

Introduced by Senator Burton

February 20, 1998

An act to amend Sections 26113, 26127, 26133, 26301, 26302, 26400, 26401, 26504, 26507, 26807, 26906, 27411, and 28100 of the Education Code, relating to the State Teachers' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

SB 2085, as introduced, Burton. State Teachers' Retirement System Cash Balance Plan.

(1) The State Teachers' Retirement System Cash Balance Plan provides retirement benefits for persons employed for less than 50% of the full-time equivalent by school employers. 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.

(2) 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 rate may not be less than 4%.

(3) Existing law provides that nonparticipant spouses who are awarded separate accounts under the plan may select alternative annuities.

This bill would revise those alternatives.

(4) The bill would also make technical, nonsubstantive changes to various provisions of the State Teacher’s Retirement System Cash Balance Plan.

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

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

1 SECTION 1. Section 26113 of the Education Code is
2 amended to read:

3 26113. (a) “Creditable Service” means any of the
4 following activities performed for an employer in a
5 position requiring a credential, certificate, or permit
6 pursuant to this code or under the appropriate minimum
7 standards adopted by the Board of Governors of the
8 California Community Colleges or under the provisions
9 of an approved charter for the operation of a charter
10 school for which the employer is eligible to receive state
11 apportionment or pursuant to a contract between a
12 community college district and the United States
13 Department of Defense to provide vocational training:

14 (1) The work of teachers, instructors, district interns
15 and academic employees employed in the instructional
16 program for pupils, including special programs such as
17 adult education, regional occupational programs, child
18 care centers, and prekindergarten programs pursuant to
19 Section 22161.

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

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

26 (4) The selection, collection, preparation,
27 classification, demonstration, or evaluation of
28 instructional materials of any course of study for use in the
29 development of the instructional program in California
30 public schools, or other services related to school
31 curriculum.



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

4 (6) School activities related to, and an outgrowth of,
5 the instructional and guidance program of the school
6 when performed in addition to other activities described
7 in this section.

8 (7) The work of nurses, physicians, speech therapists,
9 psychologists, audiometrists, audiologists, and other
10 school health professionals.

11 (8) Services as a school librarian.

12 (9) The work of *county and district superintendents*
13 *and other* employees who are responsible for the
14 supervision of persons or administration of the duties
15 described in this section.

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

18 (c) The board shall have final authority for
19 determining creditable service to cover any activities not
20 already specified.

21 SEC. 2. Section 26127 of the Education Code is
22 amended to read:

23 26127. “Full time equivalent” means the ~~time~~ *days or*
24 *hours of creditable service* that a person who is employed
25 on a part-time basis would be required to ~~serve~~ *perform*
26 in a school year if he or she were employed full time, as
27 defined by Section 22138.5, in that position.

28 SEC. 3. Section 26133 of the Education Code is
29 amended to read:

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

32 SEC. 4. Section 26301 of the Education Code is
33 amended to read:

34 26301. (a) Employers shall report, on a form
35 prescribed by the system, contributions paid on behalf of
36 each participant in each pay period, along with all other
37 information required by the system, no later than 15
38 calendar days following the last day of the pay period in
39 which the salary was paid, and the report is delinquent
40 immediately thereafter.



1 ~~(b) If the employer submits a report late or in an~~
2 ~~unacceptable form, the~~ The board may assess a penalty
3 against the employer, ~~based on the sum of the employee~~
4 ~~contributions and employer contributions required by~~
5 ~~the report and at the minimum interest rate, or a fee of~~
6 ~~five hundred dollars (\$500), whichever is greater for a~~
7 ~~report submitted late or in an unacceptable form.~~

8 SEC. 5. Section 26302 of the Education Code is
9 amended to read:

10 26302. (a) If more or less than the required
11 contributions are paid to the plan based on salary paid to
12 a participant, proper adjustment shall be made by the
13 employer within 60 days of discovery or of notification by
14 the system, and any contributions deducted in error from
15 the participant's salary shall be returned to the
16 participant by the employer within the same time period.

17 (b) If a report contains erroneous information and the
18 system, acting in good faith, makes a distribution from the
19 ~~plan~~ cash balance fund based on that information, the
20 employer who submitted the report shall reimburse the
21 fund in full for the amount of the erroneous
22 disbursement, plus interest on the amount of the
23 erroneous disbursement at the minimum interest rate
24 from the date of disbursement to the date of
25 reimbursement, immediately upon notification by the
26 system.

27 SEC. 6. Section 26400 of the Education Code is
28 amended to read:

29 26400. (a) A person employed to perform creditable
30 service for less than 50 percent of the full-time equivalent
31 for the position shall become a participant on the later of
32 the first day on which creditable service is performed for
33 an employer that provides the plan or the effective date
34 of the employer's governing board's action to provide the
35 Cash Balance Plan, provided the person is not subject to
36 mandatory membership in the Defined Benefit Plan
37 except as provided in Section 26402.

