

AMENDED IN SENATE AUGUST 17, 2004

AMENDED IN SENATE AUGUST 4, 2004

AMENDED IN SENATE JUNE 22, 2004

AMENDED IN ASSEMBLY MAY 20, 2004

AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1852**

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**Introduced by Assembly Member Mullin**

January 29, 2004

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An act to amend Sections 22851, 24221, and 28001 Section 24221 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 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)~~

(1) 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)~~

(2) 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: 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.~~



1 ~~(3) A member who returns to employment, with the same~~  
2 ~~employer that had employed the member immediately prior to the~~  
3 ~~eligible period of service in the uniformed services is not entitled~~  
4 ~~to any benefits under this part with respect to service in the~~  
5 ~~uniformed services to which the member would not otherwise~~  
6 ~~have been entitled had the member remained continuously~~  
7 ~~employed and not undertaken that service in the uniformed~~  
8 ~~services.~~

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

27 ~~(c) Any payment of member contributions to the Defined~~  
28 ~~Benefit Program in this section shall be made by the member~~  
29 ~~during the period beginning with the date of return to employment~~  
30 ~~and may continue for three times the period of the member's~~  
31 ~~eligible service in the uniformed services, not to exceed five years.~~  
32 ~~Any payment of member contributions to the Defined Benefit~~  
33 ~~Program in this section by a member who returned to employment~~  
34 ~~prior to January 1, 1997, and qualifies for benefits in accordance~~  
35 ~~with the Uniformed Services Employment and Reemployment~~  
36 ~~Rights Act of 1994 (Chapter 43 (commencing with Section 4301)~~  
37 ~~of Title 38 of the United States Code), shall be made by the~~  
38 ~~member during the period beginning with the date of notification~~  
39 ~~of eligibility by the employer to the system and may continue for~~  
40 ~~three times the period of the member's eligible service in the~~



1 ~~uniformed services, not to exceed five years. Any subsequent~~  
2 ~~request to purchase this service shall be subject to the provisions~~  
3 ~~of Chapter 14 (commencing with Section 22800). If all~~  
4 ~~contributions due under this part are not paid to the plan with~~  
5 ~~respect to the Defined Benefit Program within the specified~~  
6 ~~repayment period and in accordance with subdivision (b) of~~  
7 ~~Section 22851, the contributions shall be returned to the member~~  
8 ~~at the end of the repayment period. Interest on member~~  
9 ~~contributions made for the eligible period of service in the~~  
10 ~~uniformed services may not be credited under this part until after~~  
11 ~~the contributions due are paid and then only prospectively to the~~  
12 ~~member's account in accordance with Section 22216.~~

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

20 ~~(2) The maximum amount of credited service that a member~~  
21 ~~employed on a full-time basis may receive without payment of~~  
22 ~~contributions under this subdivision shall be one year. The~~  
23 ~~maximum amount of credited service that a member employed on~~  
24 ~~less than a full-time basis may receive without payment of~~  
25 ~~contributions under this subdivision may not exceed the amount~~  
26 ~~of credited service the member would have earned during the~~  
27 ~~12-month period immediately following his or her entry into the~~  
28 ~~eligible period of service in the uniformed services.~~

29 ~~(3) This subdivision does not modify the employer's obligation~~  
30 ~~to make contributions on behalf of the member pursuant to Section~~  
31 ~~22852.~~

32 ~~SEC. 2.~~

33 *SECTION 1.* Section 24221 of the Education Code is  
34 amended to read:

35 24221. (a) A member who retires for service prior to January  
36 1, 2011, may elect, on a form prescribed by the system, to receive  
37 a lump-sum payment and an actuarially reduced monthly  
38 allowance pursuant to this section in lieu of the monthly  
39 unmodified allowance that would otherwise be payable to the  
40 member pursuant to this chapter. The election under this section



1 shall be made at the time the member files his or her application  
2 for service retirement allowance as provided in Section 24204.

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

6 (1) The actuarial present value of the amount by which (A) the  
7 monthly unmodified allowance payable to the member pursuant to  
8 this chapter exceeds (B) an amount equal to 2 percent of the  
9 member's final compensation multiplied by the number of years  
10 of credited service and divided by 12.

11 (2) Fifteen percent of the actuarial present value of the monthly  
12 unmodified allowance payable to the member under this chapter.

