. (a) The nonmember spouse who is awarded a  
23 separate account pursuant to Section 22652 is not a  
24 member of the plan based on that award. The  
25 nonmember spouse is entitled only to rights and benefits  
26 based on that award explicitly established by this chapter.

27 (b) This section shall not be construed to limit any  
28 right arising from the account of a nonmember spouse  
29 under this part that exists because the nonmember  
30 spouse is or was employed to perform creditable service  
31 subject to coverage by the plan.

32 SEC. 29.5. Section 22664 of the Education Code is  
33 amended to read:

34 22664. The nonmember spouse who is awarded a  
35 separate account shall have the right to a service  
36 retirement allowance.

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

39 (1) The member had ~~performed~~ at least five years of  
40 ~~creditable—California~~ *credited* service during the period



1 of marriage, at least one year of which had been  
2 performed subsequent to the most recent refund to the  
3 member of accumulated retirement contributions, ~~if five~~  
4 ~~of the member's six years of credited service immediately~~  
5 ~~before the dissolution or legal separation had been in~~  
6 ~~California.~~ The credited service may include service  
7 credited to the account of the member as of the date of  
8 the dissolution or legal separation, previously refunded  
9 service, *out-of-state service*, and permissive service credit  
10 which the member is eligible to purchase at the time of  
11 the dissolution or legal separation.

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

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

17 (b) A service retirement allowance of a nonmember  
18 spouse shall become effective upon any date designated  
19 by the nonmember spouse, provided:

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

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

25 (3) The effective date is no earlier than the first day of  
26 the month in which the application is received at the  
27 system's office in Sacramento and the effective date is  
28 after the date the judgment was entered.

29 (c) Upon service retirement at or over normal  
30 retirement age, the nonmember spouse shall receive a  
31 retirement allowance that shall consist of an annual  
32 allowance payable in monthly installments equal to 2  
33 percent of final compensation for each year of credited  
34 service. If the nonmember spouse's retirement is  
35 effective at less than normal retirement age and between  
36 early retirement age and normal retirement age, the  
37 retirement allowance shall be reduced by one-half of 1  
38 percent for each full month, or fraction of a month, that  
39 will elapse until the nonmember spouse would have  
40 reached normal retirement age.



1 (1) In computing the retirement allowance of the  
2 nonmember spouse, the age of the nonmember spouse on  
3 the last day of the month in which the retirement  
4 allowance begins to accrue shall be used.

5 (2) Final compensation, for purposes of calculating the  
6 service retirement allowance of the nonmember spouse  
7 under this subdivision, shall be calculated according to  
8 the definition of final compensation in Section 22134,  
9 22135, or 22136, whichever is applicable, and shall be  
10 based on the compensation earnable of the member up  
11 to the date the parties separated, as established in the  
12 judgment or court order pursuant to Section 22652.

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

15 (d) If the member is or was receiving a disability  
16 allowance with an effective date before or on the date the  
17 parties separated as established in the judgment or court  
18 order pursuant to Section 22652, or at any time applies for  
19 and receives a disability allowance with an effective date  
20 that is before or coincides with the date the parties  
21 separated as established in the judgment or court order  
22 pursuant to Section 22652, the nonmember spouse shall  
23 not be eligible to retire until after the disability allowance  
24 of the member terminates.

25 If the member who is or was receiving a disability  
26 allowance returns to employment to perform creditable  
27 service subject to coverage by the ~~plan~~ *Defined Benefit*  
28 *Program* or has his or her allowance terminated under  
29 Section 24015, the nonmember spouse may not be paid a  
30 retirement allowance until at least six months after  
31 termination of the disability allowance and the return of  
32 the member to employment to perform creditable  
33 service subject to coverage by the ~~plan~~ *Defined Benefit*  
34 *Program*, or the termination of the disability allowance  
35 and the employment or self-employment of the member  
36 in any capacity, notwithstanding Section 22132. If at the  
37 end of the six-month period, the member has not had a  
38 recurrence of the original disability or has not had his or  
39 her earnings fall below the amounts described in Section



1 24015, the nonmember spouse may be paid a retirement  
2 allowance if all other eligibility requirements are met.

3 (1) The retirement allowance of the nonmember  
4 spouse under this subdivision shall be calculated as  
5 follows: the disability allowance the member was  
6 receiving, exclusive of the benefits for dependent  
7 children, shall be divided between the share of the  
8 member and the share of the nonmember spouse. The  
9 share of the nonmember spouse shall be the amount  
10 obtained by multiplying the disability allowance,  
11 exclusive of the benefits for dependent children, by the  
12 years of service credited to the separate account of the  
13 nonmember spouse, including service projected to the  
14 date of separation, and dividing by the projected service  
15 of the member. The nonmember spouse's retirement  
16 allowance shall be the lesser of the share of the  
17 nonmember spouse under this subdivision or the  
18 retirement allowance under subdivision (c).

19 (2) The share of the member shall be the total  
20 disability allowance reduced by the share of the  
21 nonmember spouse. The share of the member shall be  
22 considered the disability allowance of the member for  
23 purposes of Section 24213.

24 (e) The nonmember spouse who receives a  
25 retirement allowance is not a retired member. However,  
26 the allowance of the nonmember spouse shall be  
27 increased by application of the improvement factor and  
28 shall be eligible for the application of supplemental  
29 increases and other benefit maintenance provisions,  
30 including, but not limited to, Sections 24411, 24412, and  
31 24415 based on the same criteria used for the application  
32 of these benefit maintenance increases to the service  
33 retirement allowances of members.

34 SEC. 30. Section 22705 of the Education Code is  
35 amended to read:

36 22705. No service shall be included for which a  
37 member is entitled to receive a retirement benefit in a  
38 lump sum or installment payments, for other than  
39 military service, from any public retirement system other  
40 than this system, or under the American Gratuities Act No.



1 4151 relating to service in the Philippine Islands under  
2 which 15 or more years of creditable service has accrued,  
3 or the San Francisco City and County Employees  
4 Retirement System. If a retired member becomes  
5 entitled to such a retirement benefit, his or her  
6 retirement allowance shall be reduced thereafter to  
7 exclude the service upon which the retirement benefit is  
8 based, without other change in his or her retirement  
9 status.

10 SEC. 30.5. Section 22705.5 is added to the Education  
11 Code, to read:

12 22705.5. Service subject to coverage by the San  
13 Francisco City and County Retirement System pursuant  
14 to Section 24701 is excluded from coverage in the ~~plan~~  
15 *Defined Benefit Program*. The member shall retain the  
16 right to receive a retirement allowance for creditable  
17 service that is subject to coverage under the ~~plan~~ *Defined*  
18 *Benefit Program* unless he or she withdraws his or her  
19 accumulated retirement contributions for that service.

20 SEC. 30.6. Section 22706 of the Education Code is  
21 amended to read:

22 ~~22706. No service shall be included during which a~~  
23 ~~person is~~ A member shall not receive credit for service  
24 performed while receiving a retirement or disability  
25 allowance from ~~this plan~~ the *Defined Benefit Program*.

26 SEC. 31. Section 22711 of the Education Code is  
27 amended to read:

28 22711. (a) A member shall be granted service credit  
29 for time during which the member serves as an elected  
30 officer of an employee organization while on a  
31 compensated leave of absence pursuant to Section 44987  
32 or 87768.5, if all of the following conditions are met:

33 (1) The member was employed and performed  
34 creditable service subject to coverage by the ~~plan~~  
35 *Defined Benefit Program* in the month prior to  
36 commencement of the leave of absence.

37 (2) The member makes contributions to the Teachers'  
38 Retirement Fund in the amount that the member would  
39 have contributed had the member performed creditable



1 service on a full-time basis during the period the member  
2 served as an elected officer of the employee organization.

3 (3) The member's employer contributes to the  
4 Teachers' Retirement Fund at a rate adopted *by the*  
5 *board* as a plan amendment ~~by the board~~ *with respect to*  
6 *the Defined Benefit Program* an amount based upon the  
7 creditable compensation that would have been paid to  
8 the member had the member performed creditable  
9 service on a full-time basis during the period the member  
10 served as an elected officer of the employee organization.

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

15 SEC. 32. Section 22713 of the Education Code is  
16 amended to read:

17 22713. (a) Notwithstanding any other provision of  
18 this chapter, the governing board of a school district or a  
19 community college district or a county superintendent of  
20 schools may establish regulations that allow an employee  
21 who is a member to reduce his or her workload from full  
22 time to part time, and receive the service credit the  
23 member would have received if the member had been  
24 employed on a full-time basis and have his or her  
25 retirement allowance, as well as other benefits that the  
26 member is entitled to under this part, based, in part, on  
27 final compensation determined from the compensation  
28 earnable the member would have been entitled to if the  
29 member had been employed on a full-time basis.

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

32 (1) The option to reduce the member's workload shall  
33 be exercised at the request of the member and can be  
34 revoked only with the mutual consent of the employer  
35 and the member.

