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AMENDED IN ASSEMBLY MAY 20, 2004
AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1852

Introduced by Assembly Member Mullin

January 29, 2004

An act to amend Sections 22851 ~~and 24221~~, 24221, and 28001 of the Education Code, relating to state teachers' retirement, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1852, as amended, Mullin. State teachers' retirement.

(1) Existing law authorizes a member of the Defined Benefit Program *or a participant of the Cash Balance Benefit Program* of the State Teachers' Retirement Plan to receive credit, as specified, for the period of time during which he or she served in the uniformed services if the member or participant makes the employee contributions to the retirement fund that he or she would have otherwise been required to make during that period and other conditions exist.

Under this bill, a member ~~of the Defined Benefit Program~~ *or participant* would receive credit for the period of time during which he or she served in the uniformed services, up to one year, without paying any employee contributions, if the period of service occurred between September 11, 2001, and July 30, 2005, and other conditions exist.

(2) Existing law authorizes members of the Defined Benefit Program of the State Teachers' Retirement Plan who retire prior to

January 1, 2011, at a specified age or at a specified age with 30 years of service, to elect to receive a specified lump-sum payment upon retirement and an actuarially reduced monthly allowance.

This bill would authorize any member who retires prior to that date to make that election. The bill would also specify the method to be used by the Teachers' Retirement Board to calculate the member's actuarially reduced monthly allowance, that results in no net actuarial impact to the program.

(3) *The bill would appropriate \$53,000 from the Teachers' Retirement Fund to the Teachers' Retirement Board to implement the bill's provisions.*

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

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

1 SECTION 1. Section 22851 of the Education Code is
2 amended to read:

3 22851. The right to pension benefits under this part of a
4 member who returns to employment with the same employer that
5 had employed the member immediately prior to the eligible period
6 of service in the uniformed services, and is subject to Chapter 43
7 (commencing with Section 4301) of Title 38 of the United States
8 Code shall be determined under this section.

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

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

19 (3) A member who returns to employment, with the same
20 employer that had employed the member immediately prior to the
21 eligible period of service in the uniformed services is not entitled
22 to any benefits under this part with respect to service in the
23 uniformed services to which the member would not otherwise
24 have been entitled had the member remained continuously



1 employed and not undertaken that service in the uniformed
2 services.

3 (b) For purposes of calculating benefits, a member who returns
4 to employment with the same employer that had employed the
5 member immediately prior to the eligible period of service in the
6 uniformed services shall be entitled to service credit under this part
7 for the eligible period of service in the uniformed services upon his
8 or her payment of the member contributions required under
9 Section 22901 that otherwise would have been due for that period
10 of service had the member remained continuously employed and
11 not undertaken that service in the uniformed services. No payment
12 of member contributions may exceed the amount the member
13 would have been required to contribute under this part had the
14 member not served in the uniformed services and had remained
15 continuously employed by the employer throughout the eligible
16 period of service in the uniformed services. If a member fails to
17 remit the member contributions that would have been required
18 under Section 22901 with respect to the eligible period of service
19 in the uniformed services, no service credit shall be provided under
20 this part for the period to which the unpaid contributions relate.

21 (c) Any payment of member contributions to the Defined
22 Benefit Program in this section shall be made by the member
23 during the period beginning with the date of return to employment
24 and may continue for three times the period of the member's
25 eligible service in the uniformed services, not to exceed five years.
26 Any payment of member contributions to the Defined Benefit
27 Program in this section by a member who returned to employment
28 prior to January 1, 1997, and qualifies for benefits in accordance
29 with the Uniformed Services Employment and Reemployment
30 Rights Act of 1994 (Chapter 43 (commencing with Section 4301)
31 of Title 38 of the United States Code), shall be made by the
32 member during the period beginning with the date of notification
33 of eligibility by the employer to the system and may continue for
34 three times the period of the member's eligible service in the
35 uniformed services, not to exceed five years. Any subsequent
36 request to purchase this service shall be subject to the provisions
37 of Chapter 14 (commencing with Section 22800). If all
38 contributions due under this part are not paid to the plan with
39 respect to the Defined Benefit Program within the specified
40 repayment period and in accordance with subdivision (b) of



1 Section 22851, the contributions shall be returned to the member
2 at the end of the repayment period. Interest on member
3 contributions made for the eligible period of service in the
4 uniformed services may not be credited under this part until after
5 the contributions due are paid and then only prospectively to the
6 member's account in accordance with Section 22216.

7 (d) (1) Notwithstanding subdivision (b), a member is not
8 required to pay contributions to receive credit pursuant to this
9 section for the eligible period of service in the uniformed services
10 if the service was performed on or after September 11, 2001, and
11 the member returned to employment prior to July 30, 2005, with
12 the same employer that had employed the member immediately
13 prior to the eligible period of service.

14 (2) The maximum amount of credited service that a member
15 employed on a full-time basis may receive without payment of
16 contributions under this subdivision shall be one year. The
17 maximum amount of credited service that a member employed on
18 less than a full-time basis may receive without payment of
19 contributions under this subdivision may not exceed the amount
20 of credited service the member would have earned during the
21 12-month period immediately following his or her entry into the
22 eligible period of service in the uniformed services.

23 (3) This subdivision does not modify the employer's obligation
24 to make contributions on behalf of the member pursuant to Section
25 22852.

26 SEC. 2. Section 24221 of the Education Code is amended to
27 read:

28 24221. (a) A member who retires for service prior to January
29 1, 2011, may elect, on a form prescribed by the system, to receive
30 a lump-sum payment and an actuarially reduced monthly
31 allowance pursuant to this section in lieu of the monthly allowance
32 that would otherwise be payable to the member pursuant to this
33 chapter. The election under this section shall be made at the time
34 the member files his or her application for service retirement
35 allowance as provided in Section 24204.

