

Assembly Bill No. 2765

CHAPTER 965

An act to amend Sections 22002, 22117, 22120, 22121, 22132, 22138.6, 22143, 22146, 22146.5, 22147, 22151, 22154, 22156, 22161, 22162, 22163, 22165, 22170, 22201, 22207, 22212, 22216, 22222, 22223, 22224, 22225, 22250, 22251, 22252, 22253, 22302, 22303.5, 22305, 22306, 22308, 22313, 22315, 22316, 22317, 22317.5, 22327, 22450, 22354, 22500, 22501, 22508, 22508.5, 22513, 22515, 22516, 22601.5, 22602, 22604, 22650, 22651, 22652, 22653, 22655, 22657, 22659, 22660, 22661, 22662, 22663, 22664, 22665, 22700, 22703, 22705, 22706, 22708, 22709, 22710, 22711, 22712, 22712.5, 22713, 22714, 22715, 22716, 22718, 22721, 22800, 22802, 22805, 22806, 22807, 22808, 22809, 22810, 22821, 22823, 22850, 22851, 22852, 22853, 22854, 22855, 22856, 22900, 22901, 22902, 22903, 22904, 22906, 22907, 22950, 22951, 22951.5, 22952, 22954, 22956, 23003, 23005, 23006, 23101, 23102, 23103, 23104, 23106, 23107, 23200, 23202, 23203, 23300, 23301, 23302, 23303, 23304, 23700, 23800, 23801, 23805, 23850, 23851, 23880, 23881, 24001, 24001.5, 24002, 24003, 24004, 24005, 24006, 24010, 24011, 24013, 24014, 24015, 24016, 24017, 24018, 24100, 24101, 24102, 24103, 24104, 24105, 24106, 24107, 24108, 24109, 24110, 24111, 24112, 24113, 24114, 24116, 24117, 24118, 24119, 24203, 24204, 24205, 24206, 24207, 24208, 24209, 24210, 24211, 24212, 24213, 24214, 24215, 24216, 24216.5, 24217, 24301, 24308, 24309, 24311, 24400, 24417, 24505, 24600, 24603, 24604, 24605, 24606, 24607, 24608, 24609, 24610, 24612, 24613, 24615, 24617, 24618, 24619, 24700, 24701, 24702, 24703, 24704, 24750, 24751, 24950, 24951, 25000, 26001, 26002, 26102, 26113, 26117, 26119, 26120, 26121, 26123, 26124, 26125, 26126, 26127, 26131, 26132, 26133, 26136, 26138, 26139, 26143, 26144, 26208, 26210, 26211, 26212, 26213, 26216, 26301, 26302, 26303, 26305, 26306, 26400, 26401, 26500, 26502, 26504, 26507, 26604, 26606, 26607, 26800, 26802, 26803, 26804, 26805, 26806, 26807, 26809, 26810, 26811, 26900, 26901, 26902, 26903, 26905, 26906, 26908, 26911, 27000, 27001, 27003, 27006, 27007, 27008, 27100, 27101, 27200, 27201, 27202, 27203, 27204, 27205, 27207, 27300, 27302, 27303, 27400, 27403, 27404, 27405, 27406, 27407, 27410, 27411, 28000, 28001, 28002, 28004, 28005, 28100, 44929, and 87488 of, to add Sections 22502, 22503, 22504, 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, to amend Section 2610 of the Family 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.

[Approved by Governor September 29, 1998. Filed
with Secretary of State September 29, 1998.]



LEGISLATIVE COUNSEL'S DIGEST

AB 2765, 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 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.

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

This bill would delete that requirement.

(6) 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.

(7) 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%.

(8) 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.

(9) Pursuant to existing law, the Board of Administration of the Public Employees' Retirement System administers an agreement with the federal government for social security coverage of employees of the state and the political subdivisions thereof which contract for coverage. The existing law authorizes each school district, from July 1, 1990, to July 1, 1993, and the State Teachers' Retirement System, on and after July 1, 1993, to apply to the Board of Administration of the Public Employees' Retirement System for elections among their respective certificated employees who are members of the State Teachers' Retirement System for the election



of Medicare coverage of those certificated employees who elect it. The existing law also makes certain of these provisions inoperative on July 1, 1999, and repeals them as of January 1, 2000.

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

(10) This bill would also provide that its amendments to Sections 22601.5, 22602, 22604, 26301, 26400, 26401, 26504, 27410, and 22601.5 of the Education Code shall not become operative, and shall be repealed on January 1, 1999, if SB 2085 of the 1997–98 Regular Session is enacted prior to this bill and amends those sections.

(11) This bill would incorporate additional changes in Section 23203 of the Education Code made by SB 2126 contingent upon the prior enactment of SB 2126, as specified.

(12) This bill would also provide that its amendment of Section 27405 of the Education Code would be contingent upon the enactment of SB 2085.

(13) This bill would also provide that the form of its proposed amendments to Section 22664 of the Education Code is contingent upon the enactment of SB 2126.

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

SECTION 1. Section 22002 of the Education Code is amended to read:

22002. The Legislature recognizes that the assets of the State Teachers’ Retirement Plan with respect to the Defined Benefit Program are insufficient to meet the obligations of that program already accrued or to accrue in the future with respect to service credited to members of that program prior to July 1, 1972. Therefore, the Legislature declares the following policies with respect to the financing of the Defined Benefit Program of the State Teachers’ Retirement Plan:

(a) Members shall contribute a percentage of creditable compensation, unless otherwise specified in this part.

(b) Employers shall contribute a percentage of the total creditable compensation on which member contributions are based.

(c) The state shall contribute a sum certain for a given number of years for the purpose of payment of benefits under this part.

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

22117. “Contribution rate for additional service credit” means the contribution rate adopted by the board as a plan amendment with respect to the Defined Benefit Program for the purchase of service credit. This rate shall be based upon the most recent valuation of the plan with respect to the Defined Benefit Program and increased to include any subsequently required contribution rates designated for funding subsequent allowance increases.

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



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

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

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

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

22132. “Employed” or “employment” means employment to perform creditable service subject to coverage by the State Teachers’ Retirement Defined Benefit Program, except as otherwise specifically provided under this part.

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

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

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

22143. “Investment manager” and “investment adviser” mean any person, firm, or custodian referred to in Section 22359, either appointed by or under contract with the board to engage in investment transactions or to manage or advise in the management of the assets of the Teachers’ Retirement Fund with respect to the Defined Benefit Program under this part and the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).

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

22146. “Member” means any person, unless excluded under other provisions of this part, who has performed creditable service as defined in Section 22119.5 and has earned creditable compensation for that service and has not received a refund for that service and, as a result, is subject to the Defined Benefit Program. A member’s rights and obligations under this part with respect to the Defined Benefit Program shall be determined by the applicability of subdivision (a), (b), (c), or (d), and subject to any applicable exceptions under other provisions of this part.

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

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

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



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

SEC. 8. Section 22146.5 of the Education Code is amended to read:

22146.5. “Membership” means membership in the Defined Benefit Program, except as otherwise specifically provided in this part.

SEC. 9. Section 22147 of the Education Code is amended to read:

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

(b) “Month,” for all other purposes, means a period commencing on any day of a calendar month and extending through the day preceding the corresponding day of the succeeding calendar month, if there is any such corresponding day, and if not, through the last day of the succeeding calendar month.

SEC. 10. Section 22151 of the Education Code is amended to read:

22151. “Overtime” means the aggregate service performed as a member of the Defined Benefit Program in excess of the hours of work considered normal for employees on a full-time basis.

SEC. 11. Section 22154 of the Education Code is amended to read:

22154. “Pay period” means a payroll period of not less than four weeks or more than one calendar month.

SEC. 12. Section 22156 of the Education Code is amended to read:

22156. “Plan vesting” means the right of the member upon completion of the minimum number of required years of credited service provided in the Defined Benefit Program to entitle the member or his or her beneficiary to a monthly retirement allowance, disability allowance, survivor benefit allowance, family allowance, or death benefit at a future date, prior to the completion of which the member upon resignation from service is entitled only to a refund of his or her accumulated retirement contributions as provided in this part.

SEC. 13. Section 22161 of the Education Code is amended to read:

22161. “Public school” means any day or evening elementary school, and any day and evening secondary school, community college, technical school, kindergarten school, and prekindergarten school established by the Legislature, or by municipal or district authority.

SEC. 14. Section 22162 of the Education Code is amended to read:

22162. “Regular interest”, with respect to the Defined Benefit Program, is interest that is compounded annually based upon the



annual equivalent of the prior year's average yield to maturity on the investment grade fixed-income securities with respect to the Defined Benefit Program. The regular interest rate shall be adopted annually by the board as a plan amendment.

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

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

SEC. 16. Section 22165 of the Education Code is amended to read:

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

SEC. 17. Section 22170 of the Education Code is amended to read:

22170. "Service" means service performed for compensation in a position subject to coverage under the Defined Benefit Program, except as otherwise specifically provided in this part.

SEC. 18. Section 22175 of the Education Code is repealed.

SEC. 19. Section 22201 of the Education Code is amended to read:

22201. (a) The board shall set policy and shall have the sole power and authority to hear and determine all facts pertaining to application for benefits under the plan or any matters pertaining to administration of the plan and the system.

(b) The board shall meet at least once every calendar quarter at such times as it may determine. The meetings shall be presided over by the chairperson. In the event of the chairperson's absence from a meeting the vice chairperson shall act as presiding officer and perform all other duties of the chairperson.

SEC. 20. Section 22207 of the Education Code is amended to read:

22207. The board shall perform any other acts necessary for the administration of the system and the plan in carrying into effect the provisions of this part and Part 14 (commencing with Section 26000).

SEC. 21. Section 22212 of the Education Code is amended to read:

22212. The board shall appoint such employees as are necessary to administer the plan and the system.

SEC. 22. Section 22216 of the Education Code is amended to read:

22216. (a) The board shall annually adopt as a plan amendment with respect to the Defined Benefit Program the rate of credited interest to be credited to members' accumulated retirement contributions for service performed after June 30, 1935, and the accumulated annuity deposit contributions excluding all accumulated contributions while being paid as disability allowances, family allowances, and retirement allowances.

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

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

22222. The board may adjust the amounts of the death payments based on changes in the All Urban California Consumer Price Index, and shall adopt as a plan amendment with respect to the Defined



Benefit Program any adjusted amount, provided that the most recent actuarial valuation report indicates that the adjustment would not increase the normal cost.

SEC. 24. Section 22223 of the Education Code is amended to read:

22223. The members of the board who are not members of the Defined Benefit Program or participants of the Cash Balance Benefit Program and who are appointed by the Governor pursuant to Section 22200 shall receive one hundred dollars (\$100) for every day of actual attendance at meetings of the board or any meeting of any committee of the board of which the person is a member, and that is conducted for the purpose of carrying out the powers and duties of the board, together with their necessary traveling expenses incurred in connection with performance of their official duties.

SEC. 25. Section 22224 of the Education Code is amended to read:

22224. Members of the Defined Benefit Program and participants of the Cash Balance Benefit Program, who are either appointed to the board by the Governor pursuant to Section 22200, or who are appointed by the board to serve on a committee or subcommittee of the board or a panel of the system, shall be granted, by his or her employer, sufficient time away from regular duties, without loss of compensation or other benefits to which the person is entitled by reason of employment, to attend meetings of the board or any of its committees or subcommittees of which the person is a member, or to serve as a member of a panel of the system, and to attend to the duties expected to be performed by the person.

SEC. 26. Section 22225 of the Education Code is amended to read:

22225. (a) The compensation of the members of the Defined Benefit Program and participants of the Cash Balance Benefit Program who are appointed to the board, or by the board to a committee or subcommittee, or to a panel of the system, shall not be reduced by his or her employer for any absence from service occasioned by attendance upon the business of the board, pursuant to Section 22224.

(b) Each employer that employs either a member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program appointed pursuant to Section 22224 and that employs a person to replace the member or participant during attendance at meetings of the board, its committees or subcommittees, or when serving as a member of a panel of the system, or when carrying out other duties approved by the board, shall be reimbursed from the retirement fund for the cost incurred by employing a replacement.

SEC. 27. Section 22250 of the Education Code is amended to read:

22250. The board and its officers and employees of the system shall discharge their duties with respect to the system and the plan solely in the interest of the members and beneficiaries of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program as follows:



(a) For the exclusive purpose of the following:

(1) Providing benefits to members and beneficiaries of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program.

(2) Defraying reasonable expenses of administering the plan.

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(d) In accordance with the documents and instruments governing the plan and the system insofar as those documents and instruments are consistent with this part and Part 14 (commencing with Section 26000).

SEC. 28. Section 22251 of the Education Code is amended to read:

22251. (a) Except as provided in subdivision (b), the assets of the plan shall never inure to the benefit of an employer and shall be held for the exclusive purposes of providing benefits to members and beneficiaries of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program and defraying reasonable expenses of administering the plan and the system.

(b) In the case of a contribution that is made by an employer by a mistake of fact, subdivision (a) shall not prohibit the return of that contribution within one year after the system knows, or should know in the ordinary course of business, that the contribution was made by a mistake of fact.

SEC. 29. Section 22252 of the Education Code is amended to read:

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

(a) Sale or exchange, or leasing, of any property from the system to a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, for less than adequate consideration, or from a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, to the system for more than adequate consideration.

(b) Lending of money or other extension of credit from the system to a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, without the receipt of adequate security and a reasonable rate of interest, or from a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance



Benefit Program, with the provision of excessive security or an unreasonably high rate of interest.

(c) Furnishing of goods, services, or facilities from the system to a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, for less than adequate consideration, or from a member, or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, to the system for more than adequate consideration.

(d) Transfer to, or use by or for the benefit of, a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, of any assets of the plan for less than adequate consideration.

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

SEC. 30. Section 22253 of the Education Code is amended to read:

22253. The board and its officers and employees of the system shall not do any of the following:

(a) Deal with the assets of the plan and the system in their own interest or for their own account.

(b) In their individual or in any other capacity, act in any transaction involving the system on behalf of a party, or represent a party, whose interests are adverse to the interests of the plan or the interests of the members and beneficiaries of the Defined Benefit Program, as well as participants and beneficiaries of the Cash Balance Benefit Program.

(c) Receive any consideration for their personal account from any party conducting business with the system in connection with a transaction involving the assets of the plan.

SEC. 31. Section 22302 of the Education Code is amended to read:

22302. (a) The board shall establish an ombudsman position to serve as an advocate for the members of the Defined Benefit Program and participants of the Cash Balance Benefit Program. The duties of the ombudsman position shall include reviewing and making recommendations to the chief executive officer regarding complaints by school employees, members, employee organizations, the Legislature, or the public regarding actions of the employees of the system.

(b) It is the intent of the Legislature that the salary of the position of ombudsman be offset, as much as possible, through savings realized from a reduction in interest payments on delinquent benefits to members, and through a more efficient and improved public relations program.

SEC. 32. Section 22303.5 of the Education Code is amended to read:



22303.5. (a) Notwithstanding any other provision of law, the board shall offer a midcareer retirement information program for the benefit of all members.

(b) In implementing this section, the board shall develop plans for the development and delivery of information to enhance awareness of the features and benefits of the Defined Benefit Program, and services of the system, federal Social Security Act programs and benefits as they apply to members, and awareness of personal planning responsibilities. This information shall be provided to assist members in understanding the importance of financial, legal, estate, and personal planning, and how choices and options offered by the system may impact retirement.

(c) The board, at a public meeting, may assess a participation fee for the recovery of all startup and ongoing expenses of the midcareer information program.

SEC. 33. Section 22305 of the Education Code is amended to read:

22305. Any rules and regulations adopted by the board for the purpose of the administration of this part and Part 14 (commencing with Section 26000), and not inconsistent with this part and Part 14 (commencing with Section 26000), have the force and effect of law.

SEC. 34. Section 22306 of the Education Code is amended to read:

22306. (a) Information filed with the system by a member, participant, or beneficiary of the plan is confidential and shall be used by the system for the sole purpose of carrying into effect the provisions of this part. No official or employee of the system who has access to the individual records of a member, participant, or beneficiary shall divulge any confidential information concerning those records to any person except in the following instances:

(1) To the member, participant or beneficiary to whom the information relates.

(2) To the authorized representative of the member, participant or beneficiary.

(3) To the governing board of the member's or participant's current or former employer.

(4) To any department, agency, or political subdivision of this state.

(5) To other individuals as necessary to locate a person to whom a benefit may be payable.

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

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

SEC. 35. Section 22308 of the Education Code is amended to read:



22308. (a) Subject to subdivision (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any member or beneficiary of the Defined Benefit Program, and of any participant or beneficiary of the Cash Balance Benefit Program, if all of the following facts exist:

(1) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(2) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

(b) Failure by a member, participant or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an “error or omission” correctable under this section.

(c) Subject to subdivision (d), the board may correct all actions taken as a result of errors or omissions of the employer or this system.

(d) The duty and power of the board to correct errors and omissions, as provided in this section, shall terminate upon the expiration of obligations of the board, system, and plan to the party seeking correction of the error or omission, as those obligations are defined by Section 22008.

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a), (b), and (c) are adjusted to be the same that they would have been if the act that was taken or would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a), (b), and (c) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a), (b), and (c) cannot be adjusted to be the same as they would have been if the error or omission had not occurred.

SEC. 36. Section 22313 of the Education Code is amended to read:

22313. (a) No adjustment shall be included in new rates of contribution adopted by the board on the basis of an investigation, valuation, and determination or because of amendment to the Teachers’ Retirement Law with respect to the Defined Benefit Program, for time prior to the effective date of the adoption or amendment, as the case may be.



(b) No action of the board, other than correction of errors in calculating the allowance or annuity at the time of retirement, disability or death of a member shall change the allowance or annuity payable to a retired member or beneficiary prior to the date the action is taken.

SEC. 37. Section 22315 of the Education Code is amended to read:

22315. (a) The Legislature hereby finds and declares that it is the intent of the Legislature in enacting this section and Section 22316 that members of the Defined Benefit Program not be adversely impacted, to the extent deemed reasonable, by the application of Section 415 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 415).

(b) The system shall work closely with teacher organizations to develop a supplemental plan that, to the extent deemed reasonable and without violating the intent and purposes of Section 415 of the Internal Revenue Code of 1986, maintains the future retirement benefits of the members and the fiscal integrity of the retirement fund. The supplemental plan should not result in any additional liability to the employer.

(c) The system shall also monitor the benefits of its members and notify affected individuals of their options, if deemed appropriate by the system.

SEC. 38. Section 22316 of the Education Code is amended to read:

22316. (a) Notwithstanding any other provision of this part, the benefits payable to any person who becomes a member of the Defined Benefit Program on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code of 1986 without regard to Section 415(b)(2)(F) of the Internal Revenue Code of 1986.

(b) Notwithstanding any other provision of law, the benefits payable under this part to any person who became a member of the Defined Benefit Program prior to January 1, 1990, shall not be less than the accrued benefit of the member, determined without regard to any amendment to the plan with respect to the Defined Benefit Program made after October 14, 1987, and as provided in Section 415(b)(10) of the Internal Revenue Code of 1986.

(c) The board shall provide to each employer a notice of the content and effect of subdivision (a) for distribution to each person who, for the first time, becomes a member of the Defined Benefit Program on or after January 1, 1990.

SEC. 39. Section 22317 of the Education Code is amended to read:

22317. (a) With respect to members of the Defined Benefit Program with membership effective dates of December 31, 1989, and earlier, benefit enhancements due to a plan amendment enacted after October 14, 1987, with respect to the Defined Benefit Program, are subject to the limitations imposed by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 415).



(b) With respect to members of the Defined Benefit Program with membership effective dates of January 1, 1990, and later, retirement benefits under this part, including enhancements due to a plan amendment with respect to the Defined Benefit Program, are subject to the limitations imposed by Section 415 of the Internal Revenue Code of 1986.