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



1 (3) The member shall not have had a break in service  
2 during the five years immediately preceding the  
3 reduction in workload. For purposes of this subdivision,  
4 sabbaticals and other approved leaves of absence shall not  
5 constitute a break in service. However, time spent on a  
6 sabbatical or other approved leave of absence shall not be  
7 used in computing the five-year full-time service  
8 requirement prescribed by this subdivision.

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

11 (5) The period of the reduced workload shall not  
12 exceed 10 years.

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

17 (7) The member shall be paid creditable  
18 compensation that is the pro rata share of the creditable  
19 compensation the member would have been paid had the  
20 member not reduced his or her workload.

21 (c) Prior to the reduction of a member's workload  
22 under this section, the employer in conjunction with the  
23 administrative staff of the State Teachers' Retirement  
24 System and the Public Employees' Retirement System,  
25 shall verify the member's eligibility for the reduced  
26 workload program.

27 (d) The member shall make contributions to the  
28 Teachers' Retirement Fund in the amount that the  
29 member would have contributed had the member  
30 performed creditable service on a full-time basis.

31 (e) The employer shall contribute to the Teachers'  
32 Retirement Fund at a rate specified by the board as a plan  
33 amendment an amount based upon the creditable  
34 compensation that would have been paid to the member  
35 had the member performed creditable service on a  
36 full-time basis.

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



1 SEC. 32.5. Section 22714 of the Education Code is  
2 amended to read:

3 22714. (a) Whenever the governing board of a school  
4 district or a community college district or a county office  
5 of education, by formal action taken prior to January 1,  
6 2004, determines pursuant to Section 44929 or 87488 that  
7 because of impending curtailment of or changes in the  
8 manner of performing services, the best interests of the  
9 district or county office of education would be served by  
10 encouraging certificated employees or academic  
11 employees to retire for service and that the retirement  
12 will either: result in a net savings to the district or county  
13 office of education; result in a reduction of the number of  
14 certificated employees or academic employees as a result  
15 of declining enrollment; or result in the retention of  
16 certificated employees who are credentialed to teach in,  
17 or faculty who are qualified to teach in, teacher shortage  
18 disciplines, including, but not limited to, mathematics  
19 and science, an additional two years of service shall be  
20 credited to a member if all of the following conditions  
21 exist:

22 (1) The member is credited with five or more years of  
23 service and retires for service under the provisions of  
24 Chapter 27 (commencing with Section 24201) during a  
25 period of not more than 120 days or less than 60 days,  
26 commencing no sooner than the effective date of the  
27 formal action of the employer that shall specify the  
28 period.

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



1 would have received without the additional service  
2 credit. The payment for purchasing power shall be  
3 deposited in the Supplemental Benefit Maintenance  
4 Account established by Section 22400 and shall be subject  
5 to Sections 24414 and 24415. The transfer to the  
6 retirement fund shall be made in a manner, and time  
7 period not to exceed four years, that is acceptable to the  
8 Teachers' Retirement Board. The employer shall transfer  
9 the required amount for all eligible employees who retire  
10 pursuant to this section.

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

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

18 (b) (1) The school district shall demonstrate and  
19 certify to the county superintendent that the formal  
20 action taken would result in either: (A) a net savings to  
21 the district; (B) a reduction of the number of certificated  
22 employees as a result of declining enrollment, as  
23 computed pursuant to Section 42238.5; or (C) the  
24 retention of certificated employees who are credentialed  
25 to teach in teacher shortage disciplines.

26 (2) The county superintendent shall certify to the  
27 Teachers' Retirement Board that a result specified in  
28 paragraph (1) can be demonstrated. The certification  
29 shall include, but not be limited to, the information  
30 specified in subdivision (b) of Section 14502. A district  
31 that qualifies under clause (B) of paragraph (1) shall also  
32 certify that it qualifies as a declining enrollment district  
33 as computed pursuant to Section 42238.5.

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

37 (c) (1) The county office of education shall  
38 demonstrate and certify to the Superintendent of Public  
39 Instruction that the formal action taken would result in  
40 either: (A) a net savings to the county office of education;



1 (B) a reduction of the number of certificated employees  
2 as a result of declining enrollment; or (C) the retention  
3 of certificated employees who are credentialed to teach  
4 in teacher shortage disciplines.

5 (2) The Superintendent of Public Instruction shall  
6 certify to the Teachers' Retirement Board that a result  
7 specified in paragraph (1) can be demonstrated. The  
8 certification shall include, but not be limited to, the  
9 information specified in subdivision (b) of Section 14502.

10 (3) The Superintendent of Public Instruction may  
11 request reimbursement from the county office of  
12 education for all administrative costs that result from the  
13 certification.

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

22 (2) The chancellor shall certify to the Teachers'  
23 Retirement Board that a result specified in paragraph (1)  
24 can be demonstrated. The certification shall include, but  
25 not be limited to, the information specified in subdivision  
26 (c) of Section 84040.5. A community college district that  
27 qualifies under clause (B) of paragraph (1) of subdivision  
28 (b) of this section shall also certify that it qualifies as a  
29 declining enrollment district as computed pursuant to  
30 subdivision (c) of Section 84701.

31 (3) The chancellor may request reimbursement from  
32 the community college for all administrative costs that  
33 result from the certification.

34 (e) The opportunity to be granted service credit  
35 pursuant to this section shall be available to all members  
36 employed by the school district, community college  
37 district, or county office of education who meet the  
38 conditions set forth in this section.

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



1 (g) Any member who retires for service under the  
2 provisions of Chapter 27 (commencing with Section  
3 24201) with service credit granted under this section and  
4 who subsequently reinstates ~~into the system~~, shall forfeit  
5 the service credit granted under this section.

6 (h) This section shall not be applicable to any member  
7 otherwise eligible if the member receives any  
8 unemployment insurance payments arising out of  
9 employment with an employer subject to this part during  
10 a period extending one year beyond the effective date of  
11 the formal action, or if the member is not otherwise  
12 eligible to retire for service.

13 SEC. 33. Section 23851 of the Education Code is  
14 amended to read:

15 23851. (a) A death payment of twenty thousand  
16 dollars (\$20,000) shall be paid to the beneficiary, as  
17 designated pursuant to Section 23300, upon receipt of  
18 proof of death of an active member, who had one or more  
19 years of credited service, at least one of which had been  
20 performed subsequent to the most recent refund of  
21 accumulated retirement contributions, if the member  
22 died during any one of the following periods:

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

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

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

31 (b) A death payment pursuant to this section shall not  
32 be payable for the death of a member that occurs within  
33 one year commencing with the effective date of  
34 termination of the service retirement allowance pursuant  
35 to Section 24208 or during the six calendar months  
36 commencing with the effective date of termination of the  
37 disability retirement allowance pursuant to Section  
38 24117.

39 (c) The board may adjust the death payment amount  
40 following each actuarial valuation based on changes in



1 the All Urban California Consumer Price Index and adopt  
2 as a plan amendment any adjusted amount.

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

6 SEC. 34. Section 22955 of the Education Code is  
7 amended to read:

8 22955. (a) Notwithstanding Section 13340 of the  
9 Government Code, commencing October 1, 1991, a  
10 continuous appropriation is hereby made from the  
11 General Fund to the Controller, pursuant to this section,  
12 for transfer to the Teachers' Retirement Fund. The total  
13 amount of the appropriation for each year shall be equal  
14 to 4.3 percent of the total of the creditable compensation  
15 of the immediately preceding calendar year upon which  
16 members' contributions are based, to be calculated  
17 annually on October 1, and shall be divided into four  
18 equal quarterly payments. The percentage shall be  
19 adjusted to reflect the contribution required to fund the  
20 normal cost deficit when the unfunded obligation has  
21 been deemed to be eliminated by the board based upon  
22 a recommendation from its actuary. If a rate increase or  
23 decrease is required, the adjustment may be for no more  
24 than 0.25 percent per year and in no case may the transfer  
25 exceed 4.3 percent of the total of the creditable  
26 compensation of the immediately preceding calendar  
27 year upon which members' contributions are based.

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

31 (c) The transfers made pursuant to this section are in  
32 lieu of the state contributions formerly made pursuant to  
33 *former* Sections 23401 and 23402 ~~from 1990 as they~~  
34 *provided in 1990.*

35 (d) For the purposes of this section, the term "normal  
36 cost deficit" means the difference between the normal  
37 cost rate as determined in the actuarial valuation  
38 required by Section 22311 and the total of the member  
39 contribution rate required under Section 22901 and the  
40 employer contribution rate required under Section



1 22950, and shall exclude (1) the portion for unused sick  
2 leave service granted pursuant to Section 22951, and (2)  
3 the cost of benefit increases which occur after July 1, 1990.  
4 The contribution rates prescribed in Section 22901 and  
5 Section 22950 on July 1, 1990, shall be utilized to make the  
6 calculations. The normal cost deficit shall then be  
7 multiplied by the total of the creditable compensation  
8 upon which member contributions are based to  
9 determine the dollar amount of the normal cost deficit for  
10 the year.