13 (c) Notwithstanding any other provision of this part, a member  
14 who makes the election described in subdivision (a) shall receive  
15 a monthly unmodified allowance, pursuant to this chapter, that  
16 shall be actuarially reduced to reflect the lump-sum amount paid  
17 under subdivision (b). The actuarial reduced unmodified  
18 allowance may be modified pursuant to Section 24300.

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

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



1 ~~SEC. 3.—Section 28001 of the Education Code is amended to~~  
2 ~~read:~~

3 ~~28001.—(a) The participant who returns to employment with~~  
4 ~~the same employer that had employed the participant immediately~~  
5 ~~prior to the eligible period of service in the uniformed services, in~~  
6 ~~accordance with the requirements of Chapter 43 (commencing~~  
7 ~~with Section 4301) of Title 38 of the United States Code, shall be~~  
8 ~~treated as not having incurred a break in the performance of~~  
9 ~~creditable service by reason of that participant's period or periods~~  
10 ~~of service in the uniformed services. The length of each period of~~  
11 ~~service in the uniformed services shall not exceed five years unless~~  
12 ~~otherwise permitted pursuant to Section 28004. Each period of~~  
13 ~~service in the uniformed services by the participant shall, upon that~~  
14 ~~participant's return to employment with the same employer or~~  
15 ~~employers that had employed the participant immediately prior to~~  
16 ~~the eligible period of service in the uniformed services, constitute~~  
17 ~~employment toward the performance of creditable service~~  
18 ~~provided that participant elects to remit the employee~~  
19 ~~contributions that would have been made during the period of~~  
20 ~~service in the uniformed services. The remittance of employee~~  
21 ~~contributions shall be calculated pursuant to Sections 26501 and~~  
22 ~~28003. That remittance may not exceed the amount the participant~~  
23 ~~would have been required to contribute during that period of~~  
24 ~~performance of creditable service had the participant remained~~  
25 ~~continuously employed by the last employer and not served in the~~  
26 ~~uniformed services throughout that period.~~

27 ~~(b) Notwithstanding Section 26506, remittance of employee~~  
28 ~~contributions in accordance with subdivision (a) shall be made by~~  
29 ~~the employer pursuant to Section 26502 upon the employer's~~  
30 ~~receipt of written consent of the participant specifying a schedule~~  
31 ~~of repayments. That remittance shall commence during the period~~  
32 ~~beginning with the date of return to employment and may continue~~  
33 ~~for three times the period of the participant's eligible period of~~  
34 ~~service in the uniformed services, not to exceed five years. The~~  
35 ~~plan's receipt of the remittance payments to the plan with respect~~  
36 ~~to the Cash Balance Benefit Program shall be credited pursuant to~~  
37 ~~Chapter 7 (commencing with Section 26600) of this part. Interest~~  
38 ~~on the payments of remitted employee contributions made for the~~  
39 ~~period of service in the uniformed services shall not be credited to~~  
40 ~~the participant's account until after those payments are received~~



1 and only prospectively to the participant's account in accordance  
2 with Section 26604. Upon receipt of the remittance payments to  
3 the plan, the payments shall be subject to the same terms and  
4 conditions under the program as if the payments had been  
5 employee contributions made by the participant had the  
6 participant not served for a period in the uniformed services. The  
7 current year contributions and contributions made for purposes of  
8 purchasing service may not exceed the maximum exclusion  
9 allowance as set forth in the Internal Revenue Code.

10 (c) A participant shall not be required to make the contributions  
11 to his or her employee account pursuant to subdivision (a) for the  
12 12-month period immediately following his or her entry into the  
13 eligible period of service in the uniformed services, if that service  
14 was performed on or after September 11, 2001, and the participant  
15 returned to employment prior to July 30, 2005, with the same  
16 employer that had employed the participant immediately prior to  
17 the eligible period of service. However, upon receipt of the  
18 employer contributions made pursuant to Section 28002, a credit  
19 shall be made to the participant's account in the amount of the  
20 employee contributions the participant would have otherwise  
21 made to his or her employee account pursuant to subdivision (a)  
22 for the eligible period of service in the uniformed services. This  
23 subdivision does not modify the employer's obligation to make  
24 contributions on behalf of the participant pursuant to Section  
25 28002.

26 ~~SEC. 4.~~

27 *SEC. 2.* The sum of fifty-three thousand dollars (\$53,000) is  
28 hereby appropriated from the Teachers' Retirement Fund to the  
29 Teachers' Retirement Board to implement the provisions of this  
30 act.