(c) With respect to members described in subdivision (a) or (b), or beneficiaries of those persons, a change in the benefit structure of the plan under this part pursuant to a plan amendment with respect to the Defined Benefit Program shall not be subject to Section 415(b)(5)(D) of the Internal Revenue Code of 1986 in the case of all plan amendments enacted before, on, or after August 3, 1992, with respect to the Defined Benefit Program.

SEC. 40. Section 22317.5 of the Education Code is amended to read:

22317.5. The amount of compensation that is taken into account in computing benefits payable under this part to any person who first becomes a member of the Defined Benefit Program on or after July 1, 1996, shall not exceed the annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period, shall be subject to the annual compensation limit applicable to that period.

Notwithstanding any other provision of this part, no member contribution shall be paid upon any compensation in excess of the annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United States Code.

SEC. 41. Section 22327 of the Education Code is amended to read:

22327. Notwithstanding any other provision of law, the Employment Development Department shall disclose to the board information in its possession relating to the earnings of any person who is receiving a disability benefit from the plan. The earnings information shall be released to the board only upon written request from the board specifying that the person is receiving disability benefits from the plan. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing. The board shall notify recipients of disability benefits that earnings information shall be obtained from the Employment Development Department upon request by the board.



The board shall not release any earnings information received from the Employment Development Department to any person, agency, or other entity. The system shall reimburse the Employment Development Department for all reasonable administrative expenses incurred pursuant to this section.

SEC. 42. Section 22354 of the Education Code is amended to read:

22354. (a) The board shall, pursuant to the state civil service statutes, either contract with, or establish and fill full-time positions for, investment managers who are experienced and knowledgeable in corporate management issues to monitor each corporation any of whose shares are owned by the plan and to advise the board on the voting of the shares owned by the plan and on the responses of the system to merger proposals and tender offers and all other matters pertaining to corporate governance.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund, an amount sufficient to pay all costs arising from this section.

SEC. 43. Section 22358 of the Education Code is repealed.

SEC. 44. Section 22450 of the Education Code is amended to read:

22450. (a) Each member and beneficiary shall furnish to the board any information affecting his or her status as a member or beneficiary of the Defined Benefit Program as the board requires.

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

SEC. 45. Section 22500 of the Education Code is amended to read:

22500. All persons who were members of the California State Teachers' Retirement System on June 30, 1996, are members of the Defined Benefit Program under the plan.

SEC. 46. Section 22501 of the Education Code is amended to read:

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

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

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

SEC. 47. Section 22502 is added to the Education Code, to read:

22502. (a) Any person employed to perform creditable service on a part-time basis who is not already a member of the Defined Benefit Program shall become a member as of the first day of employment to perform creditable service for 50 percent or more of



the full-time equivalent for the position, unless excluded from membership pursuant to Section 22601.

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

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

SEC. 48. Section 22503 is added to the Education Code, to read:

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

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

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

SEC. 49. Section 22504 is added to the Education Code, to read:

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

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

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

SEC. 50. Section 22508 of the Education Code is amended to read:

22508. (a) A member who becomes employed by the same or a different school district, community college district, or a county superintendent to perform service that requires membership in a different public retirement system, may elect to have that service subject to coverage by the Defined Benefit Program of this plan and excluded from coverage by the other public retirement system. The election shall be made in writing on a form prescribed by this system within 60 days from the date of hire in the position requiring membership in the other public retirement system. If that election



is made, the service performed for the employer after the date of hire shall be considered creditable service for purposes of this part.

(b) A member of the Public Employees' Retirement System who is employed by a school district, community college district, or a county superintendent and who is subsequently employed to perform creditable service subject to coverage by the Defined Benefit Program of the State Teachers' Retirement Plan may elect to have that service subject to coverage by the Public Employees' Retirement System and excluded from coverage by the Defined Benefit Program. The election shall be made in writing on a form prescribed by this system within 60 days from the date of hire to perform creditable service. If that election is made, creditable service performed for the employer after the date of hire shall be subject to coverage by the Public Employees' Retirement System.

SEC. 51. Section 22508.5 of the Education Code is amended to read:

22508.5. (a) Any person who is a member of the Defined Benefit Program of the State Teachers' Retirement plan employed by a community college district who subsequently is employed by the Board of Governors of the California Community Colleges to perform duties that require membership in a different public retirement system, shall be excluded from membership in that different system if he or she elects, in writing, and files that election in the office of the State Teachers' Retirement System within 60 days after the person's entry into the new position, to continue as a member of the Defined Benefit Program. Only a person who has achieved plan vesting is eligible to elect to continue as a member of the program.

(b) A member of the Public Employees' Retirement System who is employed by the Board of Governors of the California Community Colleges who subsequently is employed by a community college district to perform creditable service subject to coverage by this plan, may elect to have that service subject to coverage by the Public Employees' Retirement System and excluded from coverage by this plan pursuant to Section 20309 of the Government Code.

(c) This section shall apply to changes in employment effective on or after January 1, 1998.

SEC. 52. Section 22513 of the Education Code is amended to read:

22513. Members of the Defined Benefit Program who elect membership in the Public Employees' Retirement System and have achieved plan vesting according to Section 22156 shall retain the vested rights to survivor and disability benefits under this part until they qualify for the similar benefits in the Public Employees' Retirement System.

SEC. 53. Section 22515 of the Education Code is amended to read:

22515. Persons excluded from membership pursuant to Sections 22601.5, 22602, and 22604 may elect membership in the Defined



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

SEC. 54. Section 22516 of the Education Code is amended to read:

22516. (a) Nothing in this chapter shall be construed or applied to exclude from membership in the Defined Benefit Program any person employed to perform creditable service at a level that requires mandatory membership in the program for which he or she has the right to elect membership in the program or another retirement system and who elects membership in the other retirement system, or who is employed to perform creditable service at a level that does not require mandatory membership in the Defined Benefit Program.

(b) Service performed after becoming a member of another retirement system shall not be credited to the member under this part, nor shall contributions or benefits under this part be based upon that service or the compensation received by the member during that period of service, except as provided in the definition of “final compensation” contained in Section 22133.

SEC. 55. Section 22600 of the Education Code is repealed.

SEC. 56. Section 22601.5 of the Education Code is amended to read:

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

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

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

SEC. 57. Section 22602 of the Education Code is amended to read:

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

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



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

SEC. 58. Section 22604 of the Education Code is amended to read:

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

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

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

SEC. 59. Section 22650 of the Education Code is amended to read:

22650. This chapter establishes the power of a court in a dissolution of marriage or legal separation action with respect to community property rights in accounts with the plan under this part and establishes and defines the rights of nonmember spouses in the plan under this part.

SEC. 60. Section 22651 of the Education Code is amended to read:

22651. For purposes of this chapter and Section 23300, "nonmember spouse" means the spouse or former spouse who is being or has been awarded a community property interest in the service credit and accumulated retirement contributions or the benefits of a member under this part. A nonmember spouse who is awarded a separate account of service credit and accumulated retirement contributions or who receives a retirement allowance under this part, or who is awarded an interest in a member's retirement allowance under this part is not a member.

SEC. 61. Section 22652 of the Education Code is amended to read:

22652. (a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) The court may order in the judgment or court order that the accumulated retirement contributions and service credit under this part that are attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember spouse, respectively. Any service credit or accumulated retirement contributions under this part that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member in the Defined Benefit Program.

(c) The determination of the court of community property rights pursuant to this section shall be consistent with this chapter and shall



address the rights of the nonmember spouse, including, but not limited to, the following:

- (1) The right to a retirement allowance under this part.
- (2) The right to a refund of accumulated retirement contributions under this part.
- (3) The right to redeposit accumulated retirement contributions which are eligible for redeposit under this part by the member under Sections 23200 to 23203, inclusive, and the shares of the member and the nonmember spouse of the eligible redeposit amount.
- (4) The right to purchase additional service credit under this part which is eligible for purchase by the member under Sections 22800 to 22810, inclusive, and the shares of the member and the nonmember spouse of the service credit eligible for purchase.

SEC. 62. Section 22653 of the Education Code is amended to read:

22653. (a) The nonmember spouse who is awarded a separate account under this part pursuant to Section 22652 is not a member of the Defined Benefit Program based on that award. The nonmember spouse is entitled only to rights and benefits based on that award explicitly established by this chapter.

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

SEC. 63. Section 22655 of the Education Code is amended to read:

22655. (a) Upon the legal separation or dissolution of marriage of a retired member, the court may include in the judgment or court order a determination of the community property rights of the parties in the retirement allowance under this part of the retired member consistent with this section. Upon election under subparagraph (B) of paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonmember spouse a community property share in the benefits of a retired member shall be consistent with this section.

(b) If the court does not award the entire retirement allowance under this part to the retired member and the retired member is receiving a retirement allowance that has not been modified pursuant to Section 24300, the court shall require only that the system pay the nonmember spouse, by separate warrant from the plan, his or her community property share of the retirement allowance under this part of the retired member.

(c) If the court does not award the entire retirement allowance under this part to the retired member and the retired member is receiving an allowance which has been actuarially modified pursuant to Section 24300, the court shall order only one of the following:

- (1) The retired member shall maintain the retirement allowance under this part without change.



(2) The retired member shall cancel the option under which the retirement allowance is modified under this part pursuant to Section 24305 and select a new joint and survivor option or a new beneficiary or both, and the system shall pay the nonmember spouse, by separate warrant from the plan, his or her community property share of the retirement allowance under this part of the retired member, the option beneficiary, or both.

(3) The retired member shall cancel the option under which the retirement allowance is modified under this part pursuant to Section 24305 and select an unmodified retirement allowance and the system shall pay the nonmember spouse, by separate warrant from the plan, his or her community property share of the retirement allowance of the retired member.

(d) If the option beneficiary under this part, other than the nonmember spouse, predeceases the retired member, the court shall order the retired member to select a new option beneficiary under this part pursuant to Section 24306 and shall order the system to pay the nonmember spouse, by separate warrant from the plan, his or her share of the community property interest in the retirement allowance under this part of the retired member or the new option beneficiary, or both.

(e) The right of the nonmember spouse to receive his or her community property share of the retirement allowance under this part of the retired member under this section shall terminate upon the death of the nonmember spouse. However, the nonmember spouse may designate a beneficiary to receive his or her community property share of the retired member's accumulated retirement contributions under this part in the event that accumulated retirement contributions become payable.

SEC. 64. Section 22656 of the Education Code is amended to read:

22656. No judgment or court order issued pursuant to this chapter is binding on the plan with respect to the Defined Benefit Program until the plan has been joined as a party to the action and has been served with a certified copy of the judgment or court order.

SEC. 65. Section 22657 of the Education Code is amended to read:

22657. (a) The following provisions shall apply to a nonmember spouse as if he or she were a member under this part: Sections 22107, 22306, 22906, 23802, subdivisions (a) and (b) of Section 24600, 24601, 24602, 24603, 24605, 24606, 24607, 24608, 24611, 24612, 24613, 24616, and 24617.

(b) Notwithstanding subdivision (a), this section shall not be construed to establish any right for the nonmember spouse under this part that is not explicitly established in Sections 22650 to 22655, inclusive, and Sections 22658 to 22665, inclusive.

SEC. 66. Section 22658 of the Education Code is amended to read:



22658. (a) A separate account awarded to a nonmember spouse pursuant to Section 22652 shall be administered independently of the member's account.

(b) Accumulated contributions, service credit, and final compensation attributable to a separate account of a nonmember spouse under this part shall not be combined in any way or for any purpose with the accumulated contributions, service credit, and final compensation of any other separate account of the nonmember spouse.

(c) Accumulated contributions, service credit, and final compensation attributable to the separate account of a nonmember spouse shall not be combined in any way or for any purpose with the accumulated contributions, service credit, and final compensation of an account that exists under this part because the nonmember spouse is employed or has been employed to perform creditable service subject to coverage under the Defined Benefit Program.

SEC. 67. Section 22659 of the Education Code is amended to read:

22659. Upon being awarded a separate account or an interest in the retirement allowance of a retired member under this part, a nonmember spouse shall provide the system with proof of his or her date of birth, social security number, and any other information requested by the system, in the form and manner requested by the system.

SEC. 68. Section 22660 of the Education Code is amended to read:

22660. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to designate, pursuant to Sections 23300 to 23304, inclusive, a beneficiary or beneficiaries to receive the accumulated retirement contributions remaining in the separate account of the nonmember spouse on his or her date of death, and any accrued allowance attributable to the separate account which is unpaid on the date of the death of the nonmember spouse under this part.

(b) This section shall not be construed to provide the nonmember spouse with any right to elect to modify a retirement allowance under Section 24300.

SEC. 69. Section 22661 of the Education Code is amended to read:

22661. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to a refund of the accumulated retirement contributions in the account of the nonmember spouse under this part.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain the refund.

(c) The refund under this part is effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file in the system. If the nonmember spouse has elected on a form provided by the system to transfer all or a



specified portion of the accumulated contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the nonmember spouse's accumulated contributions.

(d) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit under this part and represented by the accumulated retirement contributions when the refund becomes effective.

(e) The nonmember spouse may not cancel a refund under this part after the refund is effective.

(f) The nonmember spouse shall have no right to elect to redeposit the refunded accumulated retirement contributions under this part after the refund is effective and shall have no right to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective.

(g) If the total service credit in the separate account of the nonmember spouse under this part, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the accumulated retirement contributions in the account.

SEC. 70. Section 22662 of the Education Code is amended to read:

22662. The nonmember spouse who is awarded a separate account under this part may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may redeposit under this part only those accumulated retirement contributions that were previously refunded to the member and in which the court has determined the nonmember spouse has a community property interest.

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order addressing the redeposit rights of the nonmember spouse is entered. The nonmember spouse shall elect to redeposit on a form provided by the system within 30 days after the system mails an election form and the billing.

(c) If the nonmember spouse elects to redeposit under this part, he or she shall repay the accumulated retirement contributions and shall pay regular interest from the date of the refund to the date of payment.

(d) An election to redeposit shall be considered an election to repay all accumulated retirement contributions previously refunded under this part in which the nonmember spouse has a community property interest. All payments shall be received by the system before the effective date of retirement of the nonmember spouse under this part. If any payment due because of the election is not



received at the system's office in Sacramento within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(e) The right of the nonmember spouse to redeposit shall be subject to Section 23203.

(f) The member shall not have a right to redeposit the share of the nonmember spouse in the previously refunded accumulated retirement contributions under this part whether or not the nonmember spouse elects to redeposit. However, any accumulated retirement contributions previously refunded under this part and not explicitly awarded to the nonmember spouse under this part by the judgment or court order shall be deemed the exclusive property of the member.

SEC. 71. Section 22663 of the Education Code is amended to read:

22663. The nonmember spouse who is awarded a separate account under this part shall have the right to purchase additional service credit in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may purchase only the service credit that the court, pursuant to Section 22652, has determined to be the community property interest of the nonmember spouse.

(b) The nonmember spouse shall inform the system in writing of his or her intent to purchase additional service credit within 180 days after the date the judgment or court order addressing the right of the nonmember spouse to purchase additional service credit is entered. The nonmember spouse shall elect to purchase additional service credit on a form provided by the system within 30 days after the system mails an election form and billing.

(c) If the nonmember spouse elects to purchase additional service credit, he or she shall pay, prior to retirement under this part, all contributions with respect to the additional service at the contribution rate for additional service credit in effect at the time of election and regular interest from July 1 of the year following the year upon which contributions are based.

(1) (A) The nonmember spouse shall purchase additional service credit by paying the required contributions and interest in one lump sum, or in not more than 60 monthly installments, provided that no installment, except the final installment, shall be less than twenty-five dollars (\$25). Regular interest shall be charged on the monthly unpaid balance if the nonmember spouse pays in installments.

(B) If any payment due because of the election is not received at the system's office in Sacramento within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(2) The contributions shall be based on the member's compensation earnable in the most recent school year during which



the member was employed, preceding the date of separation established by the court pursuant to Section 22652.

(3) All payments of contributions and interest shall be received by the system before the effective date of the retirement of the nonmember.

(d) The nonmember spouse shall not have a right to purchase additional service credit under this part after the effective date of a refund of the accumulated retirement contributions in the separate account of the nonmember spouse.

(e) The member shall not have a right to purchase the community property interest of the nonmember spouse of additional service credit under this part whether or not the nonmember spouse elects to purchase the additional service credit. However, any additional service credit eligible for purchase that is not explicitly awarded to the nonmember spouse by the judgment or court order shall be deemed the exclusive property of the member.

SEC. 72. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance under this part.

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

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

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

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

(b) A service retirement allowance of a nonmember spouse under this part shall become effective upon any date designated by the nonmember spouse, provided:

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

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

(3) The effective date is no earlier than the first day of the month in which the application is received at the system's office in



Sacramento and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

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

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

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

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

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

If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be



paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the benefits for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the benefits for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

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

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

SEC. 72.5. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance under this part.

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

(1) The member had at least five years of credited service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated retirement contributions. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, out-of-state service, and permissive service credit which the member is eligible to purchase at the time of the dissolution or legal separation.

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



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

(b) A service retirement allowance of a nonmember spouse under this part shall become effective upon any date designated by the nonmember spouse, provided:

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

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

(3) The effective date is no earlier than the first day of the month in which the application is received at the system's office in Sacramento and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

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

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

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

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

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

If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to



coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the benefits for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the benefits for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

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

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

SEC. 73. Section 22665 of the Education Code is amended to read:

22665. The system shall include the service credit awarded to a nonmember spouse in the judgment or court order to determine the eligibility of a member for a retirement or disability allowance under this part. That portion of awarded service credit based on previously refunded contributions or on permissive service credit may not be used by the member for eligibility requirements until the member has redeposited or purchased his or her portion of the service credit.



The member's service retirement allowance shall be calculated based on the service credit in the member's account on the effective date of service retirement.

SEC. 74. Section 22700 of the Education Code is amended to read:

22700. This chapter governs the computation of service to be credited under this part to a member of the Defined Benefit Program for the purpose of determining eligibility for benefits under the program, the amount of contributions required of the member in the program, and the amount of benefits paid to a retired member under the program.

SEC. 75. Section 22703 of the Education Code is amended to read:

22703. (a) Service shall be computed by school years and not by calendar years, portions of years served being accumulated and counted as service. All of the creditable service performed during any one school year subject to coverage under the Defined Benefit Program shall not count for more than one year.

(b) In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits which he or she would have received for that service under the provisions of this part as they existed on June 30, 1956. This paragraph does not apply to service which is credited in the San Francisco City and County Employees Retirement System.

SEC. 76. Section 22705 of the Education Code is amended to read:

22705. No service shall be included under this part for which a member of the Defined Benefit Program is entitled to receive a retirement benefit in a lump sum or installment payments, for other than military service, from any public retirement system other than this system, or under the American Gratuity Act No. 4151 relating to service in the Philippine Islands under which 15 or more years of creditable service has accrued, or the San Francisco City and County Employees Retirement System. If a retired member under this part becomes entitled to such a retirement benefit, his or her retirement allowance shall be reduced thereafter to exclude the service upon which the retirement benefit is based, without other change in his or her retirement status.

SEC. 77. Section 22705.5 is added to the Education Code, to read:

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

SEC. 78. Section 22706 of the Education Code is amended to read:



22706. A member shall not receive credit for service performed while receiving a retirement or disability allowance from the Defined Benefit Program.

SEC. 79. Section 22708 of the Education Code is amended to read:

22708. The calculations of retirement allowances under this part for state employees in the personal leave program shall include credit for service that would have been credited had the employee not been in the personal leave program. The costs that result from the increased service credit shall be paid for by the employer in a manner prescribed by the system.