11 (e) Pursuant to Section 22001 and the case law, the  
12 members are entitled to a financially sound retirement  
13 system. The Legislature recognizes that the system shall,  
14 pursuant to this act, receive less funds in the short term  
15 than it would have received under former Sections 23401  
16 and 23402 (Chapter 282 of the Statutes of 1979). However,  
17 it is the intent of the Legislature that this section shall  
18 provide the retirement fund stable and full funding over  
19 the long term.

20 (f) This section continues in effect but in a somewhat  
21 different form, fully performs, and does not in any way  
22 unreasonably impair, the contractual obligations  
23 determined by the court in California Teachers'  
24 Association v. Cory, 155 Cal. App. 3d 494.

25 (g) This section shall not be construed to be applicable  
26 to any unfunded liability resulting from any benefit  
27 increase or change in contribution rate that occurs after  
28 July 1, 1990.

29 (h) The amendments to this section during the  
30 1991-92 Regular Session shall be construed and  
31 implemented to be in conformity with the judicial intent  
32 expressed by the court in California Teachers' Association  
33 v. Cory, 155 Cal. App. 3d 494.

34 SEC. 34.2. Section 23801 of the Education Code is  
35 amended to read:

36 23801. (a) A death payment of *no less than* five  
37 thousand dollars (\$5,000) shall be paid to the beneficiary  
38 upon receipt of proof of death of a member who had one  
39 or more years of credited service, at least one of which  
40 had been performed subsequent to the most recent



1 refund of accumulated retirement contributions, if the  
2 member died during any one of the following periods:

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

5 (2) While disabled, if the disability had been  
6 continuous from the last day for which compensation had  
7 been paid.

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

10 (4) Within four months after termination of a  
11 disability allowance if no service was performed after the  
12 termination.

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

17 (b) A death payment pursuant to this section shall not  
18 be payable for the death of a member that occurs within  
19 one year commencing with the effective date of  
20 reinstatement from service retirement pursuant to  
21 Section 24208.

22 (c) 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 any adjusted amount as a plan amendment.

26 (d) A beneficiary may waive his or her right to the  
27 death payment in accordance with the requirements  
28 established by the system.

29 SEC. 34.4. Section 23805 of the Education Code is  
30 amended to read:

31 23805. A family allowance is payable in the amount  
32 and to the specified persons in the following order of  
33 priority:

34 (a) To the deceased member's surviving spouse who  
35 has financial responsibility for at least one dependent  
36 child, an amount equal to 40 percent of the member's  
37 final compensation or the disabled member's projected  
38 final compensation plus 10 percent of the member's final  
39 compensation or the disabled member's projected final



1 compensation for each child, up to a maximum allowance  
2 of 90 percent.

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

11 (c) To the surviving spouse at age 60 years or over if  
12 there is no dependent child, an allowance equal to the  
13 amount that would have been payable to the spouse as  
14 beneficiary under Option 3 as provided in Section 24300,  
15 computed on the member's projected final compensation  
16 and projected service to normal retirement age. The  
17 allowance payable under this subdivision shall be  
18 increased by application of the benefit improvement  
19 factor for time that elapses between the date the member  
20 would have attained normal retirement age and the date  
21 the family allowance under this subdivision begins to  
22 accrue. The allowance calculation shall include service  
23 credit for the unused sick leave that had accrued to the  
24 member or disabled member as of the date of his or her  
25 death. Eligibility for the inclusion of service credit for  
26 unused sick leave credit and the calculation of that  
27 service credit shall be determined pursuant to Section  
28 22717.

29 (d) If there is neither surviving spouse nor dependent  
30 child, to the dependent parent, age 60 years or over, an  
31 allowance equal to the amount that would have been  
32 payable to the dependent parent as beneficiary under  
33 Option 3 as provided in Section 24300 computed on the  
34 member's projected final compensation and projected  
35 service to normal retirement age. The allowance  
36 calculation shall include service credit for the unused sick  
37 leave that had accrued to the member as of the date of his  
38 or her death. Eligibility for the inclusion of service credit  
39 for unused sick leave and the calculation of that service  
40 credit shall be determined pursuant to Section 22717. If



1 there are two dependent parents, only one family  
2 allowance shall be payable under this subdivision and that  
3 allowance shall be computed on the assumption that the  
4 younger parent is the option beneficiary and the  
5 allowance shall be divided equally for as long as there are  
6 two dependent parents. Thereafter, the full allowance  
7 shall be payable to the surviving dependent parent.

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

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

25 *SEC. 34.5. Section 23851 of the Education Code is*  
26 *amended to read:*

27 23851. (a) A death payment of *no less than* twenty  
28 thousand dollars (\$20,000) shall be paid to the  
29 beneficiary, as designated pursuant to Section 23300,  
30 upon receipt of proof of death of an active member, who  
31 had one or more years of credited service, at least one of  
32 which had been performed subsequent to the most  
33 recent refund of accumulated retirement contributions,  
34 if the member died during any one of the following  
35 periods:

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

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



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

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

13 (c) The board may adjust the death payment amount  
14 following each actuarial valuation based on changes in  
15 the All Urban California Consumer Price Index.

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

19 SEC. 34.7. Section 23880 of the Education Code is  
20 amended to read:

21 23880. (a) A death payment of *not less than* five  
22 thousand dollars (\$5,000) shall be paid to the beneficiary,  
23 as designated pursuant to Section 23300, upon receipt of  
24 proof of death of either of the following:

25 (1) A retired member.

26 (2) A member, if the death payment pursuant to  
27 Section 23801 would have otherwise been payable or if  
28 the conditions specified pursuant to paragraphs (3) and  
29 (5) of subdivision (b) of Section 23854 are met, and if the  
30 member's death occurs during one of the following  
31 periods:

32 (A) Within one year commencing with the effective  
33 date of reinstatement from service retirement pursuant  
34 to Section 24208.

35 (B) Within six months commencing with the effective  
36 date of reinstatement from disability retirement  
37 pursuant to Section 24117.

38 (b) The board may adjust the death payment amount  
39 following each actuarial valuation based on changes in



1 the All Urban California Consumer Price Index and adopt  
2 as a plan amendment any adjusted amount.

3 SEC. 35. Section 24001 of the Education Code is  
4 amended to read:

5 24001. (a) A member may apply for a disability  
6 allowance under ~~this plan~~ *the Defined Benefit Program*  
7 if the member has five or more years of credited service  
8 and if all of the following requirements are met:

9 (1) At least four years were credited for actual  
10 performance of service subject to coverage by the ~~plan~~  
11 *Defined Benefit Program*. Credit received because of  
12 workers' compensation payments shall be counted  
13 toward the four-year requirement in accordance with  
14 Section 22710.

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

17 (3) At least one year was credited for service  
18 performed subsequent to the date on which the member  
19 terminated the service retirement allowance under  
20 Section 24208.

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

24 (5) The member has neither attained normal  
25 retirement age, nor possesses sufficient unused sick leave  
26 days to receive creditable compensation on account of  
27 sick leave to normal retirement age.

28 (6) The member is not applying for a disability  
29 allowance because of a physical or mental condition  
30 known to exist at the time the most recent membership  
31 in the plan commenced and remains substantially  
32 unchanged at the time of application.

33 (b) Nothing in subdivision (a) shall affect the right of  
34 a member to a disability allowance if the reason that the  
35 member is credited with less than four years of actual  
36 service performed subject to coverage by the ~~plan~~  
37 *Defined Benefit Program* is due to an on-the-job injury or  
38 a disease that occurred while the member was employed  
39 and the four-year requirement can be satisfied by credit  
40 obtained under Chapter 14 (commencing with Section



1 22800) ~~of this part and~~ or Chapter 14.5 (commencing with  
2 Section 22850) in addition to any credit received from  
3 workers' compensation payments.

4 (c) Nothing in subdivision (a) shall affect the right of  
5 a member who has less than five years of credited service  
6 to a disability allowance providing the member has at  
7 least one year of credited California service and if the  
8 reason for the disability is due to an unlawful act of bodily  
9 harm committed by another human being on the person  
10 of the member while the member was performing his or  
11 her official duties in a position subject to coverage by the  
12 ~~plan~~ *Defined Benefit Program*.

13 (d) A member shall not be eligible for disability under  
14 ~~this plan~~ *the Defined Benefit Program* while on a leave  
15 of absence to serve as a full-time elected officer of an  
16 employee organization, even if receiving service credit  
17 under Section 22711.

18 SEC. 36. Section 24101 of the Education Code is  
19 amended to read:

20 24101. (a) A member may apply for a disability  
21 retirement if the member has five or more years of  
22 credited service and if all of the following requirements  
23 are met:

24 (1) At least four years were credited for actual service  
25 performed subject to coverage by the ~~plan~~ *Defined*  
26 *Benefit Program*. Credit received because of workers'  
27 compensation payments shall be counted toward the  
28 four-year requirement in accordance with Section 22710.

29 (2) The last five years of credited service ~~have been~~  
30 ~~served~~ *were performed* in this state.

31 (3) At least one year (1.000) of credited service was  
32 earned subsequent to the date on which the member  
33 terminated the service retirement allowance under  
34 Section 24208.

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

38 (5) At least one year (1.000) of credited service was  
39 earned subsequent to the most recent refund of  
40 accumulated retirement contributions.