38 (b) If the employer's governing board's action to
39 provide the Cash Balance Plan gives employees the right
40 to elect coverage under social security or an alternative



1 retirement plan offered by the employer in addition to
2 the Cash Balance Plan, the employee may elect within 60
3 *calendar* days of the later of the first day on which
4 creditable service is performed, the date of the
5 employer's governing board's action to provide the Cash
6 Balance Plan, or the effective date of the employer's
7 governing board's action to provide the Cash Balance
8 Plan to be covered by social security or to participate in
9 the alternative retirement plan in lieu of participating in
10 the Cash Balance Plan. Any election shall not preclude an
11 employee from participating in the Cash Balance Plan at
12 a later date so long as the Cash Balance Plan is provided
13 by the employer and the employee is eligible to
14 participate in the Cash Balance Plan.

15 (c) If subdivision (b) is applicable, the employer shall
16 inform employees pursuant to subdivision (c) of Section
17 26300 of their right to make an election and the election
18 shall be made on a form prescribed by the system and
19 filed with the employer. The election shall become
20 effective on the later of the first day on which creditable
21 service is performed or the effective date of the
22 employer's governing board's action to provide the plan.

23 (d) If the participant's basis of employment with an
24 employer that provides the Cash Balance Plan changes to
25 employment to perform creditable service for 50 percent
26 or more of the full-time equivalent for the position,
27 contributions to the Cash Balance Plan on behalf of the
28 participant shall no longer be made and creditable
29 service performed for that employer and all other
30 employers shall be subject to coverage by the Defined
31 Benefit Plan as of the first day of the pay period in which
32 the change in the participant's basis of employment
33 occurred, except as provided in Section 26402.

34 SEC. 7. Section 26401 of the Education Code is
35 amended to read:

36 26401. (a) A member of the Defined Benefit Plan
37 who is employed to perform creditable service for less
38 than 50 percent of the full-time equivalent for the
39 position for an employer that provides the Cash Balance
40 Plan may elect to become a participant for creditable



1 service subject to coverage by the Cash Balance Plan for
2 that employer provided that the creditable service is not
3 performed for the same employer with whom the
4 member is also subject to mandatory membership in the
5 Defined Benefit Plan.

6 (b) The election shall be made on a form prescribed by
7 the system and shall be filed with the employer within 60
8 *calendar* days of the later of the first day of employment
9 with an employer that provides the Cash Balance Plan,
10 the date of the employer's governing board's action to
11 provide the Cash Balance Plan, or the effective date of
12 the employer's governing board's action to provide the
13 Cash Balance Plan.

14 (c) Employers shall make available to employees
15 specified in subdivision (a) information and forms
16 provided by the system for making an election regarding
17 participation, and shall maintain the written election by
18 the employee in employer files. The election shall
19 become effective on the first day of the month following
20 the month in which the election is made.

21 (d) If an election is made pursuant to subdivision (a)
22 and the participant's basis of employment with that
23 employer changes to employment to perform creditable
24 service for 50 percent or more of the full-time equivalent
25 for the position, contributions to the Cash Balance Plan
26 on behalf of the participant shall no longer be made and
27 creditable service performed for that employer and all
28 other employers shall be subject to coverage by the
29 Defined Benefit Plan as of the first day of the pay period
30 in which the change in the participant's basis of
31 employment occurred, except as provided in Section
32 26402.

33 SEC. 8. Section 26504 of the Education Code is
34 amended to read:

35 26504. The employer may enter into a collective
36 bargaining agreement to pay a different employer
37 contribution rate and a different employee contribution
38 rate, provided all of the following conditions are met:



1 (a) The sum of the employee contributions and
2 employer contributions for each participant shall equal or
3 exceed 8 percent of salary.

4 (b) The employee contribution rate ~~shall not~~ *may*
5 exceed the employer contribution rate *but in no event*
6 *shall the employer contribution rate be less than 4*
7 *percent.*

8 (c) The employee contribution rate and employer
9 contribution rate shall be the same for each participant
10 employed by the employer.

11 (d) The employee contribution rate and employer
12 contribution rate shall be in one-quarter percent
13 increments.

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

31 (f) The employer has filed notice of the employee
32 contribution rate and the employer contribution rate on
33 a form prescribed by the system.

34 SEC. 9. Section 26507 of the Education Code is
35 amended to read:

36 26507. (a) The board may adjust the mandatory
37 employer contribution rate specified under Section 26503
38 for a fixed period of plan years when it has determined
39 based upon the recommendation of the actuary, that
40 increased contributions are required. The adjustment



1 shall not exceed one-fourth of one ~~percentage point~~
2 *percent* for any plan year. The mandatory employer
3 contribution rate as adjusted shall not exceed 4.25 percent
4 of salary in any plan year for each participant employed
5 by the employer, except as provided in subdivision (b).

6 (b) The adjustment to the employer contribution rate
7 specified in subdivision (a) shall be applied to the
8 employer contribution rate specified in a collective
9 bargaining agreement pursuant to Section 26504 and in
10 effect on the first day of the plan year in which the
11 adjustment to the employer contribution rate takes
12 effect.