36 (b) A member who makes the election described in subdivision
37 (a) shall receive a one-time, lump-sum payment in an amount that
38 equals or does not exceed the lesser of the following amounts:

39 (1) The actuarial present value of the amount by which (A) the
40 monthly allowance payable to the member pursuant to this chapter



1 exceeds (B) an amount equal to 2 percent of the member's final
2 compensation multiplied by the number of years of credited
3 service and divided by 12.

4 (2) Fifteen percent of the actuarial present value of the monthly
5 allowance payable to the member under this chapter.

6 (c) Notwithstanding any other provision of this part, a member
7 who makes the election described in subdivision (a) shall receive
8 a monthly allowance, pursuant to this chapter, that shall be
9 actuarially reduced to reflect the lump-sum amount paid under
10 subdivision (b) .

11 (d) A member may not apply a lump-sum payment made
12 pursuant to this section for the purposes of redepositing previously
13 refunded retirement contributions pursuant to Chapter 19
14 (commencing with Section 23200) or purchasing service credit
15 pursuant to Chapter 14 (commencing with Section 22800),
16 Chapter 14.2 (commencing with Section 22820) or Chapter 14.5
17 (commencing with Section 22850). The Legislature hereby finds
18 and declares that if a member who elects to receive a partial
19 lump-sum payment also elects to redeposit previously refunded
20 contributions or purchase service credit as a result of the receipt of
21 the lump-sum payment, the Defined Benefit Program may
22 experience a net actuarial impact.

23 (e) An election pursuant to subdivision (a) may have no net
24 actuarial impact to the Defined Benefit Program. The board shall
25 adopt present value factors to establish a corresponding actuarially
26 reduced monthly allowance, that results in no net actuarial impact
27 to the Defined Benefit Program. The Legislature reserves the right
28 to modify the provisions of this section to further the objective of
29 permitting eligible members to receive a lump-sum distribution of
30 a portion of their benefits, with a corresponding actuarial
31 reduction in their monthly allowance, so that there is no net
32 actuarial impact to the Defined Benefit Program.

33 *SEC. 3. Section 28001 of the Education Code is amended to*
34 *read:*

35 28001. (a) The participant who returns to employment with
36 the same employer ~~which~~ *that* had employed the participant
37 immediately prior to the eligible period of service in the uniformed
38 services, in accordance with the requirements of Chapter 43
39 (commencing with Section 4301) of Title 38 of the United States
40 Code, shall be treated as not having incurred a break in the



1 performance of creditable service by reason of that participant's
2 period or periods of service in the uniformed services. The length
3 of each period of service in the uniformed services shall not exceed
4 five years unless otherwise permitted pursuant to Section 28004.
5 Each period of service in the uniformed services by the participant
6 shall, upon that participant's return to employment with the same
7 employer or employers ~~which~~ *that* had employed the participant
8 immediately prior to the eligible period of service in the uniformed
9 services, constitute employment toward the performance of
10 creditable service provided that participant elects to remit the
11 employee contributions that would have been made during the
12 period of service in the uniformed services. The remittance of
13 employee contributions shall be calculated pursuant to Sections
14 26501 and 28003. ~~In no event shall that~~ *That* remittance *may not*
15 exceed the amount the participant would have been required to
16 contribute during that period of performance of creditable service
17 had the participant remained continuously employed by the last
18 employer and not served in the uniformed services throughout that
19 period.

20 (b) Notwithstanding Section 26506, remittance of employee
21 contributions in accordance with subdivision (a) shall be made by
22 the employer pursuant to Section 26502 upon the employer's
23 receipt of written consent of the participant specifying a schedule
24 of repayments. That remittance shall commence during the period
25 beginning with the date of return to employment and may continue
26 for three times the period of the participant's eligible period of
27 service in the uniformed services, not to exceed five years. The
28 plan's receipt of the remittance payments to the plan with respect
29 to the Cash Balance Benefit Program shall be credited pursuant to
30 Chapter 7 (*commencing with Section 26600*) of this part. Interest
31 on the payments of remitted employee contributions made for the
32 period of service in the uniformed services shall not be credited in
33 the participant's account until after ~~such~~ *those* payments are
34 received and only prospectively to the participant's account in
35 accordance with Section 26604. Upon receipt of the remittance
36 payments to the plan, the payments shall be subject to the same
37 terms and conditions under the program as if the payments had
38 been employee contributions made by the participant had the
39 participant not served for a period in the uniformed services. ~~In no~~
40 ~~event shall the~~ *The* current year contributions and contributions



1 made for purposes of purchasing service *may not* exceed the
2 maximum exclusion allowance as set forth in the Internal Revenue
3 Code.

4 (c) A participant shall not be required to make the
5 contributions to his or her employee account pursuant to
6 subdivision (a) for the 12-month period immediately following his
7 or her entry into the eligible period of service in the uniformed
8 services, if that service was performed on or after September 11,
9 2001, and the participant returned to employment prior to July 30,
10 2005, with the same employer that had employed the participant
11 immediately prior to the eligible period of service. However, upon
12 receipt of the employer contributions made pursuant to Section
13 28002, a credit shall be made to the participant's account in the
14 amount of the employee contributions the participant would have
15 otherwise made to his or her employee account pursuant to
16 subdivision (a) for the eligible period of service in the uniformed
17 services. This subdivision does not modify the employer's
18 obligation to make contributions on behalf of the participant
19 pursuant to Section 28002.

20 SEC. 4. The sum of fifty-three thousand dollars (\$53,000) is
21 hereby appropriated from the Teachers' Retirement Fund to the
22 Teachers' Retirement Board to implement the provisions of this
23 act.