1 (6) The member is not applying for a disability  
2 retirement because of a physical or mental condition  
3 known to exist at the time the most recent membership  
4 in the ~~plan~~ *Defined Benefit Program* commenced and  
5 that remains substantially unchanged at the time of  
6 application.

7 (b) Nothing in subdivision (a) shall affect the right of  
8 a member to a disability retirement if the reason that the  
9 member has performed less than four years of actual  
10 service is due to an on-the-job injury or a disease while in  
11 employment subject to coverage by the ~~plan~~ *Defined*  
12 *Benefit Program* and the four-year requirement can be  
13 satisfied by credit obtained under Chapter 14  
14 (commencing with Section 22800) ~~and~~ *or* Chapter 14.5  
15 (commencing with Section 22850) in addition to any  
16 credit received from workers' compensation payments.

17 (c) Nothing in subdivision (a) shall affect the right of  
18 a member who has less than five years of credited service  
19 to a disability retirement allowance providing the  
20 member has at least one year of credited California  
21 service and if the reason for the disability is due to an  
22 unlawful act of bodily harm committed by another  
23 human being on the person of the member while the  
24 member was performing his or her official duties in a  
25 position subject to coverage by the ~~plan~~ *Defined Benefit*  
26 *Program*.

27 (d) A member shall not be eligible for disability  
28 retirement from ~~this plan~~ *the Defined Benefit Program*  
29 while on a leave of absence to serve as a full-time elected  
30 officer of an employee organization, even if receiving  
31 service credit under Section 22711.

32 SEC. 37. Section 24214 of the Education Code is  
33 amended to read:

34 24214. (a) A member retired for service may  
35 perform the activities identified in paragraphs (1) to (9),  
36 inclusive, of subdivision (a), or subdivision (b), of Section  
37 22119.5 as an employee of an employer, as an employee  
38 of a third party, or as an independent contractor within  
39 the California public school system, but the member shall  
40 not make contributions to the retirement fund or accrue



1 service credit based on compensation earned from that  
2 service.

3 (b) The rate of pay for service performed by a  
4 member retired for service as an employee of the  
5 employer shall not be less than the minimum, nor exceed  
6 that paid by the employer to other employees performing  
7 comparable duties.

8 (c) A member retired for service shall not be required  
9 to reinstate for performing the activities identified in  
10 paragraphs (1) to (9), inclusive, of subdivision (a), or  
11 subdivision (b), of Section 22119.5, as an employee of an  
12 employer, as an employee of a third party, or as an  
13 independent contractor within the California public  
14 school system.

15 (d) A member retired for service may earn  
16 compensation for performing activities identified in  
17 paragraphs (1) to (9), inclusive, of subdivision (a), or  
18 subdivision (b), of Section 22119.5 in any one school year  
19 up to the limitation specified in subdivision (f) as an  
20 employee of an employer, as an employee of a third party,  
21 or an independent contractor, within the California  
22 public school system, without a reduction in his or her  
23 retirement allowance.

24 (e) The postretirement compensation limitation  
25 provisions set forth in this section shall not be applicable  
26 to compensation earned for the performance of the  
27 activities described in subdivision (a) for which the  
28 employer is not eligible to receive state apportionment or  
29 to compensation that is not creditable pursuant to Section  
30 22119.2.

31 (f) The limitation that shall apply to the compensation  
32 for performance of the activities identified in paragraphs  
33 (1) to (9), inclusive, of subdivision (a), or subdivision (b),  
34 of Section 22119.5 by a member retired for service either  
35 as an employee of an employer, an employee of a third  
36 party, or as an independent contractor, shall be fifteen  
37 thousand dollars (\$15,000), in any one school year,  
38 adjusted annually by the board each July 1 by the annual  
39 amount of increase in the All Urban California Consumer  
40 Price Index using December 1989 as the base.



1 (g) If a member retired for service earns  
2 compensation for performing activities identified in  
3 paragraphs (1) to (9), inclusive, of subdivision (a), or  
4 subdivision (b), of Section 22119.5 in excess of the  
5 limitation specified in subdivision (f), as an employee of  
6 an employer, as an employee of a third party, or as an  
7 independent contractor, within the California public  
8 school system, the member's retirement allowance shall  
9 be reduced by the amount of the excess compensation.  
10 The amount of the reduction may be equal to the monthly  
11 allowance payable but shall not exceed the amount of the  
12 annual allowance payable under this part for the fiscal  
13 year in which the excess compensation was earned.

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

17 *SEC. 37.5. Section 24216 of the Education Code is*  
18 *amended to read:*

19 24216. (a) (1) A member retired for service who is  
20 appointed as a trustee or administrator by the  
21 Superintendent of Public Instruction pursuant to Section  
22 41320.1, or a member retired for service who is assigned  
23 by a county superintendent of schools pursuant to Article  
24 2 (commencing with Section 42120) of Chapter 6 of Part  
25 24, shall be exempt from subdivisions (d), (e), and (f) of  
26 Section 24214 for a maximum period of two years.

27 (2) The period of exemption shall commence on the  
28 date the member retired for service is appointed or  
29 assigned and shall end no more than two calendar years  
30 from that date, after which the limitation specified in  
31 subdivisions (d), (e), and (f) of Section 24214 shall apply.

32 (3) An exemption under this subdivision shall be  
33 granted by the system providing that the Superintendent  
34 of Public Instruction or the county superintendent of  
35 schools submits documentation required by the system to  
36 substantiate the eligibility of the member retired for  
37 service for an exemption under this subdivision.

38 (b) (1) A member retired for service who is  
39 employed by an employer to perform creditable service  
40 in an emergency situation to fill a vacant administrative



1 position requiring highly specialized skills shall be  
2 exempt from the provisions of subdivisions (d), (e) and  
3 (f) of Section 24214 for creditable service performed up  
4 to one-half of the full-time equivalent for that position, if  
5 the vacancy occurred due to circumstances beyond the  
6 control of the employer. The limitation specified in  
7 subdivisions (d), (e), and (f) of Section 24214 shall apply  
8 to creditable service performed beyond the specified  
9 exemption.

10 (2) An exemption under this subdivision shall be  
11 granted by the system subject to the following conditions:

12 (A) The recruitment process to fill the vacancy on a  
13 permanent basis is expected to extend over several  
14 months.

15 (B) The employment is reported in a public meeting  
16 of the governing body *of the employer*.

17 (C) The employer submits documentation required  
18 by the system to substantiate the eligibility of the  
19 member retired for service for an exemption under this  
20 subdivision.

21 (c) This section shall not apply to any person who has  
22 received additional service credit pursuant to Section  
23 22715 or 22716.

24 (d) A person who has received additional service  
25 credit pursuant to Section 22714 shall be ineligible for one  
26 year from the effective date of retirement for the  
27 exemption provided in this section for ~~work~~ service  
28 performed in the district from which he or she retired.

29 (e) This section shall become operative on July 1, 1995,  
30 and shall remain in effect only until July 1, ~~2000~~ 2003, and  
31 as of that date is repealed, unless a later enacted statute,  
32 which is enacted before July 1, ~~2000~~ 2003, deletes or  
33 extends that date.

34 SEC. 38. Section 24216.5 of the Education Code is  
35 amended to read:

36 24216.5. (a) The compensation earned by a member  
37 who retired for service shall be exempt from subdivisions  
38 (d), (f), and (g) of Section 24214, if all of the following  
39 conditions are met:



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

3 (2) The member retired ~~or~~ *for* service is employed by  
4 a school district to provide:

5 (A) Direct classroom instruction to students in newly  
6 created grades kindergarten through 3; or

7 (B) Is temporarily filling a position in grades 4 through  
8 12 that was vacated due to a teacher transferring to a  
9 classroom in grades kindergarten through 3 within the  
10 same district that was created to meet the objectives of  
11 the Class Size Reduction Program set forth in Chapter  
12 6.10 (commencing with Section 52120) of Part 28.

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

28 (4) The employing school district submits  
29 documentation required by the system to substantiate  
30 the eligibility of the temporary employment of a member  
31 retired for service for the exemption under this  
32 subdivision.

33 (b) A school district that employs a member retired  
34 for service pursuant to this section shall maintain  
35 accurate records of the retired member's compensation  
36 earned and shall report that compensation monthly to the  
37 system regardless of the method of payment or the source  
38 of funds from which the compensation is paid.

39 (c) Upon written request to the system, a member  
40 who retired for service with an effective date on or before



1 July 1, 1996, and who, between July 1, 1996, and 60 days  
2 following the effective date of this section, terminated his  
3 or her service retirement allowance and returned to  
4 employment that qualifies for the exemption specified in  
5 subdivision (a) may cancel his or her reinstatement and  
6 return to status as a member retired for service as if the  
7 service retirement allowance had not been terminated.

8 (d) This section shall not apply to the compensation  
9 earned for creditable service performed by a member  
10 retired for service for a county office of education or a  
11 community college district.