SEC. 80. Section 22709 of the Education Code is amended to read:

22709. A member shall receive credit under this part for time during which the member is prevented from performing creditable service subject to coverage under the Defined Benefit Program, by act of God, or by reason of the closing of a school by any duly authorized officer or body. If by reason of a member's Japanese ancestry, the member was required by the Wartime Civil Control Administration to leave his or her teaching position in California and returned prior to July 1, 1972, to service subject to coverage under the Defined Benefit Program, the system shall give the member four years of service credit under this part.

SEC. 81. Section 22710 of the Education Code is amended to read:

22710. (a) Service shall be credited under this part, upon payment of the contributions required under Sections 22901 and 22950, for that time during which a member is excused from performance of creditable service and for which the member receives workers' compensation, or compensation from an insurance carrier of the employer, due to injury or illness that arose out of and in the course of the member's employment. Service for that time shall be credited in the proportion that the creditable compensation paid to the member bears to the compensation earnable by the member.

(b) The amount of creditable compensation paid to the member shall not exceed the compensation earnable by the member during the period of absence specified in subdivision (a).

SEC. 82. Section 22711 of the Education Code is amended to read:

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

(1) The member was employed and performed creditable service subject to coverage under this Defined Benefit Program in the month prior to commencement of the leave of absence.

(2) The member makes contributions to the Teachers' Retirement Fund in the amount that the member would have contributed had the member performed creditable service on a



full-time basis during the period the member served as an elected officer of the employee organization.

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

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

SEC. 83. Section 22712 of the Education Code is amended to read:

22712. A member under this part shall receive credit for time served as an exchange teacher in any location.

SEC. 84. Section 22712.5 of the Education Code is amended to read:

22712.5. All members under this part who are employed by a school district, community college district, or superintendent of schools and who received credit during the school year ending June 30, 1996, for service performed as a community service teacher or in a classified position that does not qualify for membership in the Public Employees' Retirement System, shall continue to receive credit for that service performed after June 30, 1996, provided the member remains continuously employed to perform that service.

SEC. 85. Section 22713 of the Education Code is amended to read:

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

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

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

(2) The member shall have been employed full time to perform creditable service subject to coverage under the Defined Benefit Program for at least 10 years including five years immediately preceding the reduction in workload.



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

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

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

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

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

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

(d) The member shall make contributions to the Teachers' Retirement Fund in the amount that the member would have contributed had the member performed creditable service on a full-time basis subject to coverage under the Defined Benefit Program.

(e) The employer shall contribute to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member had the member performed creditable service on a full-time basis subject to coverage under the Defined Benefit Program.

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

SEC. 86. Section 22714 of the Education Code is amended to read:

22714. (a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action taken prior to January 1, 1999, determines pursuant to Section 44929 or 87488 that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county office of education would be served by encouraging certificated employees or academic employees to retire for service and that the retirement will either: result in a net savings to the district or county office of education; result in a reduction of the number of certificated employees or academic employees as a result of declining enrollment; or result in the retention of



certificated employees who are credentialed to teach in, or faculty who are qualified to teach in, teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service shall be credited under this part to a member of the Defined Benefit Program if all of the following conditions exist:

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

(2) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit under this section and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of additional service credit pursuant to this section and the amount the member would have received without the additional service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Sections 24414 and 24415. The transfer to the retirement fund shall be made in a manner, and time period not to exceed four years, that is acceptable to the Teachers' Retirement Board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

(g) Any member of the Defined Benefit Program who retires under this part for service under the provisions of Chapter 27 (commencing with Section 24201) with service credit granted under



this section and who subsequently reinstates shall forfeit the service credit granted under this section.

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

SEC. 87. Section 22715 of the Education Code is amended to read:

22715. (a) Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interest of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited under this part to members of the Defined Benefit Program, who are state employees, if the following conditions exist:

(1) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order specifying that period.

(2) The appointing power, as defined in Section 18524 of the Government Code, transfers to the retirement fund an amount determined by the board to equal the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without the service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(3) The appointing power determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the Department of Finance and to the Legislative Analyst, as to the specific economies that would be realized if the additional service credit toward retirement were granted.

(b) As used in this section, "member" means a state employee who is employed in a job classification, department, or other organizational unit designated by the appointing power, as defined in Section 18524 of the Government Code.

(c) The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement under this part and the date the member would be required to be retired because of age. The appointing power shall make the payment with respect to all eligible employees who retire pursuant to this section.



(d) Any member who qualifies under this section, upon subsequent reinstatement under this part, shall forfeit the service credit granted under this section.

(e) This section shall not be applicable to any member otherwise eligible if that member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

(f) The benefit provided by this section shall not be applicable to the employees of any appointing power until the Director of Finance approves the transmittal of funds by that appointing power or the Board of Regents or the Board of Trustees to the retirement fund pursuant to paragraph (2) of subdivision (a).

(g) The Director of Finance shall approve the transmittal of funds by the appointing power not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the chairperson of the Joint Legislative Budget Committee, or not sooner than any lesser time that the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy of the communication shall be transmitted to the chairperson of each appropriate policy committee.

SEC. 88. Section 22716 of the Education Code is amended to read:

22716. Notwithstanding any other provision of law, a member of the Defined Benefit Program upon any subsequent service under unpaid contract or any other unpaid basis with the trustees, shall not be required to forfeit the service credit granted under former Section 22732, as it read on June 29, 1993.

SEC. 89. Section 22718 of the Education Code is amended to read:

22718. (a) The Teachers' Retirement Board shall establish rules and regulations for the purpose of billing school employers for service credit granted for sick leave under this part, including, but not limited to, both of the following provisions:

(1) The billing shall be authorized only if the employer grants more than one day of sick leave per pay period of at least four weeks to members of the Defined Benefit Program.

(2) The employer shall be billed only for the present value of sick leave days granted in excess of one day per pay period of at least four weeks.

(b) If a school employer fails to pay a bill charged according to the rules and regulations established pursuant to subdivision (a), the Teachers' Retirement Board may request the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, to reduce state apportionments to the school employer by an amount equal to the amount billed. The



superintendent or chancellor shall make the reduction, and if requested by the board, direct the Controller to reduce the amount transferred from the General Fund to Section A or Section B, as appropriate, of the State School Fund by an equal amount, which shall instead be transferred to the Teachers' Retirement Fund.

SEC. 90. Section 22721 of the Education Code is amended to read:

22721. Except as provided in Section 22717, no service credit shall be granted under this part for any payment made for accumulated sick leave upon transfer from one employer to another, upon termination of service, upon retirement, or upon death. No contributions under this part shall be withheld from any such payments. Payments for accumulated sick leave shall be paid to the member by separate warrant and shall not be included in any payroll warrant issued to the member. The payments shall not be included in the determination of "final compensation" under this part. No continued leave of absence shall be granted a member solely for the purpose of allowing the member to receive compensation for accumulated sick leave for which the member could otherwise have elected to receive payment.

SEC. 91. Section 22800 of the Education Code is amended to read:

22800. (a) Claims for permissive and additional service credit under this part shall be corroborated by a statement from the superintendent of schools or custodian of records of the employer for which the service was performed.

(b) Claims for creditable service under this part performed outside the United States or in federal schools within the United States shall be corroborated by a statement from the custodian of records.

(c) When the official records of the service have been destroyed, the claim may be corroborated by one or more affidavits of knowledge of the service, preferably by persons who served with the member at the time the service was performed.

SEC. 92. Section 22802 of the Education Code is amended to read:

22802. (a) A member who was previously excluded from membership in the Defined Benefit Program may elect to receive credit for:

- (1) Service as a substitute excluded under Section 22602.
- (2) Service performed on a part-time basis excluded under Section 22601.5 or Section 22604.
- (3) Adult education service excluded under Section 22603, as it read on December 31, 1995.
- (4) Service as a school nurse excluded under Section 22606, as it read on December 31, 1995.
- (5) Service performed in a position prior to the date the position was made subject to coverage under the Defined Benefit Program.
- (6) Service subject to coverage under the Defined Benefit Program performed while a member of another California public



retirement system, provided the member has ceased to be a member of, and has ceased to be entitled to benefits from, the other retirement system. The member shall not receive credit for the service if the member may redeposit withdrawn contributions and subsequently be eligible for any benefits based upon the same service or based upon other full-time service performed during the same period, from another California public retirement system.

(b) A member who elects to receive credit under this part for service performed while excluded from membership under the Defined Benefit Program shall pay the required contributions for all such service.

SEC. 93. Section 22805 of the Education Code is amended to read:

22805. (a) A member may elect to receive credit under this part for time served in the active military service of the United States or of this state, including active service in any uniformed auxiliary to any branch of that military service authorized as an auxiliary by the United States Congress or the California State Legislature, or in the full-time paid service of the American Red Cross prior to September 1957, if both of the following conditions exist:

(1) The time served was during war with any foreign power or during other national emergency, or in time of peace if the member was drafted for that service by the United States government.

(2) The member was employed to perform creditable service subject to coverage by the plan within one year prior to entering that service. Time included under this section shall be considered as served in the state in which the member was last employed before entering that service.

(b) Time during which the member is absent without compensation for other cause, on leave, or otherwise, shall not be included.

SEC. 94. Section 22806 of the Education Code is amended to read:

22806. (a) A member who is a state employee who retired on or after December 31, 1981, and who was at retirement a state employee may elect to receive credit under this part, of not to exceed four years, for time served of not less than one year, prior to membership in the Defined Benefit Program, in the armed forces of the United States or in the Merchant Marine of the United States prior to January 1, 1950. Service credit shall not be granted if that service terminated with a discharge under dishonorable conditions. The service credit to be accorded pursuant to this section for that service shall be on the basis of one year of credit for each five years of credited service, but shall not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent service. A member electing to receive credit under this part for that service shall have been credited with at least 10 years of service on the date of election or the date of retirement.



(b) An election by a member with respect to service credit under this section may be made only while the member is in state or university employment, and a retired member shall have retired immediately following service as a member who was at retirement a state employee. The retirement allowance of a member who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(c) A member who elects to become subject to this section shall pay all reasonable administrative costs and contributions, sufficient to cover the total employer and employee cost plus interest of the military service credit, at rates to be determined by the board. The amount shall be contributed in lump sum or by installments over the period and subject to those minimum payments as may be prescribed by regulations of the board. Payments for administrative costs shall be credited to the current appropriation for support of the board and available for expenditure by the board to fund positions deemed necessary by the board to implement this section.

(d) The board has no duty to locate or notify any member or to provide the name or address of any member, agency, or entity for the purpose of notifying those persons.

SEC. 95. Section 22807 of the Education Code is amended to read:

22807. (a) A member of the Defined Benefit Program who voluntarily requests or agrees to an extension of his or her original term of enlistment, service, or tour of duty shall not receive credit under this part for time served during the extension of military service after December 31, 1958.

(b) In no event shall a member receive credit for more than four years of military service performed after June 30, 1998, except where otherwise authorized in accordance with Chapter 14.5 (commencing with Section 22850).

SEC. 96. Section 22808 of the Education Code is amended to read:

22808. A member of the Defined Benefit Program shall not be required to pay contributions under this part to receive credit for service under Section 22805 under any of the following conditions:

(a) The service was performed after September 15, 1940, and the member returned to employment subject to coverage under the Defined Benefit Program prior to March 19, 1948.

(b) The service was performed prior to January 1, 1950, and the member was continuously performing the service prior to that date and returned to employment subject to coverage under the Defined Benefit Program within six months following the termination of the service.

(c) The service was performed prior to September 14, 1978, and the member entered that service after December 31, 1949, and returned to employment subject to coverage under the Defined



Benefit Program within six months following the termination of the service.

(d) The service was performed prior to January 1, 1992, and the member entered that service after August 1, 1990, and retired or returned to employment subject to coverage under the Defined Benefit Program and earned additional service credit within six months following the termination of that service or within six months after the completion of any period of rehabilitation offered by the United States government, excluding rehabilitation solely for educational purposes. Notwithstanding Section 22250, 22251, or 22253, employers of members subject to this section shall not be required to make the contributions required by Chapter 16 (commencing with Section 22950).

SEC. 97. Section 22809 of the Education Code is amended to read:

22809. A member of the Defined Benefit Program may elect to receive credit under this part for teaching service performed within and outside of this state in a war relocation center administered by the Wartime Civil Control Administration if all of the following conditions exist:

(a) By reason of the member's Japanese ancestry the member was placed in a war relocation center prior to becoming a member of the Defined Benefit Program.

(b) The member earned compensation for service in a teaching capacity in the relocation center.

(c) The member possessed a valid California teaching credential issued by the State Department of Education or had a bachelor's degree in education from a California postsecondary institution.

SEC. 98. Section 22810 of the Education Code is amended to read:

22810. (a) Any member of the Defined Benefit Program, who was a member of the program on June 30, 1944, may elect to receive credit under this part for the following service performed prior to July 1, 1944, in other states, territories, or possessions of the United States, or in Canada:

(1) Service in a teaching position that in this state would be subject to coverage under the Defined Benefit Program.

(2) Service in a teaching position in a publicly supported and administered university or college.

(3) Service in a teaching position with the Civilian Conservation Corps or in an Indian school supported and administered by the United States government.

(4) Service in a publicly supported residential school for the deaf or the blind.

(b) In no event shall the member receive credit for this service if the member has received or is eligible to receive credit for the same service in another retirement system.

SEC. 99. Section 22821 of the Education Code is amended to read:



22821. A member's election to purchase out-of-state service credit pursuant to this chapter shall be submitted in writing and shall include information as required by the board.

SEC. 100. Section 22823 of the Education Code is amended to read:

22823. (a) A member who elects to receive credit for out-of-state service as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the Defined Benefit Program.

(b) (1) Any payment that a member may make to the system to obtain credit for out-of-state service pursuant to this chapter shall be paid in full prior to the effective date of a family, survivor, disability, or retirement allowance.

(2) If the system is unable to inform the member of the amount required to purchase out-of-state service prior to the effective date of the applicable allowance, the member may make payment in full within 30 days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later.

(c) Contributions for out-of-state service credit shall be made in a lump sum, or in not more than 120 monthly installments. No installment, except the final installment, shall be less than twenty-five dollars (\$25).

(d) Regular interest shall be charged on the monthly unpaid balance if the member makes installment payments.

SEC. 101. Section 22850 of the Education Code is amended to read:

22850. (a) The Legislature hereby declares its intent to provide benefits under this part to reemployed members who have been absent from a position of employment subject to coverage under the Defined Benefit Program to perform service in the uniformed services of the United States in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code).

(b) The system shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(c) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, and a period for which a member is absent from a position of employment for the purpose of an examination to determine the fitness of the member to perform any duty.



(d) “Uniformed services” means the Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

(e) Except as provided in Section 22851, no benefit shall accrue during the period of service in the uniformed services if the member does not return to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code.

SEC. 102. Section 22851 of the Education Code is amended to read:

22851. The right to pension benefits under this part of a member who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, and is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be determined under this section.

(a) (1) A member shall be treated as not having incurred a break in service by reason of that member’s eligible period or periods of service in the uniformed services.

(2) Each eligible period of service served by a member in the uniformed services shall, upon return to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, be deemed to constitute service with the employer or employers toward plan vesting and eligibility for membership in the Defined Benefit Program.

(3) A member who returns to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall not be entitled to any benefits under this part in respect of service in the uniformed services to which the member would not otherwise have been entitled had the member remained continuously employed and not undertaken such service in the uniformed services.

(b) For purposes of calculating benefits, a member who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall be entitled to service credit under this part for the eligible period of service in the uniformed services upon his or her payment of the member contributions required under Section 22901 that otherwise would have been due for such period of service had the member remained continuously employed and not undertaken such service in the uniformed services. No such payment



of member contributions may exceed the amount the member would have been required to contribute under this part had the member not served in the uniformed services and had remained continuously employed by the employer throughout the eligible period of service in the uniformed services. If a member fails to remit the member contributions that would have been required under Section 22901 in respect of the eligible period of service in the uniformed services no service credit shall be provided under this part for the period to which the omitted contributions relate.

(c) Any payment of member contributions to the Defined Benefit Program in this section shall be made by the member during the period beginning with the date of return to employment and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any payment of member contributions to the Defined Benefit Program in this section by a member who returned to employment prior to January 1, 1997, and qualifies for benefits in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code), shall be made by the member during the period beginning with the date of notification of eligibility by the employer to the system and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any subsequent request to purchase this service shall be subject to the provisions of Chapter 14 (commencing with Section 22800). If all contributions due under this part are not paid to the plan with respect to the Defined Benefit Program within the specified repayment period and in accordance with subdivision (b) of Section 22851 the contributions shall be returned to the member at the end of the repayment period. Interest on member contributions made for the eligible period of service in the uniformed services shall not be credited under this part until after the contributions due are paid and then only prospectively to the member's account in accordance with Section 22216.

SEC. 103. Section 22852 of the Education Code is amended to read:

22852. (a) An employer reemploying a member of the Defined Benefit Program with service subject to the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be liable to the plan for the employer contributions under this part provided that employer was the last employer employing the member immediately prior to the period served by the member in the uniformed services.

(b) For purposes of determining the amount of that liability under this part and any obligation to the plan with respect to the Defined Benefit Program, interest shall not be included in the liability to the plan.



(c) Subject to subdivision (e), the employer shall pay the employer contributions for the eligible period of service in the uniformed services, that would have been required under Sections 22950 and 22951 had the member remained continuously employed during that period of eligible service in the uniformed services.

(d) The employer shall not be liable for employer contributions under this part for the eligible period of service in the uniformed services to the extent that the member fails to remit the member contributions for such period.

(e) The employer shall provide information regarding the reemployment of a member who is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United State Codes on a form prescribed by the system within 30 days of the date of reemployment.

(f) Employers shall remit to the plan with respect to the Defined Benefit Program the employer contributions required under subdivision (c) within 60 working days of the date the system notifies the employer of the amount of contributions due with respect to the member who elects to remit the member contributions for the eligible period of service in the uniformed services.

(g) If the employee does not comply with subdivision (b) of Section 22851 within the time period specified, the employer contributions that were remitted for that period shall be adjusted pursuant to Section 23008.

SEC. 104. Section 22853 of the Education Code is amended to read:

22853. For purposes of computing an employer's contributions for the eligible period of service or the member's contributions under this part, the employee's compensation earnable during the period shall be computed as follows:

(a) The compensation earnable the member would have received for the eligible period of service.

(b) In the event the compensation earnable is not reasonably certain, the employer's contributions and member's contributions shall be based on the member's average compensation earnable during the 12-month period immediately preceding the eligible period of service in the uniformed services or, if shorter, the period of employment immediately preceding that period of service.

SEC. 105. Section 22854 of the Education Code is amended to read:

22854. A reemployed member who has been absent from a position of employment subject to coverage under the Defined Benefit Program to perform service in the uniformed services, pursuant to Section 22850, for a period in excess of five years shall not be entitled to service credit or credit for plan vesting purposes under this part, except where the service in the uniformed services has exceeded five years for the following reasons:



(a) The member is required to serve beyond five years to complete an initial period of obligated service.

(b) The member was unable to obtain orders releasing the member from a period of service in the uniformed services before the expiration of the five-year period and that inability was through no fault of the member.

(c) The member served in the uniformed services as required pursuant to Section 270 of Title 10 of the United States Code, Section 502(a) or 503 of Title 32 of the United States Code, or to fulfill additional training requirements determined and certified in writing by the Secretary of Defense, to be necessary for professional development, or for completion of skill training or retraining.

(d) The member is ordered to do any of the following:

(1) Ordered to or retained on active duty under Section 672(a), 672(g), 673, 673(b), 673(c), or 688 of Title 10 of the United States Code or under Section 331, 332, 359, 360, 367, or 712 of Title 14 of the United States Code.

(2) Ordered to or retained on active duty, other than for training, under any provision of law during a war or during a national emergency declared by the President or the Congress.

