

Assembly Bill No. 2233

Passed the Assembly August 25, 2004

Chief Clerk of the Assembly

Passed the Senate August 24, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 22134, 22134.5, 22135, 22171, 22650, 22651, 22661, 22663, 22705.5, 22714, 23203, 23300, 23812, 24114, 24203.6, 24204, 24209.3, 24211, 24212, 24213, 24214, 25000.9, 25100, 25107, 26004, 26140, 27400, 27401, 27406, and 44987 of, and to add Sections 22007.5 and 26002.5 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2233, Committee on Public Employees, Retirement and Social Security. State teachers' retirement.

(1) The Teachers' Retirement Law establishes the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would make technical changes to various provisions of that law.

(2) Existing law prescribes the rights and benefits of the spouse, surviving spouse, or former spouse of a member of the Defined Benefit Program, or a participant of the Cash Balance Benefit Program, of the State Teachers' Retirement Plan. Existing law, as of January 1, 2005, grants registered domestic partners the same rights, benefits, and protections and subjects them to the same responsibilities, duties, and obligations as are granted to or imposed upon spouses.

This bill would specify that the provisions of the Teachers' Retirement Law applicable to a spouse, surviving spouse, or former spouse also apply to a registered domestic partner, surviving domestic partner, or former domestic partner, except as specified.

(3) The Teachers' Retirement Law requires a beneficiary designation by a member of the Defined Benefit Program to be witnessed by 2 witnesses.

This bill would eliminate that requirement.

(4) Existing law specifies the conditions that are required to be met for a service retirement allowance to become effective under the Defined Benefit Program of the State Teachers' Retirement Plan.



This bill would permit a member who files a retirement application to change or cancel that application as long as the form is received by the system no later than a specified date.

(5) Existing law establishes the service retirement allowance for a member of the Defined Benefit Program of the State Teachers' Retirement Plan who retires and reinstates or receives a disability allowance, as specified. A service retirement calculated under those provisions excludes certain types of service credit.

This bill would additionally exclude the purchase of redeposits of contributions pursuant to specified provisions.

(6) Existing law governing the State Teachers' Retirement System requires the Teachers' Retirement Board to establish a vendor registration process by which information about tax deferred investment products is made available to employees.

This bill would revise those provisions to specify, among other things, that the term "broker-dealer" as used in those provisions means broker-dealers who offer a proprietary 403(b) product, as defined, or who charge fees that are otherwise not disclosed.

(7) Existing law requires the governing board of a school district to grant an employee a leave of absence to enable the employee to serve as an elected officer of an employee organization.

This bill would make technical changes to that provision.

(8) This bill would declare that any act that amends or repeals any of the sections amended by this act shall prevail over this act.

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

SECTION 1. Section 22007.5 is added to the Education Code, to read:

22007.5. Except as excluded by Sections 22661 and 23812, any reference to a "spouse" in this part includes a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code.

SEC. 2. Section 22134 of the Education Code is amended to read:

22134. (a) "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive school years while an active member of the



Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944. The last three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in another retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of the other system, provided that all of the following exist:

(1) The member was in state service or in the employment of a local school district or a county superintendent of schools.

(2) Service under the other system was not performed during the same pay period with service under the Defined Benefit Program.

(3) Retirement under the Defined Benefit Program is concurrent with the member's retirement under the other system.

(d) The compensation earnable for the first position in which California service was credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Section 23805.

(e) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(f) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children's portions of survivor benefit allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.



(g) The amendment of former Section 22127 made by Chapter 782 of the Statutes of 1982 does not constitute a change in, but is declaratory of, the existing law.

SEC. 3. Section 22134.5 of the Education Code is amended to read:

22134.5. (a) Notwithstanding Section 22134, “final compensation” means the highest average annual compensation earnable by a member during any period of 12 consecutive months while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944. The last consecutive 12-month period of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of 12 consecutive months, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in another retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of the other system, provided that all of the following exist:

(1) The member was in state service or in the employment of a local school district or a county superintendent of schools.

(2) Service under the other system was not performed during the same pay period with service under the Defined Benefit Program.

(3) Retirement under the Defined Benefit Program is concurrent with the member’s retirement under the other system.