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

16 SEC. 39. Section 24216.8 is added to the Education  
17 Code, to read:

18 24216.8. (a) The compensation earned by a member  
19 who retired for service shall be exempt from subdivisions  
20 (d), (f), and (g) of Section 24214, if all of the following  
21 conditions are met:

22 (1) The member retired for service with an effective  
23 date on or before ~~July 1, 1998~~ *January 1, 1999*.

24 (2) The member retired ~~or~~ *for* service is employed by  
25 a school district to provide:

26 (A) Direct classroom instruction to students in newly  
27 created grades kindergarten through 3; or

28 (B) Is temporarily filling a position in grades 4 through  
29 12 that was vacated due to a teacher transferring to a  
30 classroom in grades kindergarten through 3 within the  
31 same district that was created to meet the objectives of  
32 the Class Size Reduction Program set forth in Chapter  
33 6.10 (commencing with Section 52120) of Part 28.

34 (3) All members retired for service whose  
35 employment with a school district meets the conditions  
36 specified in this section shall be treated as a distinct class  
37 of temporary employees within the existing bargaining  
38 unit whose service shall not be included in computing the  
39 service required as a prerequisite to attainment of or  
40 eligibility for classification as a permanent employee of a



1 school district. The compensation for service performed  
2 by this class of employees shall be established in  
3 accordance with subdivision (b) of Section 24214 and  
4 agreed to in the collective bargaining agreement  
5 between the employing school district and the exclusive  
6 representative for the existing bargaining unit within  
7 which these temporary employees of the school district  
8 are treated as a distinct class.

9 (4) The employing school district submits  
10 documentation required by the system to substantiate  
11 the eligibility of the temporary employment of a member  
12 retired for service for the exemption under this  
13 subdivision.

14 (b) A school district that employs a member retired  
15 for service pursuant to this section shall maintain  
16 accurate records of the retired member's compensation  
17 earned and shall report that compensation monthly to the  
18 system regardless of the method of payment or the source  
19 of funds from which the compensation is paid.

20 ~~(c) Upon written request to the system, a member~~  
21 ~~who retired for service with an effective date on or before~~  
22 ~~July 1, 1998, and who, between July 1, 1998, and 60 days~~  
23 ~~following the effective date of this section, terminated his~~  
24 ~~or her service retirement allowance and returned to~~  
25 ~~employment that qualifies for the exemption specified in~~  
26 ~~subdivision (a) may cancel his or her reinstatement and~~  
27 ~~return to status as a member retired for service as if the~~  
28 ~~service retirement allowance had not been terminated.~~

29 ~~(d)~~

30 (c) This section shall not apply to the compensation  
31 earned for creditable service performed by a member  
32 retired for service for a county office of education or a  
33 community college district.

34 ~~(e)~~

35 (d) This section shall become operative on July 1, 1996  
36 1999, and shall remain in effect only until July 1, 2002, and  
37 as of that date is repealed unless a later enacted statute  
38 which is enacted before July 1, 2002, deletes or extends  
39 that date.



1 SEC. 40. Section 24505 of the Education Code is  
2 amended to read:

3 24505. Actions brought by the board or its agent  
4 under contract pursuant to this chapter shall be  
5 commenced within three years after the liability of the  
6 system to pay benefits under the plan is fixed. Liability of  
7 the plan is fixed at the time the board approves the  
8 payment of benefits under this plan.

9 SEC. 41. Section 24609 of the Education Code is  
10 amended to read:

11 24609. Any allowance payable to a retired member,  
12 that has accrued and remains unpaid at the time of his or  
13 her death, shall be paid to either of the following:

14 (a) The option beneficiary entitled to payment in  
15 accordance with an option elected by the member.

16 (b) The beneficiary entitled to receive the lump-sum  
17 death benefit provided upon death of a retired member  
18 if the member has not elected an option.

19 SEC. 42. Section 24700 of the Education Code is  
20 amended to read:

21 24700. On July 1, 1972, and thereafter all persons who  
22 first enter employment in the San Francisco Unified  
23 School District and the San Francisco Community  
24 College District to perform creditable service subject to  
25 coverage by the plan are members of the plan in  
26 accordance with Section 22501. These new members are  
27 excluded from coverage under Subchapter II  
28 (commencing with Section 401) of Chapter 7 of Title 42  
29 of the United States Code, for service performed as a  
30 member of the plan.

31 *SEC. 42.5. Section 24701 of the Education Code is*  
32 *amended to read:*

33 24701. Those credentialed members of the San  
34 Francisco City and County Employees' Retirement  
35 System on June 30, 1972, who make an irrevocable  
36 election to be covered only by the State Teachers'  
37 Retirement System Defined Benefit Plan for prior and  
38 future service performed in San Francisco, shall be  
39 allowed to be covered for other certificated service  
40 concurrently, where the provisions of the city and county



1 charter permit. This shall not include any credited  
2 service, as defined in Section ~~22120~~ 22121.

3 SEC. 43. Section 24702 of the Education Code is  
4 amended to read:

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

13 (b) The allowance that would have been payable had  
14 the member retired solely under the Defined Benefit  
15 Plan, including the percentage update calculated under  
16 Sections 14332, 14333, and 14334, as enacted by Chapter  
17 2 of the Statutes of 1959, as those sections read on  
18 December 31, 1974, shall be taken into account in  
19 computing the amount of increase for the ten dollar (\$10)  
20 a month per year of service minimum benefit.

21 SEC. 44. Section 26113 of the Education Code is  
22 amended to read:

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

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



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

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

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

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

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

20 (7) The work of nurses, physicians, speech therapists,  
21 psychologists, audiometrists, audiologists, and other  
22 school health professionals.

23 (8) Services as a school librarian.

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

28 (b) "Creditable service" also means the work of  
29 superintendents of California public schools.

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

33 SEC. 45. Section 26127 of the Education Code is  
34 amended to read:

35 26127. "Full time equivalent" means the days or hours  
36 of creditable service that a person who is employed on a  
37 part-time basis would be required to perform in a school  
38 year if he or she were employed full time, as defined by  
39 Section 22138.5, in that position.



1 SEC. 46. Section 26133 of the Education Code is  
2 amended to read:

3 26133. "Pay period" means a payroll period specified  
4 by the employer but not more than ~~30~~ 31 calendar days.

5 SEC. 47. Section 26301 of the Education Code is  
6 amended to read:

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

14 (b) The board may assess a penalty against the  
15 employer for a report submitted late or in an  
16 unacceptable form.

17 *SEC. 47.5. Section 26301.5 is added to the Education*  
18 *Code, to read:*

19 *26301.5. Each employer shall deduct from the salary*  
20 *of participants employed by the employer the participant*  
21 *contributions required by this part and shall remit to the*  
22 *system those contributions plus the employer*  
23 *contributions required by this part and Section 44987.*

24 SEC. 48. Section 26302 of the Education Code is  
25 amended to read:

26 26302. (a) If more or less than the required  
27 contributions are paid to the plan based on salary paid to  
28 a participant, proper adjustment shall be made by the  
29 employer within 60 days of discovery or of notification by  
30 the system, and any contributions deducted in error from  
31 the participant's salary shall be returned to the  
32 participant by the employer within the same time period.

33 (b) If a report contains erroneous information and the  
34 system, acting in good faith, makes a distribution from the  
35 ~~Cash Balance Fund~~ *Teachers' Retirement Fund with*  
36 *respect to the Cash Balance Benefit Program* based on  
37 that information, the employer who submitted the report  
38 shall reimburse the fund in full for the amount of the  
39 erroneous disbursement, plus interest on the amount of  
40 the erroneous disbursement at the minimum interest rate



1 from the date of disbursement to the date of  
2 reimbursement, immediately upon notification by the  
3 system.

4 SEC. 49. Section 26400 of the Education Code is  
5 amended to read:

6 26400. (a) A person employed to perform creditable  
7 service for less than 50 percent of the full-time equivalent  
8 for the position shall become a participant on the later of  
9 the first day on which creditable service is performed for  
10 an employer that provides the ~~plan~~ *Cash Balance Benefit*  
11 *Program* or the effective date of the employer's  
12 governing board's action to provide the Cash Balance  
13 ~~Plan~~ *Benefit Program*, provided the person is not subject  
14 to mandatory membership in the Defined Benefit ~~Plan~~  
15 *Program* except as provided in Section 26402.

16 (b) If the employer's governing board's action to  
17 provide the Cash Balance ~~Plan~~ *Benefit Program* gives  
18 employees the right to elect coverage under social  
19 security or an alternative retirement plan offered by the  
20 employer in addition to the Cash Balance ~~Plan~~ *Benefit*  
21 *Program*, the employee may elect within 60 calendar days  
22 of the later of the first day on which creditable service is  
23 performed, the date of the employer's governing board's  
24 action to provide the Cash Balance ~~Plan~~ *Benefit Program*,  
25 or the effective date of the employer's governing board's  
26 action to provide the Cash Balance ~~Plan~~ *Benefit Program*  
27 to be covered by social security or to participate in the  
28 alternative retirement plan in lieu of participating in the  
29 Cash Balance ~~Plan~~ *Benefit Program*. Any election shall  
30 not preclude an employee from participating in the Cash  
31 Balance ~~Plan~~ *Benefit Program* at a later date so long as the  
32 Cash Balance ~~Plan~~ *Benefit Program* is provided by the  
33 employer and the employee is eligible to participate in  
34 the Cash Balance ~~Plan~~ *Benefit Program*.