(3) Ordered to active duty, other than for training, in support, as determined by the secretary concerned, of an operational mission for which personnel have been ordered to active duty under Section 673(b) of Title 10 of the United States Code.

(4) Ordered to active duty in support, as determined by the secretary concerned, of a critical mission or requirement of the uniformed services.

(5) Called into federal service as a member of the National Guard under Chapter 15 (commencing with Section 331) of Title 10 of the United States Code or under Section 3500 or 8500 of Title 10 of the United States Code.

SEC. 106. Section 22855 of the Education Code is amended to read:

22855. A member of the Defined Benefit Program shall have no right to the benefits under this part otherwise accorded under this chapter in respect of service in the uniformed services upon the occurrence of any of the following events:

(a) A separation of the member from the uniformed service with a dishonorable or bad conduct discharge.

(b) A separation of the member from the uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the secretary concerned.

(c) A dismissal of the member permitted under Section 1161(a) of Title 10 of the United States Code.

(d) A dropping of the member from the rolls pursuant to Section 1161(b) of Title 10 of the United States Code.



SEC. 107. Section 22856 of the Education Code is amended to read:

22856. No provision of this chapter shall apply to the extent it would require any action to be taken that would cause the plan or its members under this part to incur adverse tax consequences under the Internal Revenue Code of 1986 (Title 26 of the United States Code).

SEC. 108. Section 22900 of the Education Code is amended to read:

22900. Acceptance of employment to perform creditable service subject to coverage under the Defined Benefit Program is consent to have contributions deducted from compensation.

SEC. 109. Section 22901 of the Education Code is amended to read:

22901. Each member of the Defined Benefit Program shall contribute to the retirement fund an amount equivalent to 8 percent of the member's creditable compensation.

SEC. 110. Section 22902 of the Education Code is amended to read:

22902. Members' accumulated retirement contributions and those other contributions required for credited service under this part shall be in the amounts required based on rates of contribution applicable for the years included in that period.

SEC. 111. Section 22903 of the Education Code is amended to read:

22903. Notwithstanding Sections 22901, 22956, and 23000, each school district, community college district, county board of education, and county superintendent of schools, may pick up, for the sole purpose of deferring taxes, as authorized by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the contributions required to be paid under this part by a member of the Defined Benefit Program, provided that the contributions are deducted from the creditable compensation of the member.

SEC. 112. Section 22904 of the Education Code is amended to read:

22904. Notwithstanding any other provision of law, the state may pick up all or a portion of the contributions required to be paid under this part by a state employee who is a member of the Defined Benefit Program, provided that the contributions are deducted from the creditable compensation of the member. The pickup of member contributions shall be through a salary reduction program pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)). These contributions shall be reported as employer-paid member contributions, and shall be credited to the account of the member.



SEC. 113. Section 22906 of the Education Code is amended to read:

22906. If at the time of retirement, disability, or death, there are contributions remaining to the credit of the member that were made with respect to time on the basis of which a benefit will not be payable under this part, the board shall refund the contributions as it may allocate to the time.

SEC. 114. Section 22907 of the Education Code is amended to read:

22907. Accumulated retirement contributions credited under this part to the account of a member whose date of birth is changed in the records of the system after December 31, 1979, shall be adjusted to the proper amount based on the correct birth date by either of the following methods:

(a) A refund of the excess contributions plus credited interest from the end of the school year in which contributions were overpaid because of the incorrect birth date.

(b) Payment by the member of the contributions due to the plan under this part plus regular interest from the end of the school year in which the contributions were underpaid to the date of payment.

SEC. 115. Section 22950 of the Education Code is amended to read:

22950. Employers shall contribute monthly to the Teachers' Retirement Fund 8 percent of the creditable compensation upon which members' contributions under this part are based.

SEC. 116. Section 22951 of the Education Code is amended to read:

22951. In addition to any other contributions required by this part, employers shall contribute monthly to the Teachers' Retirement Fund 0.25 percent of the creditable compensation upon which members' contributions under this part are based.

SEC. 117. Section 22951.5 of the Education Code is amended to read:

22951.5. In addition to any other contributions required by this part, if the board determines that the Supplemental Benefit Maintenance Account will not have sufficient funds to make the maximum payment under this part pursuant to Section 24417, the board may increase the employer contribution rate as provided in Section 24416.

SEC. 118. Section 22952 of the Education Code is amended to read:

22952. (a) Effective January 1, 1980, in addition to all other contributions required by this part, on account of liability for benefits pursuant to Section 24407, employers shall contribute monthly to the Teachers' Retirement Fund 0.307 percent of the creditable compensation upon which members' contributions under this part are based.



(b) The Controller shall adjust the contributions required by this section within 10 days of notification by the board of the actual creditable compensation on which the contributions are based. A copy of the notification shall be transmitted to the Legislature, the Director of Finance, the Office of the Legislative Analyst, and the Commission on State Mandates. The payroll data shall be subject to audit by the Controller pursuant to Section 17558.5 of the Government Code.

SEC. 119. Section 22954 of the Education Code is amended to read:

22954. (a) In addition to any other contributions required by this part, on July 1, 1990, and on July 1 of each subsequent year, the Controller, subject to Section 24414, shall transfer, based on estimated payroll data provided by the board, the following percentages of the total of the prior year creditable compensation upon which members' contributions under this part are based to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund, for the purpose of funding the supplemental payments authorized under Section 24415:

- (1) For the fiscal year ending June 30, 1991 0.50%
- (2) For the fiscal year ending June 30, 1992 1.00%
- (3) For the fiscal year ending June 30, 1993 1.50%
- (4) For the fiscal year ending June 30, 1994 2.00%
- (5) For the fiscal year ending June 30, 1995, and each
fiscal year thereafter 2.50%

These transfers shall be based upon estimated payroll data provided to the Director of Finance by the board and shall be adjusted in January of that same fiscal year to reflect actual payroll data.

(b) The board may deduct from the annual state contributions made pursuant to this section an amount necessary for the administrative expenses to implement Section 24415, subject to the annual Budget Act.

(c) Notwithstanding any other provision of law, it is the intent of the Legislature, in establishing the Supplemental Benefit Maintenance Program embodied in this section and Sections 22400, 24414, and 24415, to manifest a contractually enforceable promise to repay the Teachers' Retirement Fund in full, with interest, as provided in subdivision (b) of Section 24414, for all transfers or advances made from the Teachers' Retirement Fund pursuant to subdivision (a) of Section 24414 and for any funds appropriated by Item No. 1920-111-835 of the Budget Act of 1989 from the Teachers' Retirement Fund to provide purchasing power protection payments.



(d) Except as provided in subdivision (c), the Legislature reserves the right to reduce or terminate the state's contributions to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund provided by this section and to reduce or terminate the distributions required by Section 24415. It is intended that any legislative reduction or termination of the state's contributions to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund provided by this section or any reduction or termination of distributions required by Section 24415, shall be effectuated by a separate statute rather than by the annual Budget Act.

SEC. 120. Section 22956 of the Education Code is amended to read:

22956. Employer and state contributions made to the plan under this part are to finance the employer obligation for all members of the Defined Benefit Program and, therefore, shall not be credited to the individual member accounts. These contributions shall be held in the reserves of the plan to finance the employers' share of the cost of all benefits payable under the plan with respect to the Defined Benefit Program. Under no circumstances shall employer contributions be allocated or awarded to individual members, their spouses, or beneficiaries.

SEC. 121. Section 23003 of the Education Code is amended to read:

23003. (a) If a county superintendent of schools or employing agency other than a school district or community college district fails to make payment of contributions as provided in Section 23002, the board may assess penalties.

(b) The board may charge regular interest on any delinquent contributions under this part until the contributions have been received by the system.

SEC. 122. Section 23005 of the Education Code is amended to read:

23005. Monthly reports are due in the office of the system 30 calendar days immediately following the month in which the compensation being reported under this part was earned, and are delinquent 15 calendar days immediately thereafter.

SEC. 123. Section 23006 of the Education Code is amended to read:

23006. (a) If a county superintendent of schools or employing agency other than a school district or community college district submits monthly reports late or in unacceptable form, the board may assess penalties.

(b) The board may assess penalties, based on the sum of the employer and employee contributions required under this part by the report for late or unacceptable submission of reports, at a rate of



interest equal to the regular interest rate or a fee of five hundred dollars (\$500), whichever is greater.

SEC. 124. Section 23101 of the Education Code is amended to read:

23101. When a member's accumulated retirement contributions are refunded, as provided in Section 23100, all rights to benefits pertaining to the service credit represented by those contributions under this part are forfeited. Those rights and benefits, based upon service performed prior to refund, shall not be restored until the member has redeposited the total of the refunded accumulated retirement contributions, and paid the regular interest thereon as provided in Chapter 19 (commencing with Section 23200).

SEC. 125. Section 23102 of the Education Code is amended to read:

23102. Prior to the system paying a refund of accumulated retirement contributions under this part, the employer shall certify that the member's employment has been terminated.

SEC. 126. Section 23103 of the Education Code is amended to read:

23103. Refunds to a member shall be made upon request of the member, or may be made without a request if it appears to the board that the member's employment is permanently terminated and the member does not have enough credited service under the Defined Benefit Program to qualify for service retirement under this part.

SEC. 127. Section 23104 of the Education Code is amended to read:

23104. (a) Deposit in the United States mail of an initial warrant drawn as directed by the member as a refund of contributions upon termination of employment, and addressed to the address directed by the member, constitutes a return of the member's accumulated retirement contributions under this part.

(b) If the member has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the member's accumulated retirement contributions under this part.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's office in Sacramento within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified



plan and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's office in Sacramento within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

SEC. 128. Section 23106 of the Education Code is amended to read:

23106. If a member ceases to be entitled to credit for service in the Defined Benefit Program because the member has become entitled to credit for that service in another retirement system supported wholly or in part by funds of the United States government, or any state government or political subdivision thereof, the member is entitled to a refund of the accumulated retirement contributions made during the period for which he or she is entitled to credit in the other retirement system.

SEC. 129. Section 23107 of the Education Code is amended to read:

23107. Any member of the Defined Benefit Program without terminating membership in the program and upon making application on forms provided by the system shall be paid a refund of the accumulated annuity deposit contributions under this part.

SEC. 130. Section 23200 of the Education Code is amended to read:

23200. (a) If a person, whose accumulated retirement contributions have been refunded, again becomes a member of the Defined Benefit Program, the person may elect to redeposit those contributions with regular interest from the date of refund to the date of payment. If the member elects to redeposit, the member shall repay all accumulated retirement contributions that were previously refunded under this part.

(b) For time prior to July 1, 1944, regular interest shall be at 2 1/2 percent compounded annually.

(c) If a nonmember spouse, as defined in Section 22651, withdraws accumulated contributions in accordance with Section 22661, the member may redeposit a sum equal to those contributions pursuant to subdivision (a), providing he or she is not receiving an allowance under Chapter 26 (commencing with Section 24100) or Chapter 27 (commencing with Section 24201).

SEC. 131. Section 23202 of the Education Code is amended to read:

23202. (a) An election pursuant to Section 23200 to redeposit accumulated retirement contributions may be made by a member anytime prior to the effective date of the member's retirement under this part.

(b) An election to redeposit refunded accumulated retirement contributions shall be considered as an election to repay all



accumulated retirement contributions previously refunded under the provision of this chapter.

(c) If any payment due because of this election is not received at the system's office in Sacramento within 120 days of its due date, the election shall be canceled. Upon the cancellation of election any payments made under the election shall be refunded.

(d) If the election is canceled, the member may at any time prior to the effective date of retirement under this part, again elect to redeposit accumulated retirement contributions previously withdrawn or refunded, in accordance with Section 23200 and all the laws, rules, and regulations pertaining thereto.

SEC. 132. Section 23203 of the Education Code is amended to read:

23203. Redeposit of refunded accumulated retirement contributions under this part shall be made in one sum, or in not more than 60 monthly installments, provided that no installment, except the final installment, shall be less than twenty-five dollars (\$25).

SEC. 132.5. Section 23203 of the Education Code is amended to read:

23203. Redeposit of refunded accumulated retirement contributions under this part shall be made in one sum, or in not more than 120 monthly installments, provided that no installment, except the final installment, shall be less than twenty-five dollars (\$25).

SEC. 133. Section 23300 of the Education Code is amended to read:

23300. (a) A member of the Defined Benefit Program may at any time designate a beneficiary, or change the designation of a beneficiary, to receive benefits payable under this part, except that no beneficiary designation may be made in derogation of the community property share of any nonmember spouse under this part when any such benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for distribution pursuant to Section 2610 of the Family Code. A designation of beneficiary shall be in writing on a form prescribed by the system, executed by the member, witnessed by two witnesses, neither of whom may be beneficiaries. To be valid the instrument shall be received in the office of the system in Sacramento before the member's death.

(b) Except as otherwise stated in this section, the designation of beneficiary, other than an option beneficiary, may be revoked by the member making the designation, and a different beneficiary designated in the same manner as provided in this section.

SEC. 134. Section 23301 of the Education Code is amended to read:



23301. A corporation, trust, eleemosynary, parochial institution, or public entity may be designated as a beneficiary under this part. However, they may not be designated as option beneficiaries.

SEC. 135. Section 23302 of the Education Code is amended to read:

23302. Payment under this part to a beneficiary designated in the form on file in the system at the date of death by a warrant drawn prior to any claim under community property rights shall constitute full discharge of any and all liability of the board, system, and plan by reason of the member's death.

SEC. 136. Section 23303 of the Education Code is amended to read:

23303. (a) If the whereabouts of the designated beneficiary cannot be determined, or if the beneficiary is the estate of the deceased person, the board may pay to the undertaker who conducted the funeral, or to any person who, or any organization that, has paid the undertaker from funds owned by the person or organization, in its discretion all or a portion of any amount payable under this part, but not to exceed the funeral expenses of the deceased person, or the portion of the expenses paid by the person or organization, as evidenced by the sworn itemized statement of the undertaker, person, or organization and by any other documents the board may require.

(b) The payment shall be in full and complete discharge and acquittance of the board, system, and plan up to the amount paid.

SEC. 137. Section 23304 of the Education Code is amended to read:

23304. If no beneficiary designation is in effect on the date of death, any benefit payable under this part shall be paid to the estate of the member. Payment pursuant to the board's determination in good faith upon evidence satisfactory to it of the existence, identity or other facts relating to entitlement of persons under this section shall constitute a complete discharge and release of the system and plan from liability for the benefit.

SEC. 138. Section 23700 of the Education Code is amended to read:

23700. (a) New survivor benefit and disability retirement programs that are provided under the Defined Benefit Program pursuant to Chapter 23 (commencing with Section 23850) and Chapter 26 (commencing with Section 24100), are effective as of October 16, 1992. All members of the Defined Benefit Program with an effective date of membership in the program on or after October 16, 1992, shall be covered by these survivor benefit and disability retirement programs under this part.

(b) The purpose of this chapter is to set forth the criteria for granting certain members of the Defined Benefit Program, as defined in Section 23702, the opportunity to elect to either retain



coverage under the current family allowance and disability allowance programs pursuant to Chapter 22 (commencing with Section 23800), and Chapter 25 (commencing with Section 24001) or to be covered under the survivor benefit and disability retirement programs.

SEC. 139. Section 23800 of the Education Code is amended to read:

23800. (a) This chapter governs the eligibility, benefit provisions, allowance computations, and related provisions for the death benefits payable under this part upon the death of eligible members. "Members," as used in this chapter, means all members who were receiving a disability allowance on October 15, 1992, and all persons who were members of the plan under this part on October 15, 1992, who were not receiving an allowance and who did not elect, pursuant to Chapter 21.5 (commencing with Section 23700), to be covered under Chapter 23 (commencing with Section 23850).

(b) This chapter also contains three sections related to survivor benefits payable on account of deaths that occurred prior to July 1, 1972.

SEC. 140. Section 23801 of the Education Code is amended to read:

23801. (a) A death payment of no less than five thousand dollars (\$5,000) shall be paid to the beneficiary upon receipt of proof of death of a member who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

- (1) While in employment for which compensation is paid.
- (2) While disabled, if the disability had been continuous from the last day for which compensation had been paid.
- (3) Within four months after termination of service or termination of employment, whichever occurs first.
- (4) Within four months after termination of a disability allowance if no service was performed after the termination.
- (5) Within 12 months of the last day for which compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

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

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

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



SEC. 140.5. Section 23805 of the Education Code is amended to read:

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

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

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

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

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



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

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

SEC. 141. Section 23850 of the Education Code is amended to read:

23850. This chapter governs the eligibility, benefit provisions, allowance computations, and related provisions for the death benefits payable under this part upon the death of eligible members. "Member," as used in this chapter, means all persons who become members of the plan under this part on or after October 16, 1992, and all persons who were members as of October 15, 1992, who elected, pursuant to Chapter 21.5 (commencing with Section 23700), to be covered under the death benefit provisions of this chapter.

SEC. 142. Section 23851 of the Education Code is amended to read:

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

- (1) While in employment for which compensation is paid.
- (2) Within four months after termination of service or termination of employment, whichever occurs first.
- (3) Within 12 months of the last day for which compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

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

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California



Consumer Price Index and adopt as a plan amendment any adjusted amount.

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

SEC. 143. Section 23880 of the Education Code is amended to read:

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

(1) A retired member.

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

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

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

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

SEC. 144. Section 23881 of the Education Code is amended to read:

23881. (a) Upon receipt of proof of death of a retired member who retired under this part after June 30, 1972, and of the retired member's option beneficiary, if the total retirement allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of retirement, the remaining balance of accumulated retirement contributions shall be paid to the beneficiary, if no option was elected, or to the estate of the option beneficiary, if an option was elected.

(b) Payments provided under this section shall include credited interest on the unpaid balance calculated from the date the last allowance payment was made to the date the balance is paid.

SEC. 145. Section 24001 of the Education Code is amended to read:

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

(1) At least four years were credited for actual performance of service subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be



counted toward the four-year requirement in accordance with Section 22710.

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

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

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

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

(6) The member is not applying for a disability allowance because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and remains substantially unchanged at the time of application.

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

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

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

SEC. 146. Section 24001.5 of the Education Code is amended to read:

24001.5. A member shall not be eligible for disability under the Defined Benefit Program while on a leave of absence to serve as a full-time elected officer of an employee organization, even if receiving service credit under Section 22711.

SEC. 147. Section 24002 of the Education Code is amended to read:



24002. The board may authorize payment of a disability allowance to any member who is qualified upon application under this part by the member, the member's guardian or conservator, or the member's employer, if the application is made during any one of the following periods:

(a) While the member is employed or on a compensated leave of absence.

(b) While the member is physically or mentally incapacitated for performance of service and the incapacity has been continuous from the last day of service for which compensation is payable to the member.

(c) While the member is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of service, and within four months after the last day of service for which compensation is payable to the member, or within 12 months of that date if the member is on an employer-approved leave to study at an approved college or university.

(d) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under subdivision (b) and was not made more than four months after the last day of service for which compensation is payable to the member.

(e) A member with a dependent child who becomes disabled prior to normal retirement age, and whose sick leave will extend beyond normal retirement age, may be awarded a disability allowance with an effective date after normal retirement age, if application is filed prior to attaining normal retirement age.

(f) The member is not applying for a disability allowance because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

SEC. 148. Section 24003 of the Education Code is amended to read:

24003. (a) The member shall provide medical documentation to substantiate the impairment qualifying the member for the disability allowance.

(b) On receipt of an application for disability allowance under this part, the system may order a medical examination of a member to determine whether the member is incapacitated for performance of service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member



refuses to submit to the required medical examination, the application for disability allowance shall be rejected. The member shall either remain in this state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations, or the application shall be rejected, unless this requirement is waived by the board. If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability allowance application under this part if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is mentally or physically incapacitated.