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

16 SEC. 10. Section 26807 of the Education Code is
17 amended to read:

18 26807. (a) Upon application for a retirement benefit,
19 the participant may elect to receive the retirement
20 benefit in the form of an annuity, provided the sum of the
21 employee account and employer account equals or
22 exceeds three thousand five hundred dollars (\$3,500).

23 (b) The participant may elect one of the following
24 annuity options:

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

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

33 (3) A 100-percent joint and survivor annuity, which is
34 the actuarial equivalent of the lump sum payable for the
35 combined lives of the participant and the beneficiary,
36 with the monthly amount payable to the participant
37 continuing to the surviving beneficiary upon the death of
38 the participant. However, if the option beneficiary
39 predeceases the participant, the annuity without
40 modification for the option shall be payable to the



1 participant upon notification to the board and shall
2 commence to accrue to the participant as of the day
3 following the date of death of the option beneficiary.
4 Notification to the board shall include proof of death of
5 the option beneficiary.

6 (4) A 50-percent joint and survivor annuity, which is
7 the actuarial equivalent of the lump sum payable for the
8 combined lives of the participant and the beneficiary,
9 with one-half of the monthly amount payable to the
10 participant continuing to the surviving beneficiary upon
11 the death of the participant. However, if the option
12 beneficiary predeceases the participant, the annuity
13 without modification for the option shall be payable to the
14 participant upon notification to the board and shall
15 commence to accrue to the participant as of the day
16 following the date of death of the option beneficiary.
17 Notification to the board shall include proof of death of
18 the option beneficiary.

19 (5) A period certain annuity, which is the lump sum
20 payable over a specified number of years, from a
21 minimum of three years to a maximum of 10 years but in
22 any event not to exceed the life expectancy of the
23 participant or the life expectancy of the participant and
24 the participant's option beneficiary, until there is no
25 balance remaining in the participant's employee account
26 and employer account.

27 SEC. 11. Section 26906 of the Education Code is
28 amended to read:

29 26906. (a) Upon application for a disability benefit,
30 the participant may elect to receive the disability benefit
31 in the form of an annuity provided the sum of the
32 employee account and employer account equals or
33 exceeds three thousand five hundred dollars (\$3,500).

34 (b) The participant may elect one of the following
35 options:

36 (1) A single life annuity with a cash refund feature,
37 which is the actuarial equivalent of the lump sum payable
38 for the life of the participant with any balance remaining
39 upon the death of the participant payable in a lump sum
40 to the beneficiary.



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

4 (3) A 100-percent joint and survivor annuity, which is
5 the actuarial equivalent of the lump sum payable for the
6 combined lives of the participant and the beneficiary
7 designated under this subdivision, with the monthly
8 amount payable to the participant continuing to the
9 surviving beneficiary upon the death of the participant.
10 However, if the option beneficiary predeceases the
11 participant, the annuity without modification for the
12 option shall be payable to the participant *upon*
13 *notification to the board and shall commence to accrue*
14 *to the participant as of the day following the date of death*
15 *of the option beneficiary. Notification to the board shall*
16 *include proof of death of the option beneficiary.*

17 (4) A 50-percent joint and survivor annuity, which is
18 the actuarial equivalent of the lump sum payable for the
19 combined lives of the participant and the beneficiary
20 designated under this subdivision, with one-half of the
21 monthly amount payable to the participant continuing to
22 the surviving beneficiary upon the death of the
23 participant. However, if the option beneficiary
24 predeceases the participant, the annuity without
25 modification for the option shall be payable to the
26 participant *upon notification to the board and shall*
27 *commence to accrue to the participant as of the day*
28 *following the date of death of the option beneficiary.*
29 *Notification to the board shall include proof of death of*
30 *the option beneficiary.*

31 (5) A period certain annuity, which is the lump sum
32 payable over a specified number of years, from a
33 minimum of three years to a maximum of 10 years but in
34 any event not to exceed the life expectancy of the
35 participant or the life expectancy of the participant and
36 the participant's option beneficiary, until there is no
37 balance remaining in the participant's employee account
38 and employer account.

39 SEC. 12. Section 27411 of the Education Code is
40 amended to read:



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

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

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

10 (2) The nonparticipant spouse has attained the age of
11 55 years or more.

12 (b) An annuity of a nonparticipant spouse shall
13 become effective upon any date designated by the
14 nonparticipant spouse, provided:

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

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

20 SEC. 13. Section 28100 of the Education Code is
21 amended to read:

22 28100. (a) The employer may discontinue providing
23 the Cash Balance Plan at anytime in accordance with the
24 terms and conditions of the employer's governing board's
25 formal action to provide the plan.

26 (b) The employer shall notify the system of the
27 decision to discontinue the plan no less than 90 *calendar*
28 days prior to the effective date of discontinuance. Such
29 notice shall be submitted on a form prescribed by the
30 system.