35 (c) If subdivision (b) is applicable, the employer shall  
36 inform employees pursuant to subdivision (c) of Section  
37 26300 of their right to make an election and the election  
38 shall be made on a form prescribed by the system and  
39 filed with the employer. The election shall become  
40 effective on the later of the first day on which creditable



1 service is performed or the effective date of the  
2 employer's governing board's action to provide the ~~plan~~  
3 *Cash Balance Benefit Program*.

4 (d) If the participant's basis of employment with an  
5 employer that provides the Cash Balance ~~Plan~~ *Benefit*  
6 *Program* changes to employment to perform creditable  
7 service for 50 percent or more of the full-time equivalent  
8 for the position, contributions to the Cash Balance ~~Plan~~  
9 *Benefit Program* on behalf of the participant shall no  
10 longer be made and creditable service performed for that  
11 employer and all other employers shall be subject to  
12 coverage by the Defined Benefit Plan as of the first day  
13 of the pay period in which the change in the participant's  
14 basis of employment occurred, except as provided in  
15 Section 26402.

16 SEC. 50. Section 26401 of the Education Code is  
17 amended to read:

18 26401. (a) A member of the Defined Benefit ~~Plan~~  
19 *Program* who is employed to perform creditable service  
20 for less than 50 percent of the full-time equivalent for the  
21 position for an employer that provides the Cash Balance  
22 ~~Plan~~ *Benefit Program* may elect to become a participant  
23 for creditable service subject to coverage by the Cash  
24 Balance ~~Plan~~ *Benefit Program* for that employer  
25 provided that the creditable service is not performed for  
26 the same employer with whom the member is also subject  
27 to mandatory membership in the Defined Benefit ~~Plan~~  
28 *Program*.

29 (b) The election shall be made on a form prescribed by  
30 the system and shall be filed with the employer within 60  
31 calendar days of the later of the first day of employment  
32 with an employer that provides the Cash Balance ~~Plan~~  
33 *Benefit Program*, the date of the employer's governing  
34 board's action to provide the Cash Balance ~~Plan~~ *Benefit*  
35 *Program*, or the effective date of the employer's  
36 governing board's action to provide the Cash Balance  
37 ~~Plan~~ *Benefit Program*.

38 (c) Employers shall make available to employees  
39 specified in subdivision (a) information and forms  
40 provided by the system for making an election regarding



1 participation, and shall maintain the written election by  
2 the employee in employer files. The election shall  
3 become effective on the first day of the month following  
4 the month in which the election is made.

5 (d) If an election is made pursuant to subdivision (a)  
6 and the participant's basis of employment with that  
7 employer changes to employment to perform creditable  
8 service for 50 percent or more of the full-time equivalent  
9 for the position, contributions to the Cash Balance ~~Plan~~  
10 *Benefit Program* on behalf of the participant shall no  
11 longer be made and creditable service performed for that  
12 employer and all other employers shall be subject to  
13 coverage by the Defined Benefit ~~Plan~~ *Program* as of the  
14 first day of the pay period in which the change in the  
15 participant's basis of employment occurred, except as  
16 provided in Section 26402.

17 SEC. 51. Section 26502 of the Education Code is  
18 amended to read:

19 26502. ~~The~~ *Notwithstanding Section 26301.5, the*  
20 employer may pick up, for the sole purpose of and in  
21 accordance with the requirements of Section 414(h)(2)  
22 of Title 26 of the United States Code and Section 17501 of  
23 the Revenue and Taxation Code, all of the amounts  
24 otherwise due as employee contributions, which shall be  
25 paid by the employer in lieu of employee contributions  
26 and which shall be deducted from the employee's salary.

27 SEC. 52. Section 26504 of the Education Code is  
28 amended to read:

29 26504. The employer may enter into a collective  
30 bargaining agreement to pay a different employer  
31 contribution rate and a different employee contribution  
32 rate, provided all of the following conditions are met:

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

36 (b) The employee contribution rate may exceed the  
37 employer contribution rate but in no event shall the  
38 employer contribution rate be less than 4 percent.



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

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

7 (e) The employee contribution rate and employer  
8 contribution rate as determined under the collective  
9 bargaining agreement shall become effective on the first  
10 day of the plan year following notice to the system and  
11 remain in effect for at least one plan year. However, the  
12 employee contribution rate and the employer  
13 contribution rate as determined under the collective  
14 bargaining agreement may become effective as of the  
15 first day of the plan year in which notice is given if it is  
16 provided in the collective bargaining agreement and if a  
17 lump-sum contribution is made to the plan equal to the  
18 additional employee and employer contributions, if any,  
19 that would have been required if the contribution rates  
20 were in effect on the first day of the plan year. Interest  
21 shall be credited at the minimum interest rate with  
22 respect to the lump-sum contribution commencing with  
23 the first month the contribution is made.

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

27 SEC. 53. Section 26507 of the Education Code is  
28 amended to read:

29 26507. (a) The board may adjust the mandatory  
30 employer contribution rate specified under Section 26503  
31 for a fixed period of plan years when it has determined  
32 based upon the recommendation of the actuary, that  
33 increased contributions are required. The adjustment  
34 shall not exceed one-fourth of one percent for any plan  
35 year. The mandatory employer contribution rate as  
36 adjusted shall not exceed 4.25 percent of salary in any plan  
37 year for each participant employed by the employer,  
38 except as provided in subdivision (b).

39 (b) The adjustment to the employer contribution rate  
40 specified in subdivision (a) shall be applied to the



1 employer contribution rate specified in a collective  
2 bargaining agreement pursuant to Section 26504 and in  
3 effect on the first day of the plan year in which the  
4 adjustment to the employer contribution rate takes  
5 effect.

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

9 SEC. 54. Section 26807 of the Education Code is  
10 amended to read:

11 26807. (a) Upon application for a retirement benefit,  
12 the participant may elect to receive the retirement  
13 benefit in the form of an annuity, provided the sum of the  
14 employee account and employer account equals or  
15 exceeds three thousand five hundred dollars (\$3,500).

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

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

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

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

39 (4) A 50-percent joint and survivor annuity, which is  
40 the actuarial equivalent of the lump sum payable for the



1 combined lives of the participant and the beneficiary,  
2 with one-half of the monthly amount payable to the  
3 participant continuing to the surviving beneficiary upon  
4 the death of the participant. However, if the option  
5 beneficiary predeceases the participant, the annuity  
6 without modification for the option shall be payable to the  
7 participant upon notification to the board and shall  
8 commence to accrue to the participant as of the day  
9 following the date of death of the option beneficiary.  
10 Notification to the board shall include proof of death of  
11 the option beneficiary.

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

20 SEC. 55. Section 26906 of the Education Code is  
21 amended to read:

22 26906. (a) Upon application for a disability benefit,  
23 the participant may elect to receive the disability benefit  
24 in the form of an annuity provided the sum of the  
25 employee account and employer account equals or  
26 exceeds three thousand five hundred dollars (\$3,500).

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

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

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

37 (3) A 100-percent joint and survivor annuity, which is  
38 the actuarial equivalent of the lump sum payable for the  
39 combined lives of the participant and the beneficiary  
40 ~~designated under this subdivision~~, with the monthly



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

10 (4) A 50-percent joint and survivor annuity, which is  
11 the actuarial equivalent of the lump sum payable for the  
12 combined lives of the participant and the beneficiary  
13 ~~designated under this subdivision~~, with one-half of the  
14 monthly amount payable to the participant continuing to  
15 the surviving beneficiary upon the death of the  
16 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 (5) A period certain annuity, which is the lump sum  
25 payable over a specified number of years, from a  
26 minimum of three years to a maximum of 10 years but in  
27 any event not to exceed the life expectancy of the  
28 participant or the life expectancy of the participant and  
29 the participant's option beneficiary, until there is no  
30 balance remaining in the participant's employee account  
31 and employer account.

32 *SEC. 55.5. Section 27410 of the Education Code is*  
33 *amended to read:*

34 27410. (a) The nonparticipant spouse who is  
35 awarded separate nominal accounts shall have the right  
36 to designate, pursuant to Sections 27100 to 27102,  
37 inclusive, a beneficiary or beneficiaries to receive the  
38 accounts credited to the separate nominal ~~account~~  
39 *accounts* of the nonparticipant spouse on his or her date  
40 of death, and any annuity attributable to the separate



1 nominal ~~account~~ *accounts* which is unpaid on the date of  
2 the death of the nonparticipant spouse.

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

7 SEC. 56. Section 27411 of the Education Code is  
8 amended to read:

9 27411. The nonparticipant spouse who is awarded a  
10 separate nominal account shall have the right to an  
11 annuity pursuant to paragraphs (1), (2), or (5) of  
12 subdivision (b) of Section 26807.

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

15 (1) The nonparticipant spouse has at least three  
16 thousand five hundred dollars (\$3,500) in his or her  
17 separate nominal ~~account~~ *accounts*.