(d) If the board determines that a member who has applied for a disability allowance under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability allowance application.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability allowance under this part.

(f) The system shall inform the member of the rejection or cancellation of the member's disability allowance application under this part within 30 days after that determination is made by the system.

SEC. 149. Section 24004 of the Education Code is amended to read:

24004. In cases of a member's willful substance abuse or if the board determines a member who qualifies for a disability allowance pursuant to Section 24001 has mental, physical, or vocational rehabilitation potential, the board may limit the disability allowance under this part to a period not to exceed two years from the date of approval of the disability allowance. Notwithstanding Section 24013, the disability allowance shall terminate at the end of the period granted unless an extension is granted by the board.

SEC. 150. Section 24005 of the Education Code is amended to read:

24005. (a) A disability allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:



(1) An application for disability allowance is filed on a form provided by the system.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received by the system's office in Sacramento, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability allowance is approved under this part, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of approval of the disability allowance, the member's application for a disability allowance shall be rejected and a disability allowance shall not be payable to the member.

SEC. 151. Section 24006 of the Education Code is amended to read:

24006. Upon qualification for disability under this part, a member shall receive an annual allowance equal to 50 percent of final compensation payable in monthly installments. The allowance shall be increased by 10 percent of final compensation for each dependent child, to a maximum of four dependent children.

SEC. 152. Section 24010 of the Education Code is amended to read:

24010. Allowances payable under Sections 24006 and 24007 shall be reduced by an amount equal to the unmodified benefits paid or payable under other public systems for the same impairment or impairments that qualify the member for a disability allowance under this part.

SEC. 153. Section 24011 of the Education Code is amended to read:

24011. A member who qualifies for disability allowance pursuant to this chapter because of a disabling impairment that is amenable to treatment that could be expected to restore the member's ability to perform service in the member's former position of employment or a comparable level position shall participate in a treatment program prescribed by the member's primary treating physician. Willful failure to initiate and continue participation in the treatment program shall cause the disability allowance to be terminated. In determining whether a member has good cause for failure to follow the treatment program, the board shall take into account whether treatment would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has



worsened, as determined by the member's treating physician and substantiated by medical evidence.

SEC. 154. Section 24013 of the Education Code is amended to read:

24013. The board may require any member receiving a disability allowance under this part to undergo medical examination at such times as the board deems necessary. The system may request the member's treating physician, upon authorization by the disabled member, to complete a medical reevaluation questionnaire. The system shall reimburse the disabled member for all reasonable costs related to completion of this questionnaire in an amount not to exceed two hundred fifty dollars (\$250) if the disabled member has no other health coverage that would pay the costs of completing the medical questionnaire. The board may authorize a medical examination to be conducted by the disabled member's treating source at the disabled member's expense and, in any case, may require a medical examination to be conducted by a physician selected by the board, in which event, the board shall pay all reasonable costs associated with the examination. The board shall, in scheduling medical examinations, give consideration to the interests and convenience of the disabled member. If the examination, together with other available information, shows to the satisfaction of the board that the member is no longer disabled, the disability allowance shall be terminated. Should the disabled member refuse to submit to medical examination, as provided in this section, the disability allowance shall be terminated and all rights of the disabled member to the disability allowance shall be revoked.

SEC. 155. Section 24014 of the Education Code is amended to read:

24014. A disabled member may be employed to perform creditable service subject to coverage under the Defined Benefit Program. The employment shall not cause the disability allowance to be suspended or terminated except as provided in Sections 23401, 24013, and 24015, and no deduction shall be made from the disabled member's compensation as contributions to the Defined Benefit Program.

SEC. 156. Section 24015 of the Education Code is amended to read:

24015. Notwithstanding Section 22132, if a person who begins to receive a disability allowance under this part after June 30, 1972, is employed, or is self-employed in any capacity in which his or her average earnings for any prior continuous six months amount to $66\frac{2}{3}$ percent of the indexed final compensation, the person shall be presumed capable of performing gainful employment and no longer disabled. The disability allowance shall be terminated on the first day of the month following the six-month period. Any allowance paid



thereafter shall be considered an overpayment and recovery shall be made.

SEC. 157. Section 24016 of the Education Code is amended to read:

24016. (a) For any one or more months in which the total of a disabled member's allowance under this part, excluding children's portions, and earnings exceed 100 percent of indexed final compensation, 100 percent of the amount in excess shall be considered an overpayment and recovery shall be made.

(b) This action shall not apply to disabled members who have allowances terminated under Section 24015 or who are enrolled in an approved rehabilitation program.

SEC. 158. Section 24017 of the Education Code is amended to read:

24017. If a person who began receiving a disability allowance under this part after June 30, 1972, is enrolled in an approved rehabilitation program and the total of the disability allowance, excluding children's portions, and earnings exceed 100 percent of indexed final compensation, 50 percent of the amount in excess shall be considered an overpayment and recovery shall be made.

SEC. 159. Section 24018 of the Education Code is amended to read:

24018. When a disabled member returns to work in his or her former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, that can be medically substantiated, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability allowance under this part shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day of service for which compensation is payable to the member provided the member complies with the provisions of Section 24003.

SEC. 160. Section 24100 of the Education Code is amended to read:

24100. This chapter governs the eligibility, allowance computations, and related provisions for the disability retirement program. This chapter applies to all persons who become members of the plan under this part on and after October 16, 1992, all persons who become members of the plan on and after October 16, 1992, subsequent to a refund, and to all members as of October 15, 1992, who elect under this part, pursuant to Chapter 21.5 (commencing with Section 23700), to be covered by the disability retirement program set forth in this chapter.

SEC. 161. Section 24101 of the Education Code is amended to read:



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

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

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

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

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

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

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

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

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

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

SEC. 163. Section 24102 of the Education Code is amended to read:



24102. The board may authorize payment of a disability retirement allowance under this part to any member who is qualified upon application by the member, the member's guardian or conservator, or the member's employer, if the application is made during any one of the following periods:

(a) While the member is employed or on a compensated leave of absence.

(b) While the member is physically or mentally incapacitated for performance of service and the incapacity has been continuous from the last day for which compensation is payable to the member.

(c) While the member is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of service, and within four months after the last day of service for which compensation is payable to the member, or within 12 months of that date if the member was on an employer-approved leave to study at an approved college or university.

(d) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under subdivision (b) and was not made more than four months after the last day of service for which compensation is payable to the member.

(e) The member is not applying for a disability retirement allowance because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

SEC. 164. Section 24103 of the Education Code is amended to read:

24103. (a) The member shall provide medical documentation substantiating the impairment qualifying the member for the disability retirement under this part.

(b) On receipt of an application for disability retirement under this part, the system may order a medical examination of a member to determine whether the member is incapacitated for performance of service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability, and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member refuses to submit to the required medical examination, the application for disability retirement shall be rejected. The member shall either remain in this state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations or the application shall be rejected, unless this requirement is waived by the board. If the member is too ill to be examined, the system shall



postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability retirement application under this part if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is mentally or physically incapacitated.

(d) If the board determines that a member who has applied for disability retirement under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability retirement application under this part.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability retirement allowance under this part.

(f) The system shall inform the member of the rejection or cancellation of the member's disability retirement allowance application under this part within 30 days after that determination is made by the system.

SEC. 165. Section 24104 of the Education Code is amended to read:

24104. In cases of a member's willful substance abuse or if the board determines a member who qualifies for disability retirement under this part pursuant to this chapter has mental, physical, or vocational rehabilitation potential, the board may limit the disability retirement to a period not to exceed two years from the date of approval of the disability retirement. Notwithstanding Section 24112, the disability retirement allowance shall terminate at the end of the period granted unless an extension is granted by the board.

SEC. 166. Section 24105 of the Education Code is amended to read:

24105. (a) A disability retirement allowance under this part shall become effective upon any date designated by the member, provided that all of the following conditions are met:

(1) An application for disability retirement is filed on a form provided by the system.

(2) The effective date is later than the last day of service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received at the system's office in



Sacramento, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If a member's application for disability retirement under this part does not contain an election of either an unmodified allowance or an allowance modified under an option and if the member subsequently submits an election, but not within the 30-day period established pursuant to Section 24301, the board shall set a benefit effective date which is no earlier than the first day of the month in which the subsequent election is received by the system. If the member fails to submit an election pursuant to Section 24301 and within six months of the date the acknowledgment notice is mailed pursuant to Section 24301, the member's application for disability retirement under this part shall be rejected.

(c) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability retirement is approved, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of the approval of disability retirement, the member's application for disability retirement shall be rejected and a disability retirement allowance shall not be payable to the member.

SEC. 167. Section 24106 of the Education Code is amended to read:

24106. Upon retirement for disability pursuant to this chapter, a member under this part shall receive a retirement allowance that shall consist of all of the following:

(a) An annual allowance equal to 50 percent of final compensation payable in monthly installments.

(b) An additional 10 percent of final compensation for each dependent child, up to a maximum of 40 percent of final compensation. If there are more than four dependent children, they shall share equally in the maximum allowance of 40 percent. A dependent child may waive his or her right to his or her portion of the allowance in accordance with procedures established by the system.

(c) An annuity that shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of the disability retirement.

SEC. 168. Section 24107 of the Education Code is amended to read:

24107. A member retired for disability under this part may elect an option pursuant to Section 24301 to modify the disability



retirement allowance payable pursuant to subdivision (a) of Section 24106.

SEC. 169. Section 24108 of the Education Code is amended to read:

24108. A retirement allowance payable pursuant to Section 24106 that includes a child's portion shall be reduced when a dependent child becomes ineligible. The reduction shall take into account the increases made by application of the improvement factor. However, the retired member's allowance under this part shall not be less than it could have been if there had never been a dependent child.

SEC. 170. Section 24109 of the Education Code is amended to read:

24109. Retirement allowances payable pursuant to subdivision (a) of Section 24106 shall be reduced by an amount equal to the unmodified benefits paid or payable under a workers' compensation program for the same impairment or impairments that qualify the member for a disability retirement allowance under this part.

SEC. 171. Section 24110 of the Education Code is amended to read:

24110. A member who qualifies for disability retirement under this part pursuant to this chapter because of a disabling impairment that is amenable to treatment that could be expected to restore the member's ability to perform service in the member's former position of employment or in a comparable level position shall participate in a treatment program prescribed by the member's primary treating physician. Willful failure to initiate and continue participation in the program shall cause the disability retirement allowance to be terminated. In determining whether a member has good cause for failure to follow that treatment, the board shall take into account whether the treatment would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened as determined by the member's treating physician and substantiated by medical evidence.

SEC. 172. Section 24111 of the Education Code is amended to read:

24111. (a) A member who qualifies for disability retirement under this part pursuant to this chapter who is determined by the board to have a mental, physical, or vocational rehabilitation potential that could be expected to restore the member's ability to perform service in the member's former position of employment or in a comparable level position shall participate in an appropriate rehabilitation program approved by the board. The board shall pay all reasonable costs of the approved program. Willful failure to initiate and continue participation in the rehabilitation program shall cause the disability retirement allowance under this part to be terminated. In determining whether a member has good cause for failure to participate in the program the board shall take into account



whether the participation would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened as determined by the member's treating physician and substantiated by medical evidence.

(b) Any cost for the approved rehabilitation program prescribed by the board shall be paid directly by the system from the fund.

SEC. 173. Section 24112 of the Education Code is amended to read:

24112. The board may require a member receiving a disability retirement allowance under this part to undergo medical examination at such times as the board deems necessary. The system may request the member's treating physician, upon authorization by the retired member, to complete a medical reevaluation questionnaire. The system shall reimburse the retired member for all reasonable costs related to completion of this questionnaire in an amount not to exceed two hundred fifty dollars (\$250) if the retired member has no other health coverage that would pay for the cost of completing the medical questionnaire. The board may authorize a medical examination to be conducted by the retired member's treating source at the retired member's expense and, in any case, may require a medical examination to be conducted by a physician selected by the board, in which event, the board shall pay all reasonable costs associated with the examination. The board shall, in scheduling medical examinations, give consideration to the interests and convenience of the retired member. If the examination, together with other available information, shows to the satisfaction of the board that the retired member is no longer disabled, the disability retirement allowance shall be terminated. Should the retired member refuse to submit to medical examination, as provided in this section, the member's disability retirement allowance shall be terminated and all rights of the retired member to the disability retirement allowance shall be revoked.

SEC. 174. Section 24113 of the Education Code is amended to read:

24113. A member retired for disability under this part may be employed to perform creditable service subject to coverage under the Defined Benefit Program. The employment shall not cause the disability retirement allowance to be suspended or terminated, except as provided in Section 24112, and no deduction shall be made from the retired member's compensation as contributions to the plan under this part.

SEC. 175. Section 24114 of the Education Code is amended to read:

24114. (a) A member retired for disability under this part may be employed or self-employed in any capacity, notwithstanding Section 22132, but shall not make contributions to the retirement



fund with respect to the Defined Benefit Program or accrue service credit under this part based on earnings from any employment.

(b) A member retired for disability under this part may earn in any one calendar year up to the limitation specified in subdivision (c) without a reduction in his or her disability retirement allowance.

(c) The limitation that shall apply to the earnings of a member retired for disability under this part shall be fifteen thousand dollars (\$15,000), in any one school year, adjusted annually by the board each July 1 by the annual amount of increase in the All Urban California Consumer Price Index using December 1989 as the base.

(d) If a member retired for disability under this part earns in excess of the limitation specified in subdivision (c) from all employment in any calendar year, notwithstanding Section 22132, his or her retirement allowance shall be reduced by the amount of the excess earnings. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the calendar year in which the excess compensation was earned.

(e) The earnings limitation specified in this section shall not be applicable to a member retired for disability under this part who is participating in an approved rehabilitation program pursuant to Section 24111.

(f) This section shall not be applicable to a member retired for disability under this part who began receiving a disability retirement allowance prior to October 16, 1992.

SEC. 176. Section 24116 of the Education Code is amended to read:

24116. A member retired for disability under this part whose last employment was in the California State University, as a member of the Defined Benefit Program or the Public Employees' Retirement System, may serve as a member of the teaching staff of the California State University and shall be subject to the employment limitations as provided by the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

SEC. 177. Section 24117 of the Education Code is amended to read:

24117. (a) A member retired for disability under this part may terminate the disability retirement allowance upon written request to the system.

(b) If a member retired for disability under this part is determined by the board to no longer be eligible to receive a disability retirement allowance pursuant to this chapter, the disability retirement allowance shall be terminated.

SEC. 178. Section 24118 of the Education Code is amended to read:



24118. (a) Upon termination of a disability retirement allowance that was payable pursuant to this chapter, the individual account of the member under this part shall be credited with the amount of the member's accumulated retirement contributions as they were on the effective date of disability retirement, less the sum of all payments made under subdivisions (a) and (b) of Section 24106. The reduction shall not be greater than the total of the accumulated retirement contributions.

(b) Upon the termination of a disability retirement, the accumulated annuity deposit contribution account of the member shall be credited with the amounts of those contributions as they were on the date the annuity became payable under this part because of that retirement less the sum of all payments made pursuant to subdivision (c) of Section 24106.

SEC. 179. Section 24119 of the Education Code is amended to read:

24119. When a member retired for disability under this part returns to work in the member's former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, which can be medically substantiated, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability retirement allowance shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day of service for which compensation is payable to the member, provided the member complies with Section 24103.

SEC. 180. Section 24203 of the Education Code is amended to read:

24203. (a) A member who has 30 years of credited service under this part may retire at age 50 years or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service. If the member has attained age 50 years, but has not attained early retirement age, the allowance shall be reduced by one-quarter of 1 percent for each full month or fraction of a month that will elapse until the member will attain early retirement age and one-half of 1 percent for each full month, or fraction of a month between early retirement age and normal retirement age.

(b) In computing the amounts described in subdivision (a), the age of the member on the last day of the month in which the retirement allowance begins to accrue or any later date provided in Section 24204 shall be used.

SEC. 181. Section 24204 of the Education Code is amended to read:

24204. A service retirement allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(a) An application for service retirement allowance is filed on a form provided by the system, that is executed no earlier than six months before the effective date of retirement allowance.

(b) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(c) The effective date is no earlier than the first day of the month in which the application is received at the system's office in Sacramento.

(d) Either of the following conditions exists:

(1) The effective date is no earlier than one year following the date on which the retirement allowance was terminated under Section 24208, or subdivision (a) of Section 24117.

(2) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

SEC. 182. Section 24205 of the Education Code is amended to read:

24205. (a) The board shall, in consultation with members, develop, adopt, and implement an additional early retirement alternative under this part that will allow a member to receive a minimum retirement allowance prior to normal retirement age if the member has at least attained early retirement age. Under the alternative, the member shall continue to receive the minimum retirement allowance past normal retirement age until the total amount paid prior to normal retirement age equals the difference between the minimum retirement allowance and the retirement allowance that would have been paid to the member under Section 24202 or 24203, whichever is applicable, at normal retirement age, and thereafter the service retirement allowance for normal retirement age shall be paid. The board shall determine the age past normal retirement at which the increase will be made by determining how long the minimum retirement allowance would have to be paid beyond age 60 years in order for the amount paid prior to age 60 years to equal the difference between the minimum retirement allowance and the allowance that would have been paid to the member under service retirement at normal retirement age. The board shall integrate the early retirement alternative adopted under this section with the other early retirement alternatives that a member may elect under this chapter.

(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the



actuary's best estimate of anticipated experience under the Defined Benefit Program.

(c) The additional employer contributions required, if any, under this section shall be computed as a level percentage of creditable compensation. The additional contribution rate required, if any, shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from January 1, 1979.

SEC. 183. Section 24206 of the Education Code is amended to read:

24206. The minimum unmodified allowance, exclusive of annuities from accumulated annuity deposit contributions payable for service retirement under this part, shall not be less than ten dollars (\$10) per month multiplied by the years of credited service. This guaranteed amount shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited under this part. If the retirement is effective at less than age 60 years this allowance shall be reduced by one-half of 1 percent for each full month or fraction of a month that will elapse until the member would have reached age 60 years.

SEC. 184. Section 24207 of the Education Code is amended to read:

24207. If a retired member terminates a service retirement allowance and subsequently retires under this part, the minimum retirement allowance shall be the allowance provided by Section 24206.

SEC. 185. Section 24208 of the Education Code is amended to read:

24208. A member retired for service under this part may terminate the retirement allowance upon written request to the system.

SEC. 186. Section 24209 of the Education Code is amended to read:

24209. Upon retirement for service under this part following termination of a prior service retirement, the member shall receive a service retirement allowance equal to the sum of both of the following:

(a) An amount equal to the monthly allowance the member was receiving immediately preceding the most recent termination of retirement allowance, exclusive of any amounts payable pursuant to Section 22714 or 22715, increased by the improvement factor that would have been applied to the allowance if the member had not terminated the retirement allowance.

(b) An amount calculated pursuant to Section 24202, 24203, or 24206 on service credited subsequent to the most recent termination



of retirement allowance, the member's age at retirement, and final compensation.

SEC. 187. Section 24210 of the Education Code is amended to read:

24210. Upon retirement for service under this part following a prior disability retirement granted pursuant to Chapter 26 (commencing with Section 24100) that was terminated, the member shall receive a service retirement allowance calculated pursuant to Section 24202, 24203, or 24206 and equal to the sum of both of the following:

(a) An amount based on service credit accrued prior to the effective date of the disability retirement, the member's age as of the effective date of the service retirement, and indexed final compensation to the effective date of the service retirement.

(b) An amount based on the service credit accrued after termination of the disability retirement, the member's age as of the effective date of service retirement, and final compensation.

