

Senate Bill No. 629

CHAPTER 386

An act to amend Sections 24001, 24007, and 24101 of, and to add Sections 24001.5 and 24101.5 to, the Education Code, and to amend Section 21540.5 of the Government Code, relating to public employees.

[Approved by Governor August 26, 1997. Filed with Secretary of State August 26, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SB 629, Karnette. Public employees retirement.

(1) The State Teachers' Retirement Law prescribes alternative disability benefits for members with less than 4 years of service if they have on-the-job injuries.

This bill would make those alternative disability benefits applicable to members with less than 5 years of credited service whose disabilities are due to unlawful acts of bodily harm.

(2) The Public Employees' Retirement Law prescribes increased special death benefits for state or local miscellaneous members whose deaths were a direct consequence of violent acts that arose out of and in the course of their official duties. The benefits are available for local miscellaneous members whose employers elect to provide those benefits.

This bill would provide those benefits to school members for acts occurring on and after January 1, 1998.

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

SECTION 1. Section 24001 of the Education Code is amended to read:

24001. (a) A member may apply for a disability allowance under this plan 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 by the plan. 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 have been served 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 not attained normal retirement age, or has unused sick leave with sufficient days to have the member receive salary 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 plan 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 allowance 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 plan and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) 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 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 by the plan.

SEC. 1.5. Section 24001.5 is added to the Education Code, to read:

24001.5. A member shall not be eligible for disability under this plan 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. 2. Section 24007 of the Education Code is amended to read:

24007. A member who qualifies for a disability allowance under this chapter and who has attained age 45 years, but who has not yet attained age 60 years, shall have his or her allowance calculated upon service with each year of credited California service providing 5 percent of final compensation. The disabled member shall receive the lesser of this amount or the amount provided by Section 24006. A child's portion of the allowance shall be determined pursuant to Section 24006. This section shall not apply to a member who is eligible to apply for a disability allowance under subdivision (c) of Section 24001.

SEC. 3. Section 24101 of the Education Code is amended to read:

24101. (a) A member may apply for a disability retirement 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 by the plan. 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 have been served 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 plan 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 plan and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) 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 by the plan.

SEC. 3.5. Section 24101.5 is added to the Education Code, to read:

24101.5. A member shall not be eligible for disability retirement from this plan 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. 4. Section 21540.5 of the Government Code is amended to read:

21540.5. The special death benefit is also payable if the deceased was a state, school, or local miscellaneous member if the death of the member was a direct consequence of a violent act perpetrated on his or her person that arose out of and was in the course of his or her official duties and there is a survivor who qualifies under subdivision (b) of Section 21541. The Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases determine whether the member's death was



a direct consequence of a violent act perpetrated on his or her person that arose out of and in the course of his or her official duties.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

The jurisdiction of the Workers' Compensation Appeals shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

This section shall not apply to a contracting agency nor its employees unless and until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of a new contract, by express provision of the contract.

SEC. 5. The amendments to Section 21540.5 of the Government Code during the 1997-98 Regular Session shall not be construed to affect the liability of the Public Employees' Retirement System for any acts respecting state or local miscellaneous members that occurred prior to July 1, 1993, nor any acts respecting school members that occurred prior to January 1, 1998.