18 (2) The nonparticipant spouse has attained the age of  
19 55 years or more.

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

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

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

28 SEC. 57. Section 28100 of the Education Code is  
29 amended to read:

30 28100. (a) The employer may discontinue providing  
31 the Cash Balance Plan at anytime in accordance with the  
32 terms and conditions of the employer’s governing board’s  
33 formal action to provide the plan.

34 (b) The employer shall notify the system of the  
35 decision to discontinue the plan no less than 90 calendar  
36 days prior to the effective date of discontinuance. Such  
37 notice shall be submitted on a form prescribed by the  
38 system.

39 SEC. 58. Section 44929 of the Education Code is  
40 amended to read:



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

19 (1) The employee is credited with five or more years  
20 of service under the State Teachers' Retirement ~~System~~  
21 *Defined Benefit Program* and retires during a period of  
22 not more than 120 days or less than 60 days, commencing  
23 no sooner than the effective date of the formal action of  
24 the district or county superintendent of schools that shall  
25 specify the period.

26 (2) The district or county office of education transmits  
27 to the retirement fund an amount determined by the  
28 Teachers' Retirement Board that equals the actuarial  
29 equivalent of the difference between the allowance the  
30 member receives after the receipt of service credit under  
31 this section and Section 22714 and the amount the  
32 member would have received without the service credit  
33 and an amount determined by the Teachers' Retirement  
34 Board that equals the actuarial equivalent of the  
35 difference between the purchasing power protection  
36 supplemental payment the member receives after  
37 receipt of additional service credit pursuant to this  
38 section and the amount the member would have received  
39 without the additional service credit. The payment for  
40 purchasing power shall be deposited in the Supplemental



1 Benefit Maintenance Account established by Section  
2 22400 and shall be subject to Sections 24414 and 24415. The  
3 transfer to the retirement fund shall be made in a  
4 manner, and time period that shall not exceed four years,  
5 that is acceptable to the Teachers' Retirement Board. The  
6 school district or county office of education shall make the  
7 payment with respect to all eligible employees who  
8 retired pursuant to this section and Section 22714.

9 (3) The district or county office of education transmits  
10 to the retirement fund the administrative costs incurred  
11 by the State Teachers' Retirement System in  
12 implementing this section, as determined by the  
13 Teachers' Retirement Board.

14 (4) The governing board of the school district or the  
15 county office of education has considered the availability  
16 of teachers to fill the positions that would be vacated  
17 pursuant to this section.

18 (b) (1) The school district shall demonstrate and  
19 certify to the county superintendent that the formal  
20 action taken would result in either: (A) a net savings to  
21 the district; (B) a reduction of the number of certificated  
22 employees as a result of declining enrollment, as  
23 computed pursuant to Section 42238.5; or (C) the  
24 retention of certificated employees who are credentialed  
25 to teach in teacher shortage disciplines.

26 (2) The county superintendent shall certify to the  
27 Teachers' Retirement Board that a result specified in  
28 paragraph (1) can be demonstrated. The certification  
29 shall include, but not be limited to, the information  
30 specified in subdivision (b) of Section 14502. A district  
31 that qualifies under clause (B) of paragraph (1) shall also  
32 certify that it qualifies as a declining enrollment district  
33 as computed pursuant to Section 42238.5.

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

37 (c) (1) The county office of education shall  
38 demonstrate and certify to the Superintendent of Public  
39 Instruction that the formal action taken would result in  
40 either: (A) a net savings to the county office of education;



1 (B) a reduction of the number of certificated employees  
2 as a result of declining enrollment; or (C) the retention  
3 of certificated employees who are credentialed to teach  
4 in teacher shortage disciplines.

5 (2) The Superintendent of Public Instruction shall  
6 certify to the Teachers' Retirement Board that a result  
7 specified in paragraph (1) can be demonstrated. The  
8 certification shall include, but not be limited to, the  
9 information specified in subdivision (b) of Section 14502.

10 (3) The Superintendent of Public Instruction may  
11 request reimbursement from the county office of  
12 education for all administrative costs that result from the  
13 certification.

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

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

19 (f) Any employee who retires with service credit  
20 granted under this section and Section 22714 and who  
21 subsequently reinstates ~~into the State Teachers'~~  
22 ~~Retirement System~~, shall forfeit the service credit  
23 granted under this section and Section 22714.

24 (g) This section shall not be applicable to any  
25 employee otherwise eligible if the employee receives any  
26 unemployment insurance payments arising out of  
27 employment with an employer subject to Part 13  
28 (commencing with Section 22000) during a period  
29 extending one year beyond the effective date of the  
30 formal action, or if the employee is not otherwise eligible  
31 to retire for service under the State Teachers' Retirement  
32 ~~System~~ *Defined Benefit Program*.

33 SEC. 59. Section 87488 of the Education Code is  
34 amended to read:

35 87488. (a) Whenever the governing board of a  
36 community college district, by formal action taken prior  
37 to January 1, 2004, determines that because of impending  
38 curtailment of or changes in the manner of performing  
39 services, the best interests of the district would be served  
40 by encouraging the retirement of academic employees



1 and that the retirement will either: result in a net savings  
2 to the district; result in a reduction of the number of  
3 academic employees as a result of declining enrollment;  
4 or result in the retention of faculty who are qualified to  
5 teach in areas of teacher shortage, including, but not  
6 limited to, mathematics and science, an additional two  
7 years of service shall be credited under the State  
8 Teachers' Retirement ~~System~~ *Defined Benefit Program*  
9 to an academic employee pursuant to Section 22714 if all  
10 of the following conditions exist:

11 (1) The employee is credited with five or more years  
12 of service under the State Teachers' Retirement ~~System~~  
13 *Defined Benefit Program* and retires during a period not  
14 more than 120 days or less than 60 days, commencing no  
15 sooner than the effective date of the formal action of the  
16 district that shall specify the period.

17 (2) The governing board transmits to the retirement  
18 fund an amount determined by the Teachers' Retirement  
19 Board that equals the actuarial equivalent of the  
20 difference between the allowance the member receives  
21 after the receipt of service credit under this section and  
22 Section 22714 and the amount the member would have  
23 received without the service credit and an amount  
24 determined by the Teachers' Retirement Board that  
25 equals the actuarial equivalent of the difference between  
26 the purchasing power protection supplemental payment  
27 the member receives after receipt of additional service  
28 credit pursuant to this section and the amount the  
29 member would have received without the additional  
30 service credit. The payment for purchasing power shall  
31 be deposited in the Supplemental Benefit Maintenance  
32 Account established by Section 22400 and shall be subject  
33 to Sections 24414 and 24415. The transfer to the  
34 retirement fund shall be made in a manner and *in a* time  
35 period that shall not exceed four years, that is acceptable  
36 to the Teachers' Retirement Board. The community  
37 college district shall make the payment with respect to all  
38 eligible employees who retired pursuant to this section  
39 and Section 22714.



1 (3) The governing board transmits to the retirement  
2 fund the administrative costs incurred by the State  
3 Teachers' Retirement System in implementing this  
4 section, as determined by the Teachers' Retirement  
5 Board.

6 (4) The governing board of the community college  
7 district has considered the availability of academic  
8 employees to fill the positions that would be vacated  
9 pursuant to this section.

10 (b) (1) The community college district shall  
11 demonstrate and certify to the chancellor's office that the  
12 formal action taken would result in either: (A) a net  
13 savings to the district; (B) a reduction in the number of  
14 academic employees as a result of declining enrollment,  
15 as computed pursuant to subdivision (c) of Section 84701;  
16 or (C) the retention of faculty who are qualified to teach  
17 in teacher shortage disciplines.

18 (2) The chancellor shall certify to the Teachers'  
19 Retirement Board that the results specified in paragraph  
20 (1) can be demonstrated. The certification shall include,  
21 but not be limited to, the information specified in  
22 subdivision (c) of Section 84040.5. A community college  
23 district that qualifies under clause (B) of paragraph (1)  
24 shall also certify that it qualifies as a declining enrollment  
25 district as computed pursuant to subdivision (c) of  
26 Section 84701.

27 (3) The chancellor may request reimbursement from  
28 the community college district for all administrative costs  
29 that result from the certification.

30 (c) The service credit made available pursuant to this  
31 section shall be available to all members employed by the  
32 community college district who meet the conditions set  
33 forth in this section.

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

35 (e) Any employee who retires with service credit  
36 granted under this section and Section 22714 and  
37 subsequently reinstates ~~into the State Teachers'~~  
38 ~~Retirement System~~, shall forfeit the service credit  
39 granted under this section and Section 22714.



1 (f) This section shall not be applicable to any  
2 employee otherwise eligible if the employee receives any  
3 unemployment insurance payments arising out of  
4 employment with an employer subject to Part 13  
5 (commencing with Section 22000) during a period  
6 extending one year beyond the effective date of the  
7 formal action, or if the employee is not otherwise eligible  
8 to retire for service under the State Teachers' Retirement  
9 ~~System~~ *Defined Benefit Program*.