SEC. 188. Section 24211 of the Education Code is amended to read:

24211. When a member who has been granted a disability allowance under this part after June 30, 1972, returns to employment subject to coverage under the Defined Benefit Program and performs:

(a) Less than three years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance which is the sum of the allowance calculated on service credit accrued after the termination date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable and projected final compensation, plus the greater of either of the following:

(1) A service retirement allowance calculated on service credit accrued as of the effective date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation to the termination date of the disability allowance.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(b) Three or more years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance that is the greater of the following:

(1) A service retirement allowance calculated on all actual and projected service, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.



(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

SEC. 189. Section 24212 of the Education Code is amended to read:

24212. If a disability allowance granted under this part after June 30, 1972, is terminated for reasons other than those specified in Section 24213 and the member does not return to employment subject to coverage by the plan, the service retirement allowance, when payable, shall be based on projected service, projected final compensation, and the age of the member on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance excluding children's portions.

SEC. 190. Section 24213 of the Education Code is amended to read:

24213. (a) When a member who has been granted a disability allowance under this part after June 30, 1972, attains normal retirement age, or at a later date when there is no dependent child, the disability allowance shall be terminated and the member shall be eligible for service retirement. The retirement allowance shall be calculated on the projected final compensation and projected service to normal retirement age. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance.

(b) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

SEC. 191. Section 24214 of the Education Code is amended to read:

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

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

(c) A member retired for service under this part shall not be required to reinstate for performing the activities identified in



paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

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

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

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

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

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

SEC. 192. Section 24215 of the Education Code is amended to read:

24215. A member retired for service under this part whose last employment was in the California State University, as a member of the Defined Benefit Program or the Public Employees' Retirement System, may serve as a member of the teaching staff of the California State University and shall be subject to the employment limitations



as provided by the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

SEC. 193. Section 24216 of the Education Code is amended to read:

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

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

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

(b) (1) A member retired for service under this part who is employed by an employer to perform creditable service in an emergency situation to fill a vacant administrative position requiring highly specialized skills shall be exempt from the provisions of subdivisions (d), (e) and (f) of Section 24214 for creditable service performed up to one-half of the full-time equivalent for that position, if the vacancy occurred due to circumstances beyond the control of the employer. The limitation specified in subdivisions (d), (e), and (f) of Section 24214 shall apply to creditable service performed beyond the specified exemption.

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

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

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

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

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

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



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

SEC. 194. Section 24216.5 of the Education Code is amended to read:

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

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

(2) The member retired for service is employed by a school district to provide:

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

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

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

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

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

(c) Upon written request to the system, a member who retired for service under this part with an effective date on or before July 1, 1996, and who, between July 1, 1996, and 60 days following the effective date of this section, terminated his or her service retirement allowance and returned to employment that qualifies for the exemption specified in subdivision (a) may cancel his or her



reinstatement and return to status as a member retired for service as if the service retirement allowance had not been terminated.

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

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

SEC. 195. Section 24217 of the Education Code is amended to read:

24217. A person who was a member under this part on June 30, 1972, and had five or more years of service and who had attained age 55 years, shall have the option of receiving the allowance payable under Section 14245, as it read on that date in lieu of the allowance payable under subdivision (a) of Section 24202.

SEC. 196. Section 24301 of the Education Code is amended to read:

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

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

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

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

SEC. 197. Section 24308 of the Education Code is amended to read:

24308. (a) The election of an option as provided in Section 24307 shall preclude the payment of a family allowance to any beneficiary under this part.



(b) The preretirement election of an option made by the member pursuant to Section 24307 shall be voided by the board as of the effective date of an approved disability retirement under this part. Members receiving a disability retirement allowance pursuant to Chapter 26 (commencing with Section 24100) may not file an election of option as provided in Section 24307.

(c) The election of an option as provided in Section 24307 shall preclude the payment of a survivor benefit allowance pursuant to Chapter 23 (commencing with Section 23850) and shall preclude the payment of the remaining balance of the member's accumulated retirement contributions prior to the death of the option beneficiary.

SEC. 198. Section 24309 of the Education Code is amended to read:

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

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

SEC. 199. Section 24311 of the Education Code is amended to read:

24311. (a) A member who has a preretirement election of an option in effect on December 31, 1990, may change his or her preretirement election of Option 2, Option 3, Option 4, or Option 5, to either Option 6 or Option 7 without the allowance reduction prescribed in Sections 24309 and 24310, provided the change is made on or after January 1, 1991, and prior to the earlier of January 1, 1992, or the member's retirement under this part.

(b) If the member elects to change his or her option under this section, then the member shall retain the same option beneficiary as named in the prior preretirement election. The election to change the preretirement election under this section shall be void if not received in the system's office in Sacramento at least 30 days prior to the death of the option beneficiary.

SEC. 200. Section 24400 of the Education Code is amended to read:



24400. The Legislature recognizes that inflation erodes the purchasing power of benefits paid under the plan under this part. It is the intent of the Legislature to understand the degree of erosion of these benefits. The board shall report to the Governor and Legislature no later than April 1 of each year on the extent to which inflation has eroded the purchasing power of benefits provided under the Defined Benefit Program. The board shall indicate the amount of supplementary increases in retirement allowances required to preserve the purchasing power of benefits provided by the Defined Benefit Program. The board shall also determine and report on the increases.

SEC. 201. Section 24417 of the Education Code is amended to read:

24417. (a) The proceeds of an auxiliary Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments, commencing when funds in the Supplemental Benefit Maintenance Account are insufficient to support 75 percent, to retired members, disabled members, and beneficiaries under this part. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 75 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Section 24412 and Section 24415.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as defined in Section 24412 and Section 24415, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of benefit effective date and June of the fiscal year preceding the fiscal year of distribution.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The benefits provided by subdivision (b) are not cumulative, nor part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account and the auxiliary Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The distributions authorized by this section are not vested and shall not be included in the base allowance for purposes of calculating the annual improvement defined by Section 22140 and 22141.

SEC. 202. Section 24505 of the Education Code is amended to read:

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

SEC. 203. Section 24600 of the Education Code, as added by Section 36 of Chapter 1165 of the Statutes of 1996, is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and ceases on the earlier of the day of the member's death or the day on which the disability allowance terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(1) Until January 1, 2002, a person who on December 31, 1996, is between 18 and 22 years of age and who is eligible as a full-time student to receive a child's portion of an allowance shall continue to be eligible for a child's portion until the person attains 22 years of age or until the first day of the month following the end of the school quarter or semester that is in progress in the month the person attains 22 years of age provided prior verification of full-time student status is received by the board. If verification is not received by the board prior to the date the person attains 22 years of age, the allowance or the child's portion of the allowance shall cease on the day the full-time student attains 22 years of age.



(2) Notwithstanding subdivision (e) of Section 22123, until January 1, 2002, a person who on December 31, 1996, is between 18 and 22 years of age and who is not eligible as a full-time student to receive a child's portion of an allowance, may return to school on a full-time basis on or after January 1, 1997, and become eligible for a child's portion from the date of return to full-time student status until 22 years of age or until the first day of the month following the end of the school quarter or semester that is in progress in the month the person attains 22 years of age provided prior verification of full-time student status is received by the board. If verification is not received by the board prior to the date the person attains 22 years of age, the allowance or the child's portion of the allowance shall cease on the day the full-time student attains 22 years of age. No benefits shall be payable under this paragraph for a person who does not return to school as a full-time student prior to attaining 22 years of age.

(g) Supplemental payments issued under this part pursuant to Sections 24701, 24702, and 24703 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions from the plan with respect to the Defined Benefit Program shall be made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder, and the required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program shall be as follows:

(1) In the case of a refund of contributions, as described in Chapter 12 (commencing with Section 23100), not later than April 1 of the calendar year following the later of both of the following:

(A) The calendar year in which the member attains age 70¹/₂ years.

(B) The calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22150, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains age 70¹/₂ years; or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of the termination of employment subject to coverage under the Defined Benefit Program or the



termination of employment in a position requiring or permitting membership in another public retirement system in this state the compensation from which may be included in final compensation under Section 22127.

(j) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date.

SEC. 204. Section 24600 of the Education Code, as added by Section 36.5 of Chapter 1165 of the Statutes of 1996, is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability and ceases on the earlier of the day of the member's death or the day on which the disability allowance terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance. An allowance payable because of a full-time student shall terminate on the first day of the month following the end of the school quarter or semester that is in progress in the month the full-time student attains 22 years of age. Any adjustment to an allowance because of a full-time student's periods of nonattendance shall be made as follows: the allowance shall cease on the first day of the month in which return to full-time attendance was required and shall begin to accrue again on the first day of the month in which full-time attendance resumes.

(g) Supplemental payments issued under this part pursuant to Sections 24701, 24702, and 24703 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections



24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive.

(h) Notwithstanding any other provision of this part or other law, distributions from the plan with respect to the Defined Benefit Program shall be made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder, and the required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program shall be as follows:

(1) In the case of a refund of contributions, as described in Chapter 12 (commencing with Section 23100) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70 1/2 years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22150, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains 70 1/2 years of age or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), "terminates employment" means the later of the termination of employment subject to coverage by the plan or the termination of employment in a position requiring or permitting membership in another public retirement system in this state the compensation from which may be included in final compensation under Section 22127.

(j) This section shall become operative on January 1, 2002.

SEC. 205. Section 24603 of the Education Code is amended to read:

24603. If any estimated allowances under this part are more or less than the correct amount due, the difference between the correct amount and the estimated allowance shall be adjusted in subsequent payments or the Controller may state an account with the retired member, disabled member, or beneficiary, pursuant to Section 12419 of the Government Code.

SEC. 206. Section 24604 of the Education Code is amended to read:

24604. (a) A retired member, disabled member, or beneficiary under this part shall specify whether monthly benefit payments are to be disbursed by: (1) direct deposit (electronic funds transfer); (2) direct mail to a financial or other institution; or (3) mailing to a



payment address provided by the retired member, disabled member, or beneficiary.

(b) A member or beneficiary under this part to whom a lump-sum payment or benefit is to be disbursed shall specify the address to which the payment shall be mailed.

(c) (1) The board shall send a copy of the benefit payment information to any retired member, disabled member, or beneficiary under this part who has payments transmitted directly by electronic funds transfer or by mail to a financial institution, unless the board has received a written request from that person not to send a copy of the information.

(2) The board shall notify the retired member, disabled member, or beneficiary, in the monthly benefit payment notice, of the right to request that no copy of the benefit payment information be mailed, pursuant to paragraph (1).

(d) A payment disbursed as specified by the member or beneficiary under this part shall fully discharge the board, system, and plan from any claim resulting from actions taken under this section.

SEC. 207. Section 24605 of the Education Code is amended to read:

24605. Upon receipt of proof satisfactory to the board, that a warrant drawn in payment of a retirement allowance or in payment of any other account due from the plan under this part, has been lost or that payment transmitted electronically cannot be credited to an account, the Controller upon the request of the board shall issue a replacement warrant in payment of the same amount, without requiring a bond from the payee, and any loss incurred in connection therewith shall be charged against the fund from which the payment was derived.

SEC. 208. Section 24606 of the Education Code is amended to read:

24606. (a) Whenever any warrant drawn in payment of contributions or accumulated contributions or benefits under this plan under this part remains unclaimed or the legal claimant cannot be found, the board shall redeposit the proceeds of the warrant in the retirement fund, and shall hold the proceeds for the legal claimant without further accumulation of interest, and the redeposit shall not operate to establish the membership of the claimant in this plan.

(b) Subdivision (a) shall apply to warrants drawn and canceled by the Controller pursuant to Section 17070 of the Government Code, except that upon notice of cancellation, the proceeds revert to and become a part of the retirement fund, and shall be applied to meet the liabilities of the retirement fund with respect to the Defined Benefit Program.

(c) The board may at any time, after reversion of proceeds as provided above to the retirement fund and upon receipt of proper



information satisfactory to it, return from the retirement fund an amount equal to those proceeds to the credit of the legal claimant.

SEC. 209. Section 24607 of the Education Code is amended to read:

24607. Any warrant in an amount less than two thousand dollars (\$2,000) paid by the system under this part, for the month in which a retired member or disabled member dies, shall not be invalidated by the system, except upon the request of the beneficiary of the retired member or disabled member.

SEC. 210. Section 24608 of the Education Code is amended to read:

24608. (a) Persons entitled to receive allowances under the plan under this part may authorize deductions to be made from those allowances, in accordance with procedures established by the board.

(b) The board shall determine the additional cost involved in making deductions under this section, and may require the public agency, association, insurance carrier, or unit thereof to pay the amount of the additional cost to the board for deposit in the retirement fund to the credit of the Defined Benefit Program.

SEC. 211. Section 24609 of the Education Code is amended to read:

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

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

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

SEC. 212. Section 24610 of the Education Code is amended to read:

24610. Any disability allowance under this part that has accrued and remains unpaid to a disabled member at the time of death shall be paid to the person entitled to receive a family allowance under this part or, if none, to the beneficiary entitled to receive the death payment under this part.

SEC. 213. Section 24612 of the Education Code is amended to read:

24612. (a) If any person entitled to a benefit from the plan under this part is a minor who has no guardian of his or her estate, the benefit, not to exceed two thousand dollars (\$2,000), may be paid to the person entitled to the custody of the minor to hold for the minor, upon the written statement, duly acknowledged and verified, of the person that the total estate of the minor does not exceed two thousand five hundred dollars (\$2,500) in value.

(b) The payment shall constitute full discharge of any and all liabilities of the board, system, and plan.



(c) The person shall account to the minor for the money when the minor reaches the age of majority.

(d) Notwithstanding any other provision of this section, a natural parent or an adoptive parent having custody of the minor shall not be required to establish a guardianship for the purpose of collecting a survivor benefit, family benefit, or death benefit under this part.

SEC. 214. Section 24613 of the Education Code is amended to read:

24613. (a) Payment pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons under this part constitutes a complete discharge and release of the board, system, and plan from liability for that payment.

(b) Notwithstanding Sections 751 and 1100 of the Family Code relating to community property interests, whenever payment or refund is made by this system to a member, former member, or beneficiary of a member pursuant to this part, the payment shall fully discharge the board, system, and plan from all adverse claims thereto unless, before payment is made, a written notice of adverse claim is received at the system's office in Sacramento.

SEC. 215. Section 24615 of the Education Code is amended to read:

24615. If the board determines that contributions are due the system under this part from a retired member, disabled member, or a person who has died and the person is unable to pay the amount due, the board may withhold all or part of subsequent payments due the retired member, disabled member, or survivor, until the amounts withheld equal the contributions due plus regular interest to the date of payment. Total contributions plus regular interest due shall be recovered by the system within 18 months.

SEC. 216. Section 24617 of the Education Code is amended to read:

24617. (a) To recover an amount overpaid under this part, the corrected monthly allowance may be reduced by no more than 5 percent if the overpayment was due to error by the system, the county superintendent of schools, a school district, or a community college district, and by no more than 15 percent if the error was due to inaccurate information or nonsubmission of information by the recipient of the allowance.

(b) This section shall not apply to the collection of overpayments due to fraud or intentional misrepresentation of facts by the recipient of the allowance.

SEC. 217. Section 24618 of the Education Code is amended to read:

24618. Losses or gains resulting from overpayment or underpayment of contributions or other amounts under this part within the limits set by the State Board of Control for automatic



writeoff, and losses or gains in greater amounts specifically approved for writeoffs by the State Board of Control, shall be debited or credited, as the case may be, to the appropriate reserve in the retirement fund.

SEC. 218. Section 24619 of the Education Code is amended to read:

24619. The system shall annually report to the board the following information:

(a) The amount of underpayment made to recipients under this part.

(b) The amount to be recovered because of overpayments and the number of overpayments under this part.

(c) The actions taken by the board and the system to reduce the number and amount of overpayments and underpayments under this part.

SEC. 219. Section 24700 of the Education Code is amended to read:

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

SEC. 220. Section 24701 of the Education Code is amended to read:

24701. Those credentialed members of the San Francisco City and County Employees' Retirement System on June 30, 1972, who make an irrevocable election to be covered only by the State Teachers' Retirement Plan under this part for prior and future service performed in San Francisco, shall be allowed to be covered for other certificated service concurrently, where the provisions of the city and county charter permit. This shall not include any credited service, as defined in Section 22121.

SEC. 221. Section 24702 of the Education Code is amended to read:

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

(b) The allowance that would have been payable had the member retired solely under the Defined Benefit Program, including the percentage update calculated under Sections 14332, 14333, and 14334,



as enacted by Chapter 2 of the Statutes of 1959, as those sections read on December 31, 1974, shall be taken into account in computing the amount of increase for the ten dollar (\$10) a month per year of service minimum unmodified allowance.

SEC. 222. Section 24703 of the Education Code is amended to read:

24703. Persons who select to be covered only by the Defined Benefit Program and already have credit for classified or other noncertificated service in the San Francisco local system shall not have that credit transferred to the Defined Benefit Program.

SEC. 223. Section 24704 of the Education Code is amended to read:

24704. The San Francisco City and County Employees' Retirement System shall provide concurrent retirement benefits for classified and other noncertificated service in the San Francisco system according to the provisions applicable to miscellaneous employees of the time of the concurrent retirement for:

(a) Members of that system who transfer to the Defined Benefit Program after June 30, 1972.

(b) Persons who were members of both the San Francisco system and the Defined Benefit Program on June 30, 1972.

(c) Any person who could have qualified under subdivision (b) if he or she had not taken a refund from either the San Francisco System or the Defined Benefit Program, but not both, provided the person qualifies for and redeposits prior to retirement.

SEC. 224. Section 24750 of the Education Code is amended to read:

24750. Those members who took a refund of their accumulated contributions from the former Los Angeles Unified School District Retirement System or the former Los Angeles Community College District Retirement System or the San Francisco City and County Employees' Retirement System, prior to July 1, 1972, and who have former Permanent Fund contributions only on deposit related to former local system service shall have those accumulated former Permanent Fund contributions on deposit as of July 1, 1972, treated in the same manner as accumulated retirement contributions of all nonlocal members. Upon discovery and notification to those members, they shall do either of the following:

(a) Redeposit the contributions required to bring the account into full balance with regular interest prior to retirement under this part.

(b) Leave those former Permanent Fund accumulated contributions on deposit and receive a reduced retirement allowance under the law as it read on June 30, 1972.

SEC. 225. Section 24751 of the Education Code is amended to read:

24751. Those members who took a refund of their accumulated contributions from the former Los Angeles Unified School District



Retirement System or the former Los Angeles Community College District Retirement System or the San Francisco City and County Employees' Retirement System, prior to July 1, 1972, and who also took a refund of their Permanent Fund contributions from the State Teachers' Retirement System with respect to the Defined Benefit Program, and who redeposited their contributions in the local system but did not redeposit their Permanent Fund contributions in the State Teachers' Retirement System with respect to the Defined Benefit Program, shall redeposit the contributions required to bring the account into full balance with regular interest from the date of refund to the date of payment. The redeposit may be made immediately upon notification by the system and shall be made prior to retirement under this part. The redeposit shall be made in a lump sum or by installment payments as specified by the chief executive officer.

SEC. 226. Section 24950 of the Education Code is amended to read:

24950. An annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986 shall be offered to all employees of any state agency who are members of the plan under this part or any employee of a local public agency or political subdivision of this state that employs persons to perform creditable service subject to coverage by the plan under this part. The following criteria shall apply to that annuity contract and custodial account:

(a) The annuity contract and custodial account shall be offered for at least five years.

(b) The annuity contract and custodial account may be administered by a qualified third-party administrator that shall, under agreement with the system, provide custodial, investment, recordkeeping, or administrative services, or any combination thereof. The third-party administrator shall not provide investment options.

(c) The investment options offered shall be determined by the board consistent with those annuity contract and custodial accounts described in Section 403(b) of the Internal Revenue Code of 1986.