(d) If a member has received service credit for part-time service performed prior to July 1, 1956, the member’s final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(e) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children’s portions of survivor benefit allowances payable on and after January 1, 1978. The



compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

(f) This section shall only apply to a member who has 25 or more years of credited service, excluding service credited pursuant to Section 22714, 22714.5, 22715, 22717, or 22826, but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. This section also shall apply to a nonmember spouse, if the member had at least 25 years of credited service, excluding service credited pursuant to Section 22714, 22714.5, 22715, 22717, or 22826, on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

SEC. 4. Section 22135 of the Education Code is amended to read:

22135. (a) Notwithstanding subdivisions (a) and (b) of Section 22134, “final compensation” means the highest average annual compensation earnable by an active member who is a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the plan’s Defined Benefit Program. The last 12 consecutive months of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) Section 22134, except subdivision (a) of that section, shall apply to classroom teachers who retire after June 30, 1990, and any statutory reference to Section 22134 or “final compensation” with respect to a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, shall be deemed to be a reference to this section.

(c) As used in this section, “classroom teacher” means any of the following:

(1) All teachers and substitute teachers in positions requiring certification qualifications who spend, during the last 10 years of their employment with the same employer which immediately precedes their retirement, 60 percent or more of their contract time each year providing direct instruction. For the purpose of determining continuity of employment within the meaning of this subdivision, an authorized leave of absence for sabbatical or



illness or other collectively bargained or employer-approved leaves shall not constitute a break in service.

(2) Other certificated personnel who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, 60 percent or more of their contract time each year providing direct services to pupils, including, but not limited to, librarians, counselors, nurses, speech therapists, resource specialists, audiologists, audiometrists, hygienists, optometrists, psychologists, driver safety instructors, and personnel on special assignment to perform school attendance and adjustment services.

(d) As used in this section, “classroom teacher” does not include any of the following:

(1) Certificated employees whose job descriptions require an administrative credential.

(2) Certificated employees whose job descriptions include responsibility for supervision of certificated staff.

(3) Certificated employees who serve as advisers, coordinators, consultants, or developers or planners of curricula, instructional materials, or programs, who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, less than 60 percent of their contract time in direct instruction.

(4) Certificated employees whose job descriptions require provision of direct instruction or services, but who are functioning in nonteaching assignments.

(5) Classified employees.

(e) This section shall apply only to teachers employed by an employer that has, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, entered into a written agreement with an exclusive representative, that makes this section applicable to all of its classroom teachers, as defined in subdivision (c).

(f) The written agreement shall include a mechanism to pay for all increases in allowances provided for by this section through employer contributions or employee contributions or both, which shall be collected and retained by the employer in a trust fund to be used solely and exclusively to pay the system for all increases in allowances provided by this section and related administrative costs; and a mechanism for disposition of the employee’s



contributions if employment is terminated before retirement, and for the establishment of a trust fund board. The trust fund board shall administer the trust fund and shall be composed of an equal number of members representing classroom teachers chosen by the bargaining agent and the employer. If the employer agrees to pay the total cost of increases in allowances, the establishment of a trust fund and a trust fund board shall be optional to the employer. The employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund the amount determined by the Teachers' Retirement Board to be the actuarial equivalent of the difference between the allowance the member or beneficiary receives pursuant to this section and the allowance the member or beneficiary would have received if the member's final compensation had been computed under Section 22134 and the proportionate share of the cost to the plan's Defined Benefit Program, as determined by the Teachers' Retirement Board, of administering this section. The payment shall include the cost of all increases in allowances provided for by this section for all years of service credited to the member as of the benefit effective date. Interest shall be charged at the regular interest rate for any payment not received within 30 days of receipt of the invoice. Payments not received within 30 days after receipt of the invoice may be collected pursuant to Section 23007.

(g) Upon the execution of the agreement, the employer shall notify all certificated employees of the agreement and any certificated employee of the employer, who is a member of the Public Employees' Retirement System pursuant to Section 22508, that he or she may, within 60 days following the date of notification, elect to terminate his or her membership in the Public Employees' Retirement System and become a member of this plan's Defined Benefit Program. However, only service credited under the Defined Benefit Program subsequent to the date of that election shall be subject to this section.

(h) An employer that agrees to become subject to this section, shall, on a form and within the timeframes prescribed by the system, certify the applicability of this section to a member pursuant to the criteria set forth in this section when a retirement, disability, or family allowance becomes payable.

(i) For a nonmember spouse, final compensation shall be determined pursuant to paragraph (2) of subdivision (c) of Section



22664. The employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund pursuant to subdivision (f). Interest shall be charged at the regular interest rate for payments not received within the prescribed timeframe. Payments not received within 30 days of invoicing may be collected pursuant to Section 23007.

SEC. 5. Section 22171 of the Education Code is amended to read:

22171. (a) “Spouse” means a person who was continuously married to the member for the period beginning at least 12 months prior to the death of the member, unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member’s unborn child.

(b) “Spouse” also means a person who was married to the member for less than 12 months, if the member’s death was either accidental, or due to an illness, and the marriage took place prior to the occurrence of the injury or diagnosis of the illness that resulted in death.