10 SEC. 60. Section 3543.2 of the Government Code is  
11 amended to read:

12 3543.2. (a) The scope of representation shall be  
13 limited to matters relating to wages, hours of  
14 employment, and other terms and conditions of  
15 employment. "Terms and conditions of employment"  
16 mean health and welfare benefits as defined by Section  
17 53200, leave, transfer and reassignment policies, safety  
18 conditions of employment, class size, procedures to be  
19 used for the evaluation of employees, organizational  
20 security pursuant to Section 3546, procedures for  
21 processing grievances pursuant to Sections 3548.5, 3548.6,  
22 3548.7, and 3548.8, the layoff of probationary certificated  
23 school district employees, pursuant to Section 44959.5 of  
24 the Education Code, and alternative compensation or  
25 benefits for employees adversely affected by pension  
26 limitations pursuant to Section 22316 of the Education  
27 Code, to the extent deemed reasonable and without  
28 violating the intent and purposes of Section 415 of the  
29 Internal Revenue Code. In addition, the exclusive  
30 representative of certificated personnel has the right to  
31 consult on the definition of educational objectives, the  
32 determination of the content of courses and curriculum,  
33 and the selection of textbooks to the extent such matters  
34 are within the discretion of the public school employer  
35 under the law. All matters not specifically enumerated  
36 are reserved to the public school employer and may not  
37 be a subject of meeting and negotiating, provided that  
38 nothing herein may be construed to limit the right of the  
39 public school employer to consult with any employees or



1 employee organization on any matter outside the scope  
2 of representation.

3 (b) Notwithstanding Section 44944 of the Education  
4 Code, the public school employer and the exclusive  
5 representative shall, upon request of either party, meet  
6 and negotiate regarding causes and procedures for  
7 disciplinary action, other than dismissal, including a  
8 suspension of pay for up to 15 days, affecting certificated  
9 employees. If the public school employer and the  
10 exclusive representative do not reach mutual agreement,  
11 then the provisions of Section 44944 of the Education  
12 Code shall apply.

13 (c) Notwithstanding Section 44955 of the Education  
14 Code, the public school employer and the exclusive  
15 representative shall, upon request of either party, meet  
16 and negotiate regarding procedures and criteria for the  
17 layoff of certificated employees for lack of funds. If the  
18 public school employer and the exclusive representative  
19 do not reach mutual agreement, then the provisions of  
20 Section 44955 of the Education Code shall apply.

21 (d) Notwithstanding Section 45028 of the Education  
22 Code, the public school employer and the exclusive  
23 representative shall, upon request of either party, meet  
24 and negotiate regarding the payment of additional  
25 compensation based upon criteria other than years of  
26 training and years of experience. If the public school  
27 employer and the exclusive representative do not reach  
28 mutual agreement, then the provisions of Section 45028  
29 of the Education Code shall apply.

30 (e) Pursuant to Section 45028 of the Education Code,  
31 the public school employer and the exclusive  
32 representative shall, upon the request of either party,  
33 meet and negotiate a salary schedule based on criteria  
34 other than a uniform allowance for years of training and  
35 years of experience. If the public school employer and the  
36 exclusive representative do not reach mutual agreement,  
37 then the provisions of Section 45028 of the Education  
38 Code requiring a salary schedule based upon a uniform  
39 allowance for years of training and years of experience  
40 shall apply. A salary schedule established pursuant to this



1 subdivision shall not result in the reduction of the salary  
2 of any teacher.

3 SEC. 61. Section 22009.03 of the Government Code is  
4 amended to read:

5 22009.03. "Public agency" also includes a school  
6 district, a county superintendent of schools, and a  
7 regional occupational center or program established  
8 pursuant to Article 1 (commencing with Section 6500) of  
9 Chapter 5 of Division 7 of Title 1, with respect to  
10 employees eligible for membership in the State Teachers'  
11 Retirement System.

12 This section shall become inoperative on July 1, 2004,  
13 and, as of January 1, 2005, is repealed, unless a later  
14 enacted statute, which becomes effective on or before  
15 January 1, 2005, deletes or extends the dates on which it  
16 becomes inoperative and is repealed.

17 SEC. 62. Section 22009.1 of the Government Code is  
18 amended to read:

19 22009.1. "Retirement system" includes:

20 (a) A pension, annuity, retirement or similar fund or  
21 system established by a public agency and covering only  
22 positions of that agency.

23 (b) The Public Employees' Retirement System with  
24 respect only to employees of the state and employees of  
25 the University of California in positions covered by that  
26 system.

27 (c) The Public Employees' Retirement System with  
28 respect to employees of all school districts in positions  
29 covered under each contract entered into by a county  
30 superintendent of schools and the system.

31 (d) The State Teachers' Retirement System with  
32 respect to all employees in positions covered by that  
33 system except employees of a public agency having any  
34 employees in positions covered by such system who are  
35 also in positions covered by a local retirement system for  
36 the retirement of teachers, or for membership in which  
37 public school teachers are eligible, operated by city, city  
38 and county, county or other public agency or  
39 combination of public agencies of the state.



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

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

5 (g) The University of California Retirement System  
6 only with respect to all employees in positions covered by  
7 that system.

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

11 (i) Any other retirement system with respect only to  
12 employees of any two or more of the public agencies  
13 having employees in positions covered by such system, as  
14 designated by the board and with regard to which the  
15 board authorizes conduct of a referendum.

16 (j) Any retirement system with respect only to  
17 employees of a hospital which is an integral part of a city  
18 incorporated between January 15, 1898 and July 15, 1898  
19 in positions covered by the system, as designated by the  
20 board on request of the city.

21 (k) Except as otherwise provided in subdivisions (b)  
22 through (j) above, any retirement system with respect to  
23 employees of each of the public agencies having  
24 employees in positions covered by the system.

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

29 (1) The part composed of the positions of members of  
30 such system who desire coverage under the federal  
31 system.

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

35 (m) The State Teachers' Retirement System with  
36 respect to all employees of each public agency, as defined  
37 by Section 22009.03, in positions covered by that system.  
38 This subdivision shall become inoperative on July 1, 2004.

39 SEC. 63. Section 22156 of the Government Code is  
40 amended to read:



1 22156. (a) A division of the State Teachers'  
2 Retirement System is hereby authorized by the  
3 Legislature to provide Medicare coverage for employees  
4 of a public agency as defined in Section 22009.03, upon the  
5 request of the public agency.

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

8 (c) A member of the State Teachers' Retirement  
9 System on whose behalf a request is made pursuant to  
10 subdivision (a), may elect to be covered by Medicare,  
11 pursuant to Section 218 of the federal Social Security Act  
12 (42 U.S.C. Sec. 418), and applicable federal regulations if  
13 (1) the member was employed in a position covered by  
14 the system on March 31, 1986, and (2) the member has not  
15 since been mandated into Medicare coverage due to the  
16 enactment of Public Law 99-272, and (3) the member is  
17 in a position covered or the member is eligible to elect to  
18 be covered by the retirement system on the date of the  
19 division.

20 (d) The public agency shall, immediately after the  
21 elections authorized in subdivision (b) have been made,  
22 make application pursuant to Chapter 2 (commencing  
23 with Section 22200) of this part for Medicare coverage for  
24 those members who have elected to receive Medicare  
25 coverage.

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

29 (f) This section shall become inoperative on July 1,  
30 2004, and, as of January 1, 2005, is repealed, unless a later  
31 enacted statute, which becomes effective on or before  
32 January 1, 2005, deletes or extends the dates on which it  
33 becomes inoperative and is repealed.

34 SEC. 64. Section 22208 of the Government Code is  
35 amended to read:

36 22208. With respect to each retirement system  
37 coverage group, the legislative or governing body of  
38 every public agency having employees in positions  
39 covered by a retirement system, may, upon the  
40 affirmative vote of a majority of eligible retirement



1 system employees of the retirement system coverage  
2 group at a referendum conducted in accordance with  
3 Article 2 (commencing with Section 22300) of this  
4 chapter and the rules and regulations promulgated by the  
5 board pursuant to this part, make formal application to  
6 the board for the inclusion of the employees in each  
7 retirement system coverage group in the agreement.  
8 With respect to employees in positions covered by the  
9 retirement system set forth in subdivision (d) of Section  
10 22009.1, the formal application shall be deemed to be  
11 made, if made prior to July 1, 2004, by the legislative or  
12 governing body of a public agency as defined in Section  
13 22009.03, or if on or after July 1, 2004, by the Teachers'  
14 Retirement Board.

15 SEC. 65. Section 22302 of the Government Code is  
16 amended to read:

17 22302. In the case of employees in positions covered  
18 by the retirement system set forth in subdivision (d) of  
19 Section 22009.1, if prior to July 1, 2004, the legislative or  
20 governing body of a public agency as defined in Section  
21 22009.03, or if on or after July 1, 2004, the Teachers'  
22 Retirement Board shall conduct the referendum; if the  
23 referendum is authorized by the Legislature.

24 In the case of employees in positions covered by the  
25 retirement system set forth in subdivision (g) of Section  
26 22009.1 the board shall authorize the referendum upon  
27 the request of the regents of the University of California  
28 and the regents shall conduct the referendum.