(d) The system's investment staff shall make recommendations to the board as to the appropriate investment options. At a minimum, the board shall offer at least three investment options. The board shall have sole responsibility for the selection of service providers.

(e) All contributions made in accordance with the provisions of Section 403(b) of the Internal Revenue Code of 1986 and this section shall be remitted directly to the administrator and held by the administrator in a custodial account on behalf of the employee. Any investment gains or losses shall be credited to those accounts. The forms of payment and disbursement procedure shall be consistent with those generally offered by similar annuity contracts and



custodial accounts and applicable federal and state statutes governing those contracts and accounts.

(f) Any employer, other than the state, may elect to make contributions to the employee's annuity contract and custodial account on behalf of the employee. The employer shall take whatever action is necessary to implement this section, including the adoption of an annuity contract and custodial account, or provide the appropriate authorization in accordance with the provision of Section 403(b) of the Internal Revenue Code of 1986. Employer contributions made under this section are excluded from the definition of creditable compensation as provided in Section 22119.2.

(g) The design and administration of the annuity contract and custodial account shall comply with the applicable provisions of the Internal Revenue Code of 1986 and the Revenue and Taxation Code. Section 770.3 of the Insurance Code shall not be applicable.

SEC. 227. Section 24951 of the Education Code is amended to read:

24951. If the rate of participation in the annuity contract and custodial account is less than 2 percent of active members in the Defined Benefit Program upon the completion of the initial five years of administration, the board may elect to terminate the offering of the annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986. The board shall provide two years' notice to the annuity contract and custodial account participants of its intention to terminate.

SEC. 228. Section 25000 of the Education Code is amended to read:

25000. (a) The board may develop one or more deferred compensation plans under Section 457 of the Internal Revenue Code which an employer may choose to establish and offer to its employees who are members of the plan under this part or Part 14 (commencing with Section 26000).

(b) In the event that an employer adopts a deferred compensation plan described in subdivision (a):

(1) The employer shall enter into a written contractual arrangement with the system under which the system, or a third-party administrator acting on behalf of the system, shall provide investment, recordkeeping, and administrative services for the deferred compensation plan.

(2) The initial period of the contractual arrangement described in paragraph (1) shall be for a term of five years.

(3) The deferred compensation plan shall continue to constitute a separate plan established and maintained by the adopting employer.

(4) The system shall be treated as acting on behalf of the employer in administering the deferred compensation plan.



(5) The terms and administration of the deferred compensation plan shall be in accordance with the applicable provisions of Section 457 of the Internal Revenue Code.

(6) The interest of an employee, or his or her beneficiary, participating in the deferred compensation plan in the assets, including amounts deferred under the plan and paid over to the Teachers' Deferred Compensation Fund described in Section 25001, of the employer sponsoring the deferred compensation plan shall not be senior to that of the general creditors of the employer.

(7) In administering the deferred compensation plan on behalf of the employer, the board shall have the same investment authority and discretion and be subject to the same fiduciary standards pursuant to Chapter 4 (commencing with Section 22250), with respect to amounts deferred under the deferred compensation plan as applied by the system with respect to the Teachers' Retirement Fund.

(c) In the event that an employer establishes and maintains a deferred compensation plan described in subdivision (a), the deferred compensation plan shall be offered to all of its employees who are members of the plan under this part or Part 14 (commencing with Section 26000).

(d) An employee participating in a deferred compensation plan established by an employer under this section shall enter into a written agreement with the employer for the deferral of compensation prior to the performance of the services to which that compensation relates.

(e) In the event that an employer chooses to establish and maintain a deferred compensation plan described in subdivision (a) that is to be administered by the system, the employer shall take all necessary or appropriate action to implement this section in cooperation with the system.

SEC. 229. Section 26001 of the Education Code is amended to read:

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

SEC. 230. Section 26002 of the Education Code is amended to read:

26002. The Cash Balance Benefit Program shall be administered by the Teachers' Retirement Board with all of the powers, responsibilities and duties for administration of the plan set forth in



Chapter 3 (commencing with Section 22200) through Chapter 7 (commencing with Section 22375) of Part 13. In administering the plan, the board and its officers and employees of the system shall exercise their fiduciary duties set forth in Chapter 4 (commencing with Section 22250) of Part 13.

SEC. 231. Section 26102 of the Education Code is amended to read:

26102. “Actuary” means a person professionally trained in the technical and mathematical aspects of insurance, pensions, and related fields who has been appointed by the board for the purpose of actuarial services required under this part.

SEC. 232. Section 26113 of the Education Code is amended to read:

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

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

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

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

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

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

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

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



(8) Services as a school librarian.

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

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

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

SEC. 233. Section 26117 of the Education Code is amended to read:

26117. “Disability date” means the date the benefit becomes payable to a participant who has applied for a disability benefit from the plan under this part and has been determined to have a total and permanent disability.

SEC. 234. Section 26119 of the Education Code is amended to read:

26119. “Employee account” means the nominal account of the participant to which employee contributions and interest and any additional earnings credits in respect thereof are credited under the Cash Balance Benefit Program.

SEC. 235. Section 26120 of the Education Code is amended to read:

26120. “Employee contribution rate” means the percentage of the participant’s salary withheld by the employer as an employee contribution under the Cash Balance Benefit Program.

SEC. 236. Section 26121 of the Education Code is amended to read:

26121. “Employee contribution” means the amount withheld from the participant’s salary by the employer as a contribution by the employee under the Cash Balance Benefit Program.

SEC. 237. Section 26123 of the Education Code is amended to read:

26123. “Employer account” means the nominal account of the participant in which employer contributions on behalf of the participant and interest and any additional earnings credits in respect thereof are credited under the Cash Balance Benefit Program.

SEC. 238. Section 26124 of the Education Code is amended to read:

26124. “Employer contribution rate” means the percentage of salary that determines the amount the employer contributes to the Cash Balance Benefit Program with respect to each employee who is a participant.

SEC. 239. Section 26125 of the Education Code is amended to read:



26125. “Employer contribution” means the amount contributed by the employer to the Cash Balance Benefit Program with respect to the participant.

SEC. 240. Section 26126 of the Education Code is amended to read:

26126. “Employed” or “employment” means employed to perform creditable service subject to coverage under the Cash Balance Benefit Program.

SEC. 241. Section 26127 of the Education Code is amended to read:

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

SEC. 242. Section 26131 of the Education Code is amended to read:

26131. “Minimum interest rate” means the annual rate determined for the plan year by the board by means of an amendment to the plan with respect to the Cash Balance Benefit Program in accordance with applicable federal laws and regulations.

SEC. 243. Section 26132 of the Education Code is amended to read:

26132. “Participant” means a person who has performed creditable service subject to coverage by the Cash Balance Benefit Program, and who has contributions credited under the Cash Balance Benefit Program or is receiving an annuity under the Cash Balance Benefit Program by reason of creditable service.

SEC. 244. Section 26133 of the Education Code is amended to read:

26133. “Pay period” means a payroll period specified by the employer but not more than 31 calendar days.

SEC. 245. Section 26136 of the Education Code is amended to read:

26136. “Retirement” means termination of employment and completion of all conditions precedent to receiving a retirement benefit under the Cash Balance Benefit Program.

SEC. 246. Section 26138 of the Education Code is amended to read:

26138. “Retirement date” means the date the benefit under this part becomes payable to a participant who has applied for a retirement benefit from the plan under this part.

SEC. 247. Section 26139 of the Education Code is amended to read:

26139. (a) “Salary” means remuneration payable in cash by an employer to a participant for creditable service subject to coverage under the Cash Balance Benefit Program. Salary shall include:



(1) Money paid in accordance with a salary schedule based on years of training and years of experience as specified in Section 45028 for creditable service performed.

(2) For participants not paid according to a salary schedule, money paid for creditable service performed.

(3) Money paid for the participant's absence from performance of creditable service as approved by an employer, except as provided in paragraph (5) of subdivision (b).

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

(5) Amounts deducted by an employer from the participant's salary, including deductions for participation in a deferred compensation plan; deductions for the purchase of annuity contracts, tax-deferred retirement plans, or other insurance programs; and deductions for participation in a plan that meets the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

(6) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(7) Any other payments the board determines by plan amendment to be "salary."

(b) "Salary" does not mean and shall not include:

(1) Money paid for service that is not creditable service.

(2) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if not paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(3) Fringe benefits provided by an employer.

(4) Job-related expenses paid or reimbursed by an employer.

(5) Money paid for unused accumulated leave.

(6) Compensatory damages or money paid to a participant in excess of salary as a compromise settlement or as severance pay.

(7) Annuity contracts, tax-deferred retirement programs, or other insurance programs, including, but not limited to, plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code that are purchased by an employer for a participant.

(8) Any payments determined by the board to have been made by an employer for the principal purpose of enhancing a participant's benefits under the plan.

(9) Any other payments the board determines by plan amendment not to be "salary."

(c) Any employer or person who knowingly or willfully reports salary in a manner inconsistent with the provisions of subdivisions (a) or (b) shall reimburse the plan for any overpayment of benefits that



occurs because of such inconsistent reporting and may be subject to prosecution for fraud, theft, or embezzlement in accordance with provisions of the Penal Code. The system may establish procedures to ensure that salary reported by an employer is in compliance with this section.

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

SEC. 248. Section 26143 of the Education Code is amended to read:

26143. "Termination benefit" means a benefit that is an amount equal to the sum of the participant's employee account and employer account payable under this part pursuant to the provisions of Chapter 13 (commencing with Section 27200).

SEC. 249. Section 26144 of the Education Code is amended to read:

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

SEC. 250. Section 26208 of the Education Code is amended to read:

26208. The board shall establish and maintain records and accounts following recognized accounting principles and controls with respect to the Cash Balance Benefit Program.

SEC. 251. Section 26210 of the Education Code is amended to read:

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

SEC. 252. Section 26211 of the Education Code is amended to read:

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

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

(b) Perform an annual actuarial valuation of the assets and liabilities of the plan with respect to the Cash Balance Benefit Program, using the actuarial assumptions adopted by the board.

(c) Recommend to the board all rates and factors necessary to administer the Cash Balance Benefit Program, including, but not



limited to, mortality tables, annuity factors, interest rates, additional earnings credits, and employer contribution rates.

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

(e) Recommend to the board transfers of amounts between the Gain and Loss Reserve and the Annuitant Reserve with respect to the Cash Balance Benefit Program.

(f) Perform any other actuarial services that may be required for the administration of the plan with respect to the Cash Balance Benefit Program, as requested by the board.

SEC. 253. Section 26212 of the Education Code is amended to read:

26212. The board shall maintain all data necessary for the actuarial investigation of the demographic and economic experience of the Cash Balance Benefit Program, and for the actuarial valuation of the assets and liabilities of the plan with respect to the Cash Balance Benefit Program.

SEC. 254. Section 26213 of the Education Code is amended to read:

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

SEC. 255. Section 26216 of the Education Code is amended to read:

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

SEC. 256. Section 26301 of the Education Code is amended to read:

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

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

SEC. 257. Section 26301.5 is added to the Education Code, to read:

26301.5. Each employer shall deduct from the salary of participants employed by the employer the participant contributions required by this part and shall remit to the system those contributions



plus the employer contributions required by this part and Section 44987.

SEC. 258. Section 26302 of the Education Code is amended to read:

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

(b) If a report with respect to the Cash Balance Benefit Program contains erroneous information and the system, acting in good faith, makes a distribution from the Teachers' Retirement Fund with respect to the Cash Balance Benefit Program based on that information, the employer who submitted the report shall reimburse the Retirement Fund in full for the amount of the erroneous disbursement, plus interest on the amount of the erroneous disbursement at the minimum interest rate from the date of disbursement to the date of reimbursement, immediately upon notification by the system.

SEC. 259. Section 26303 of the Education Code is amended to read:

26303. (a) Employers shall transmit to the plan the employee contributions and employer contributions with respect to the Cash Balance Benefit Program for salary paid to each participant during the pay period no later than five working days following the last day of the pay period in which the salary was paid.

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

SEC. 260. Section 26305 of the Education Code is amended to read:

26305. Upon request of the system, an employer shall provide the system with information regarding the salary paid or to be paid to employees subject to coverage by the Cash Balance Benefit Program in a plan year. The information may include, but shall not be limited to, employment contracts, salary schedules, and minutes from meetings conducted by the governing board of the employer.

SEC. 261. Section 26306 of the Education Code is amended to read:

26306. (a) Upon request by the system, a participant or beneficiary with respect to the Cash Balance Benefit Program shall provide to the system any information affecting his or her status as a participant or beneficiary.

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



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

SEC. 262. Section 26400 of the Education Code is amended to read:

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

(b) If the employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect coverage under social security or an alternative retirement plan offered by the employer in addition to the Cash Balance Benefit Program, the employee may elect within 60 calendar days of the later of the first day on which creditable service is performed, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program to be covered by social security or to participate in the alternative retirement plan in lieu of participating in the Cash Balance Benefit Program. Any election shall not preclude an employee from participating in the Cash Balance Benefit Program at a later date so long as the Cash Balance Benefit Program is provided by the employer and the employee is eligible to participate in the Cash Balance Benefit Program.

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

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



participant's basis of employment occurred, except as provided in Section 26402.

SEC. 263. Section 26401 of the Education Code is amended to read:

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

(b) The election shall be made on a form prescribed by the system and shall be filed with the employer within 60 calendar days of the later of the first day of employment with an employer that provides the Cash Balance Benefit Program, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program.

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

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

SEC. 264. Section 26500 of the Education Code is amended to read:

26500. Acceptance of employment subject to coverage by the Cash Balance Benefit Program constitutes consent to have contributions deducted from the employee's salary as required by Section 26501.

SEC. 265. Section 26502 of the Education Code is amended to read:

26502. Notwithstanding Section 26301.5, the employer may pick up, for the sole purpose of and in accordance with the requirements of Section 414(h)(2) of Title 26 of the United States Code and Section



17501 of the Revenue and Taxation Code, all of the amounts otherwise due as employee contributions, which shall be paid by the employer in lieu of employee contributions and which shall be deducted from the employee's salary.

SEC. 266. Section 26504 of the Education Code is amended to read:

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

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

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

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

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

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

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

SEC. 267. Section 26505 of the Education Code is amended to read:

26505. If a participant who has retired and is receiving an annuity under the Cash Balance Benefit Program becomes reemployed prior to 60 years of age or becomes reemployed on or after 60 years of age but within one year of his or her retirement date, to perform creditable service subject to coverage by the plan, the annuity shall be terminated, the employee account and the employer account of the participant shall be credited with respective balances that reflect



the actuarial equivalent of the participant's retirement benefit as of the date of the reemployment and the Annuitant Reserve shall be reduced by the amount of the credits. If a participant who has retired and is receiving an annuity under the Cash Balance Benefit Program becomes reemployed on or after age 60 and more than one year after retirement to perform creditable service under the plan, the annuity shall continue and employee contributions and employer contributions for the creditable service shall be made to the plan and shall be credited to new employee and employer accounts established on behalf of the participant.

SEC. 268. Section 26507 of the Education Code is amended to read:

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

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

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

SEC. 269. Section 26604 of the Education Code is amended to read:

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

(b) Interest shall be computed at the minimum interest rate on the balance of the employee account and the employer account as of the first day of that month. Interest for contributions credited during that month to the respective account shall be computed at the minimum interest rate from the date of deposit. Interest shall be credited to the respective account as of the last day of that month.

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

SEC. 270. Section 26606 of the Education Code is amended to read:



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

SEC. 271. Section 26607 of the Education Code is amended to read:

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

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

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

SEC. 272. Section 26800 of the Education Code is amended to read:

26800. The normal retirement age for the Cash Balance Benefit Program is 60 years of age.

SEC. 273. Section 26802 of the Education Code is amended to read:

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

SEC. 274. Section 26803 of the Education Code is amended to read:

26803. (a) All creditable service subject to coverage by the Cash Balance Benefit Program and all service with the participant's last employer or employers that is creditable under the Defined Benefit Program shall be terminated prior to the retirement date.

(b) All employers with which the participant is employed to perform creditable service subject to coverage by the plan shall certify on a form prescribed by the system that the participant's employment has been terminated.

SEC. 275. Section 26804 of the Education Code is amended to read:

26804. Application for a retirement benefit under this part shall be made on a form prescribed by the system.

SEC. 276. Section 26805 of the Education Code is amended to read:

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

SEC. 277. Section 26806 of the Education Code is amended to read:

26806. The normal form of retirement benefit under this part is a lump-sum payment. Upon distribution of the lump-sum payment to the participant, no further benefits shall be payable from the plan with respect to the Cash Balance Benefit Program.

SEC. 278. Section 26807 of the Education Code is amended to read:

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

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

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

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

(3) A 100-percent joint and survivor annuity, which is the actuarial equivalent of the lump sum payable for the combined lives of the participant and the beneficiary, with the monthly amount payable to the participant continuing to the surviving beneficiary upon the death of the participant. However, if the option beneficiary predeceases the participant, the annuity without modification for the option shall be payable to the participant upon notification to the



board and shall commence to accrue to the participant as of the day following the date of death of the option beneficiary. Notification to the board shall include proof of death of the option beneficiary.

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

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

SEC. 279. Section 26809 of the Education Code is amended to read:

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

SEC. 280. Section 26810 of the Education Code is amended to read:

26810. (a) A participant who is employed to perform creditable service subject to coverage by the Cash Balance Benefit Program while receiving an annuity under the program may voluntarily terminate the annuity upon employment and make contributions to the program based on salary paid by the employer for the employment, provided the participant has attained age 60 and has been receiving a retirement annuity for at least one year. The participant shall continue to be subject to Section 26808.

(b) The participant shall request in writing within 60 days of employment that the annuity be terminated. Termination of the participant's annuity shall become effective on the first day of the month following the month in which verification of the participant's employment is received by the system from the participant's employer.

(c) Upon voluntary termination of the annuity, the employee and employer account of the participant shall be credited with respective balances that reflect the actuarial equivalent of the participant's retirement benefit as of the date the participant terminates the annuity and the Annuitant Reserve shall be reduced by the amount of the credits.



(d) The portion of the annuity derived from the amounts credited to the employee account and employer account, as of the date the participant terminates the annuity, shall be calculated using the actuarial assumptions in effect on the initial retirement date using the age of the participant and, if the participant elected a joint and survivor option the age of the beneficiary on the current retirement date.

(e) Upon election of a subsequent annuity, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

SEC. 281. Section 26811 of the Education Code is amended to read:

26811. The beneficiary under the joint and survivor option elected pursuant to paragraph (3) or (4) of subdivision (b) of Section 26807 shall be the person designated by the participant on the application for a retirement benefit under this part, and shall not be changed after the original retirement date unless the beneficiary has predeceased the participant.

SEC. 282. Section 26900 of the Education Code is amended to read:

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

SEC. 283. Section 26901 of the Education Code is amended to read:

26901. Application for a disability benefit under this part shall be made by the participant, or the guardian or conservator of the participant, on a form prescribed by the system.

SEC. 284. Section 26902 of the Education Code is amended to read:

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

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

SEC. 285. Section 26903 of the Education Code is amended to read:



26903. All creditable service subject to coverage by the Cash Balance Benefit Program and Defined Benefit Program shall be terminated prior to the disability date.

SEC. 286. Section 26905 of the Education Code is amended to read:

26905. The normal form of disability benefit under this part is a lump-sum payment. Upon distribution of the lump-sum payment to the participant, no further benefits shall be payable from the Cash Balance Benefit Program.

SEC. 287. Section 26906 of the Education Code is amended to read:

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

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

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

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

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

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

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



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

SEC. 288. Section 26908 of the Education Code is amended to read:

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

SEC. 289. Section 26911 of the Education Code is amended to read:

26911. If a participant who is receiving a disability annuity under this part becomes reemployed prior to 60 years of age to perform creditable service subject to coverage by the Cash Balance Benefit Program or the Defined Benefit Program, the disability annuity shall be terminated.