(1) A member’s death is defined as accidental only if he or she received bodily injuries through violent, external, or accidental means and died as a direct result of the bodily injuries and independent of all other causes.

(2) This subdivision does not apply if, at the time of the marriage, the member could not have reasonably been expected to live for 12 months.

(c) Except as excluded by Sections 22661 and 23812, “spouse” shall also include a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code.

SEC. 6. Section 22650 of the Education Code is amended to read:

22650. (a) 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 and nonmember registered domestic partners in the plan under this part.

(b) For purposes of this chapter, any reference to “dissolution of marriage or legal separation” includes the termination or dissolution of a domestic partnership, nullity of a domestic



partnership, or the legal separation of partners in a domestic partnership, as provided in Section 299 of the Family Code.

SEC. 7. Section 22651 of the Education Code is amended to read:

22651. (a) For purposes of this chapter and Section 23300, “nonmember spouse” means a member’s spouse or former spouse, and also includes a member’s registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part.

(b) A nonmember spouse shall not be considered a member based upon his or her receipt of any of the following being awarded to the nonmember spouse as a result of legal separation or dissolution of marriage: a separate account of service credit and accumulated retirement contributions, a retirement allowance, or an interest in the member’s retirement allowance under the Defined Benefit Program; or a separate account based on the member’s Defined Benefit Supplement account balance, a retirement benefit, or an interest in the member’s retirement benefit under the Defined Benefit Supplement Program.

SEC. 8. 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 under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance, of the nonmember spouse under this part.

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

(c) The refund of accumulated retirement contributions and the return of the accumulated Defined Benefit Supplement account balance under this part are 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 with the system.

(d) If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated



retirement contributions or accumulated Defined Benefit Supplement account balance 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 refund of the nonmember spouse's accumulated retirement contributions or accumulated Defined Benefit Supplement account balance. This subdivision shall not apply to a nonmember domestic partner, consistent with Section 402 of the Internal Revenue Code.

(e) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit, accumulated retirement contributions, and accumulated Defined Benefit Supplement account balance under this part when the refund and lump-sum payment become effective.

(f) The nonmember spouse may not cancel a refund or lump-sum payment under this part after it is effective.

(g) The nonmember spouse shall not have a right to elect to redeposit the refunded accumulated retirement contributions under this part after the refund is effective, to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective, or to redeposit the accumulated Defined Benefit Supplement account balance after the lump-sum payment becomes effective.

(h) If the total service credit in the separate account of the nonmember spouse under the Defined Benefit Program, 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. 9. Section 22663 of the Education Code is amended to read:

22663. The nonmember spouse who is awarded a separate account under this part has 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 120 monthly installments, provided that no installment, except the final installment, is 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 spouse.

(d) The nonmember spouse does 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 does 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. 10. Section 22705.5 of the Education Code is amended to read:

22705.5. Service subject to coverage by the San Francisco City and County Employees' 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. 11. 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, 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 result in a net savings to the district or county office of education, an additional two years of service credit shall be granted 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 credit and retires for service under 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 pursuant to 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 service credit pursuant to this section and the amount the member would have received without the 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 Section 24415. The transfer to the retirement fund shall be made in a manner and a time period, not to exceed eight 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 a net savings to the district.

(2) The county superintendent shall certify to the Teachers' Retirement Board that the 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 school district shall reimburse the county superintendent for all costs to 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 a net savings to the county office of education.

(2) The Superintendent of Public Instruction shall certify to the Teachers' Retirement Board that the 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 a net savings to the district.

(2) The chancellor shall certify to the Teachers' Retirement Board that the 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.

(3) The chancellor may request reimbursement from the community college district 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 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) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who takes any job with any school district in the state less than one year after receiving the credit shall forfeit the ongoing benefit he or she receives from the additional service credit granted under this section.

(i) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who takes any job with the school district that granted the member the service credit less than five years after receiving the credit shall forfeit the ongoing benefit he or she receives from the additional service credit granted under this section.

(j) This section does not apply 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. 12. Section 23203 of the Education Code is amended to read:

23203. (a) A member who elects to redeposit refunded accumulated retirement contributions shall pay, prior to



retirement, all contributions and interest as determined under Section 23200.

(b) If the system is unable to inform the member or beneficiary of the amount required to redeposit the refunded accumulated retirement contributions prior to the effective date of the applicable allowance, the member or beneficiary may make the required payment within 30 working 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. The payment shall be paid in full before a member or beneficiary receives any adjustment in the appropriate allowance due because of that payment.

(c) Redeposit of refunded accumulated retirement contributions shall be made in one sum, or in not more than 120 monthly installments, not to exceed ten years, provided that no installment, except the final installment, is less than twenty-five dollars (\$25).