SEC. 290. Section 27001 of the Education Code is amended to read:

27001. Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code or any other provision of law to the contrary, the death benefit payable under the Cash Balance Benefit Program may be requested by the beneficiary and paid by the system as soon as practicable after the system receives proof of the participant's death. Except as provided in Section 27302, the death benefit under this part shall be paid no later than December 31 of the calendar year in which the fifth anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions must commence on or before the later of either of:

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

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

SEC. 291. Section 27003 of the Education Code is amended to read:

27003. The normal form of death benefit under this part is a lump-sum payment. Upon distribution of the lump-sum payment to the beneficiary, no further benefits shall be payable from the plan with respect to the Cash Balance Benefit Program.

SEC. 292. Section 27006 of the Education Code is amended to read:

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

SEC. 293. Section 27007 of the Education Code is amended to read:



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

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

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

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

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

SEC. 294. Section 27008 of the Education Code is amended to read:

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

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

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

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

SEC. 295. Section 27100 of the Education Code is amended to read:

27100. A participant may at any time designate or change the designation of one or more primary beneficiaries and one or more contingent beneficiaries to receive any lump-sum death benefit that may be payable under the plan. The beneficiary for the lump-sum death benefit under this part may be a person, trust, or the estate of the participant. The beneficiary shall be designated on a form prescribed by the system that is received in the system's office in Sacramento before the participant's death.

SEC. 296. Section 27101 of the Education Code is amended to read:



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

SEC. 297. Section 27200 of the Education Code is amended to read:

27200. Upon termination of all creditable service subject to coverage by the plan under this part and Part 13 (commencing with Section 22000) for any reason other than death, disability, or retirement, a participant may apply for a lump-sum termination benefit under this part which shall be an amount that is equal to the sum of the participant's employee account and the employer account as of the date the termination benefit is paid.

SEC. 298. Section 27201 of the Education Code is amended to read:

27201. (a) All creditable service subject to coverage by the Cash Balance Benefit Program and all service with the participants' last employer or employers that is creditable service under the Defined Benefit Program shall terminate prior to application for a termination benefit under this part.

(b) All employers with which the participant is employed to perform creditable service subject to coverage by the plan shall certify on a form prescribed by the system that the participant's employment has been terminated.

SEC. 299. Section 27202 of the Education Code is amended to read:

27202. Application for a termination benefit under this part shall be made on an application form prescribed by the system.

SEC. 300. Section 27203 of the Education Code is amended to read:

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

SEC. 301. Section 27204 of the Education Code is amended to read:

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

SEC. 302. Section 27205 of the Education Code is amended to read:

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

SEC. 303. Section 27207 of the Education Code is amended to read:



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

SEC. 304. Section 27300 of the Education Code is amended to read:

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

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

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

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

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

SEC. 305. Section 27302 of the Education Code is amended to read:

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

SEC. 306. Section 27303 of the Education Code is amended to read:

27303. Any overpayment to a participant or beneficiary under this part shall be deducted from any subsequent benefit payment that may be payable under the plan, except as provided in Section 26302.

SEC. 307. Section 27400 of the Education Code is amended to read:



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

SEC. 308. Section 27403 of the Education Code is amended to read:

27403. The nonparticipant spouse who is awarded separate nominal accounts pursuant to Section 24702 is not a participant of the Cash Balance Benefit Program. The nonparticipant spouse is entitled only to rights and benefits explicitly established by this chapter.

SEC. 309. Section 27404 of the Education Code is amended to read:

27404. The nonparticipant spouse is entitled to no benefits or rights from the separate nominal accounts except as otherwise provided in this chapter. However, this section shall not be construed to limit any right arising from the accounts of a nonparticipant with respect to the Cash Balance Benefit Program which exists because the nonparticipant spouse is employed to perform creditable service subject to coverage by the program.

SEC. 309.5. Section 27405 of the Education Code is amended to read:

27405. Upon the legal separation or dissolution of marriage of a participant, the court may include in the judgment or court order a determination of the community property rights of the parties in the participant's annuity consistent with this section. Upon election under subparagraph (E) of paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonparticipant spouse a community property share in the benefits of a participant receiving an annuity shall be consistent with this section.

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

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

SEC. 310. Section 27406 of the Education Code is amended to read:

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



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

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

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

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

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

SEC. 311. Section 27407 of the Education Code is amended to read:

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

SEC. 312. Section 27410 of the Education Code is amended to read:

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

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

SEC. 313. Section 27411 of the Education Code is amended to read:

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



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

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

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

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

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

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

SEC. 314. Section 28000 of the Education Code is amended to read:

28000. (a) The Legislature hereby finds and declares its intent to preserve and protect the rights of reemployed participants who have been absent from a position of employment covered by the Cash Balance Benefit Program to serve in the uniformed services of the United States of America in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code).

(b) The plan shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(c) The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, and a period for which a participant is absent from a position of employment for the purpose of an examination to determine the fitness of the participant to perform any such duty.

(d) The term “uniformed services” means the Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

(e) No entitlement of the right to contribute toward credits under the Cash Balance Benefit Program pursuant to this chapter by the participant as a result of service in the uniformed services shall accrue if the participant does not return to employment with the same employer or employers which employed the participant immediately prior to the eligible period of service in the uniformed services as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code.



SEC. 315. Section 28001 of the Education Code is amended to read:

28001. (a) The participant who returns to employment with the same employer which had employed the participant immediately prior to the eligible period of service in the uniformed services, in accordance with the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, shall be treated as not having incurred a break in the performance of creditable service by reason of that participant's period or periods of service in the uniformed services. The length of each period of service in the uniformed services shall not exceed five years unless otherwise permitted pursuant to Section 28004. Each period of service in the uniformed services by the participant shall, upon that participant's return to employment with the same employer or employers which had employed the participant immediately prior to the eligible period of service in the uniformed services, constitute employment toward the performance of creditable service provided that participant elects to remit the employee contributions that would have been made during the period of service in the uniformed services. The remittance of employee contributions shall be calculated pursuant to Sections 26501 and 28003. In no event shall that remittance exceed the amount the participant would have been required to contribute during that period of performance of creditable service had the participant remained continuously employed by the last employer and not served in the uniformed services throughout that period.

(b) Notwithstanding Section 26506, remittance of employee contributions in accordance with subdivision (a) shall be made by the employer pursuant to Section 26502 upon the employer's receipt of written consent of the participant specifying a schedule of repayments. That remittance shall commence during the period beginning with the date of return to employment and may continue for three times the period of the participant's eligible period of service in the uniformed services, not to exceed five years. The plan's receipt of the remittance payments to the plan with respect to the Cash Balance Benefit Program shall be credited pursuant to Chapter 7 of this part. Interest on the payments of remitted employee contributions made for the period of service in the uniformed services shall not be credited in the participant's account until after such payments are received and only prospectively to the participant's account in accordance with Section 26604. Upon receipt of the remittance payments to the plan, the payments shall be subject to the same terms and conditions under the program as if the payments had been employee contributions made by the participant had the participant not served for a period in the uniformed services. In no event shall the current year contributions and contributions



made for purposes of purchasing service exceed the maximum exclusion allowance as set forth in the Internal Revenue Code.

SEC. 316. Section 28002 of the Education Code is amended to read:

28002. (a) Except as provided in subdivision (b), an employer reemploying a participant with service subject to the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, shall be liable to remit the employer contributions provided that employer employed the participant immediately prior to the eligible period of service in the uniformed services. That remittance shall exclude interest and the contribution rate by the employer shall be to the same extent as that for contributions to the Cash Balance Benefit Program for other employees during the same period. The employer shall, within 30 days of the date of reemployment, provide information as required by the board, on a form provided by the system, notifying the system of reemployment. Following receipt of that notice, the system shall calculate in accordance with Section 28003 the total amount of employer contributions due for the participant for the full period of service in the uniformed services. Within 60 working days of notification by the plan of amount due, the employer shall remit to the plan all employer contributions.

(b) The employer shall not be liable for employer contributions for the period of service in the uniformed services if the participant elects not to remit the employee contributions for that period through the employer as required under Section 28001. In the event the participant does not remit all of the employee contributions within the prescribed repayment period, the total amount of the employer contributions shall remain with the plan and credited to the participant's employer account with respect to the Cash Balance Benefit Program.

SEC. 317. Section 28004 of the Education Code is amended to read:

28004. A participant who is absent from a position of employment subject to the Cash Balance Benefit Program due to that participant's service in the uniformed services, shall not be entitled to obtain the right to contribute toward credits under the plan in excess of five years of service in the uniformed services, except for the following reasons:

(a) The participant is required to serve beyond five years to complete an initial period of obligated service in the uniformed services;

(b) The participant was unable to obtain orders releasing the participant from a period of service in the uniformed services before the expiration of the five-year period and that inability was through no fault of the participant;



(c) The participant served in the uniformed services as required pursuant to Section 270 of Title 10, under Section 502(a) or 503 of Title 32 of the United States Code, or to fulfill additional training requirements determined and certified in writing by the Secretary of Defense, to be necessary for professional development, or for completion of skill training or retraining; or

(d) The participant is:

(1) Ordered to or retained on active duty under Section 672(a), 672(g), 673, 673b, 673c, or 688 of Title 10 or under Section 331, 332, 359, 360, 367, or 712 of Title 14 of the United States Code.

(2) Ordered to or retained on active duty, other than for training, under any provision of law during a war or during a national emergency declared by the President or the Congress.

(3) Ordered to active duty, other than for training, in support, as determined by the secretary concerned, of an operational mission for which personnel have been ordered to active duty under Section 673b of Title 10 of the United States Code.

(4) Ordered to active duty in support, as determined by the secretary concerned, of a critical mission or requirement of the uniformed services.

(5) Called into federal service as a participant of the National Guard under Chapter 15 of Title 10 or under Section 3500 or 8500 of Title 10 of the United States Code.

SEC. 318. Section 28005 of the Education Code is amended to read:

28005. A participant's entitlement to the right to contribute toward credits under the Cash Balance Benefit Program pursuant to this chapter by reason of the service in the uniformed services terminates upon the occurrence of any of the following events:

(a) A separation of the participant from the uniformed service with a dishonorable or bad conduct discharge.

(b) A separation of the participant from the uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the secretary concerned.

(c) A dismissal of the participant permitted under Section 1161(a) of Title 10 of the United States Code.

(d) A dropping of the participant from the rolls pursuant to Section 1161(b) of Title 10 of the United States Code.

SEC. 319. Section 28100 of the Education Code is amended to read:

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

(b) The employer shall notify the system of the decision to discontinue the plan no less than 90 calendar days prior to the



effective date of discontinuance. Such notice shall be submitted on a form prescribed by the system.

SEC. 320. Section 44929 of the Education Code is amended to read:

44929. (a) Whenever the governing board of a school district or a county office of education, by formal action taken prior to January 1, 1999, determines that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county office of education would be served by encouraging the retirement of certificated employees and that the retirement will either: result in a net savings to the district or county office of education; result in a reduction of the number of certificated employees as a result of declining enrollment; or result in the retention of certificated employees who are credentialed to teach in teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service shall be credited under the State Teachers' Retirement Defined Benefit Program to a certificated employee pursuant to Section 22714 if all of the following conditions exist:

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

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

(3) The district or county office of education transmits to the retirement fund the administrative costs incurred by the State



Teachers' Retirement System in implementing this section, as determined by the Teachers' Retirement Board.

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

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

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

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

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

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

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

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

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

(f) Any employee who retires with service credit granted under this section and Section 22714 and who subsequently reinstates, shall forfeit the service credit granted under this section and Section 22714.

(g) This section shall not be applicable to any employee otherwise eligible if the employee receives any unemployment insurance



payments arising out of employment with an employer subject to Part 13 (commencing with Section 22000) during a period extending one year beyond the effective date of the formal action, or if the employee is not otherwise eligible to retire for service under the State Teachers' Retirement Defined Benefit Program.

SEC. 321. Section 87488 of the Education Code is amended to read:

87488. (a) Whenever the governing board of a community college district, by formal action taken prior to January 1, 1999, determines that because of impending curtailment of or changes in the manner of performing services, the best interests of the district would be served by encouraging the retirement of academic employees and that the retirement will either: result in a net savings to the district; result in a reduction of the number of academic employees as a result of declining enrollment; or result in the retention of faculty who are qualified to teach in areas of teacher shortage, including, but not limited to, mathematics and science, an additional two years of service shall be credited under the State Teachers' Retirement Defined Benefit Program to an academic employee pursuant to Section 22714 if all of the following conditions exist:

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

(2) The governing board transmits to the retirement fund an amount determined by the Teachers' Retirement Board that equals the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and Section 22714 and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board that equals the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of additional service credit pursuant to this section and the amount the member would have received without the additional service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Sections 24414 and 24415. The transfer to the retirement fund shall be made in a manner and in a time period that shall not exceed four years, that is acceptable to the Teachers' Retirement Board. The community college district shall make the payment with respect to all eligible employees who retired pursuant to this section and Section 22714.

(3) The governing board transmits to the retirement fund the administrative costs incurred by the State Teachers' Retirement



System in implementing this section, as determined by the Teachers' Retirement Board.

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

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

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

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

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

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

(e) Any employee who retires with service credit granted under this section and Section 22714 and subsequently reinstates, shall forfeit the service credit granted under this section and Section 22714.

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

SEC. 322. Section 2610 of the Family Code is amended to read:

2610. (a) Except as provided in subdivision (b), the court shall make whatever orders are necessary or appropriate to ensure that each party receives the party's full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, any of the following:

(1) Order the disposition of any retirement benefits payable upon or after the death of either party in a manner consistent with Section 2550.



(2) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, in any case in which a retirement plan provides for such an election, provided that no court shall order a retirement plan to provide increased benefits determined on the basis of actuarial value.

(3) Upon the agreement of the nonemployee spouse, order the division of accumulated community property contributions and service credit as provided in the following or similar enactments:

(A) Article 1.2 (commencing with Section 21215) of Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code.

(B) Chapter 12 (commencing with Section 22650) of Part 13 of the Education Code.

(C) Article 8.4 (commencing with Section 31685) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(D) Article 2.5 (commencing with Section 75050) of Chapter 11 of Title 8 of the Government Code.

(E) Chapter 15 (commencing with Section 27400) of Part 14 of the Education Code.

(4) Order a retirement plan to make payments directly to a nonmember party of his or her community property interest in retirement benefits.

(b) A court shall not make any order that requires a retirement plan to do either of the following:

(1) Make payments in any manner that will result in an increase in the amount of benefits provided by the plan.

(2) Make the payment of benefits to any party at any time before the member retires, except as provided in paragraph (3) of subdivision (a), unless the plan so provides.

(c) This section shall not be applied retroactively to payments made by a retirement plan to any person who retired or died prior to January 1, 1987, or to payments made to any person who retired or died prior to June 1, 1988, for plans subject to paragraph (3) of subdivision (a).

SEC. 323. Section 3543.2 of the Government Code is amended to read:

3543.2. (a) The scope of representation shall be limited to matters relating to wages, hours of employment, and other terms and conditions of employment. "Terms and conditions of employment" mean health and welfare benefits as defined by Section 53200, leave, transfer and reassignment policies, safety conditions of employment, class size, procedures to be used for the evaluation of employees, organizational security pursuant to Section 3546, procedures for processing grievances pursuant to Sections 3548.5, 3548.6, 3548.7, and 3548.8, the layoff of probationary certificated school district employees, pursuant to Section 44959.5 of the Education Code, and alternative compensation or benefits for employees adversely affected by pension limitations pursuant to Section 22316 of the



Education Code, to the extent deemed reasonable and without violating the intent and purposes of Section 415 of the Internal Revenue Code. In addition, the exclusive representative of certificated personnel has the right to consult on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks to the extent such matters are within the discretion of the public school employer under the law. All matters not specifically enumerated are reserved to the public school employer and may not be a subject of meeting and negotiating, provided that nothing herein may be construed to limit the right of the public school employer to consult with any employees or employee organization on any matter outside the scope of representation.

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

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

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

(e) Pursuant to Section 45028 of the Education Code, the public school employer and the exclusive representative shall, upon the request of either party, meet and negotiate a salary schedule based on criteria other than a uniform allowance for years of training and years of experience. If the public school employer and the exclusive representative do not reach mutual agreement, then the provisions of Section 45028 of the Education Code requiring a salary schedule based upon a uniform allowance for years of training and years of experience shall apply. A salary schedule established pursuant to this subdivision shall not result in the reduction of the salary of any teacher.



SEC. 324. Section 22009.03 of the Government Code is amended to read:

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

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

SEC. 325. Section 22009.1 of the Government Code is amended to read:

22009.1. “Retirement system” includes:

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

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

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

(d) The State Teachers’ Retirement System with respect to all employees in positions subject to coverage under the Defined Benefit Program system except employees of a public agency having any employees in positions covered by such system who are also in positions covered by a local retirement system for the retirement of teachers, or for membership in which public school teachers are eligible, operated by city, city and county, county or other public agency or combination of public agencies of the state.

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

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

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

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

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

(j) Any retirement system with respect only to employees of a hospital which is an integral part of a city incorporated between



January 15, 1898 and July 15, 1898 in positions covered by the system, as designated by the board on request of the city.

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

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

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

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

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

SEC. 326. Section 22156 of the Government Code is amended to read:

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

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

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

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

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

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



SEC. 327. Section 22208 of the Government Code is amended to read:

22208. With respect to each retirement system coverage group, the legislative or governing body of every public agency having employees in positions covered by a retirement system, may, upon the affirmative vote of a majority of eligible retirement system employees of the retirement system coverage group at a referendum conducted in accordance with Article 2 (commencing with Section 22300) of this chapter and the rules and regulations promulgated by the board pursuant to this part, make formal application to the board for the inclusion of the employees in each retirement system coverage group in the agreement. With respect to employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, the formal application shall be deemed to be made, if made prior to July 1, 2004, by the legislative or governing body of a public agency as defined in Section 22009.03, or if on or after July 1, 2004, by the Teachers' Retirement Board.

SEC. 328. Section 22302 of the Government Code is amended to read:

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

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

SEC. 329. Sections 56, 57, 58, 256, 262, 263, 266, 312, and 319 of this act shall not become operative if SB 2085 of the 1997-98 Regular Session is enacted prior to this act and amends Sections 22601.5, 22602, 22604, 26301, 26400, 26401, 26504, 27410, and 28100 of the Education Code, in which case Sections 11, 12, 13, 40, 42, 43, 50, 51, 64, and 66 of SB 2085 of the 1997-98 Regular Session shall be given effect and Sections 56, 57, 58, 256, 263, 266, 312, and 319 of this act shall be repealed on January 1, 1999.

SEC. 330. Section 72.5 of this act shall only become operative if SB 2126 of the 1997-98 Regular Session is enacted, in which case Section 72 of this act shall not become operative and shall be repealed on January 1, 1999. If SB 2126 of the 1997-98 Regular Session is not enacted, then Section 72.5 shall not become operative and shall be repealed on January 1, 1999 and Section 72 shall become operative.

SEC. 331. Section 132.5 of this bill incorporates amendments to Section 23203 of the Education Code proposed by both this bill and SB 2126. It shall only become operative if (1) both bills are enacted



and become effective on or before January 1, 1999, (2) each bill amends Section 23203 of the Education Code, and (3) this bill is enacted after SB 2126, in which case Section 132 of this bill shall not become operative.

SEC. 332. Section 309.5 of this act shall become operative only if SB 2085 of the 1997-98 Regular Session is not enacted. If SB 2085 of the 1997-98 Regular Session is enacted, Section 309.5 shall not become operative and shall be repealed on January 1, 1999.

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