SEC. 13. Section 23300 of the Education Code is amended to read:

23300. (a) A member of the Defined Benefit Program may designate a beneficiary to receive benefits payable under this part upon the member's death. A beneficiary designation may not be made in derogation of a community property interest of a nonmember spouse, as defined by Section 25000.9, with respect to service or contributions credited under this part, unless the nonmember spouse has previously obtained an alternative order pursuant to Section 2610 of the Family Code.

(b) A member's beneficiary designation for benefits payable under the Defined Benefit Program, including a designation made pursuant to Section 24300, shall also apply to benefits payable under the Defined Benefit Supplement Program. A beneficiary designation shall be in writing on a form prescribed by the system and executed by the member.

(c) A beneficiary designation may not be valid unless it is received in the office of the system in Sacramento prior to the member's death.

(d) A member may change or revoke a beneficiary designation at any time by making a new designation pursuant to this section.

(e) This section is not applicable to the designation of an option beneficiary or an annuity beneficiary under this part.



(f) An option beneficiary may designate a death beneficiary who would, upon the death of the option beneficiary, be entitled to receive the option beneficiary's accrued monthly allowance.

SEC. 14. Section 23812 of the Education Code is amended to read:

23812. (a) The surviving spouse of a deceased member who previously lost entitlement to benefits prescribed by this part due to remarriage shall be entitled to resume payment of the benefits effective either on January 1, 2000, or the first day of the month following receipt by the board of a written application for resumption of benefits, whichever date is later. The amount of the benefits payable shall be calculated as though the benefits had been paid without interruption from the date of remarriage through the benefits resumption effective date.

(b) The board shall be under no requirement to identify, locate, or notify a remarried spouse of a deceased member who previously lost entitlement as a result of remarriage about the resumption of benefits provided in this section. The board shall be under no requirement to provide the name or address or any other information concerning any remarried spouse of a deceased member to any person, agency, or entity for the purpose of notifying those who may be eligible for the resumption of benefits under this section.

(c) Nothing in this section shall be construed to imply or interpreted to mean that the benefits addressed shall be required to be paid retroactively.

(d) This section does not apply to the surviving domestic partner of a member.

SEC. 15. Section 24114 of the Education Code is amended to read:

24114. (a) A member receiving a disability retirement benefit under this part may be employed or self-employed in any capacity, notwithstanding Section 22132, but may 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 receiving a disability retirement benefit 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 receiving a disability retirement benefit under this part shall be fifteen thousand dollars (\$15,000), in any one calendar year, adjusted annually by the board effective each January 1 by the amount of increase in the All Urban California Consumer Price Index using December 1989 as the base.

(d) If a member receiving a disability retirement benefit 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 may 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 does not apply to a member receiving a disability retirement benefit under this part who is participating in an approved rehabilitation program pursuant to Section 24111.

(f) This section does not apply to a member receiving a disability retirement benefit under this part who began receiving a disability retirement allowance prior to October 16, 1992.

SEC. 16. Section 24203.6 of the Education Code is amended to read:

24203.6. (a) In addition to the amount otherwise payable pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209, 24209.3, 24210, 24211, and 24212, a member who (1) retires for service on or after January 1, 2001, (2) has, prior to January 1, 2011, 30 or more years of credited service, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826 but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652, and (3) is receiving an allowance subject to Section 24203.5, shall receive a monthly increase in the allowance, prior to any modification pursuant to Sections 24300 and 24309, in the amount identified in the following schedule for the number of years of the member's credited service at the time of retirement, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826 but including any credited



service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652:

30 years of credited service	\$200
31 years of credited service	\$300
32 or more years of credited service	\$400

(b) This section also shall apply to a nonmember spouse, if the member is eligible for the allowance increase pursuant to subdivision (a) upon his or her retirement for service and had at least 30 years of credited service, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, on the date the parties separated, as established in the judgment or court order pursuant to Section 22652 and the service credit of the member was divided into separate accounts in the name of the member and the nonmember spouse by a court pursuant to Section 22652. The amount identified in the schedule in subdivision (a) and payable pursuant to this section, that is based on the service credited during the marriage, shall be divided and paid to the member and the nonmember spouse proportionately according to the respective percentages of the member's service credit that were allocated to the member and the nonmember spouse in the court's order.

(c) The allowance increase provided under this section shall not be subject to Sections 24415 and 24417, but shall be subject to Section 22140.

SEC. 17. 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.

(e) A member who files an application prior to the effective date of retirement may change or cancel his or her retirement application, as long as the form provided by the system is received in the system's office in Sacramento no later than the last day of the month in which the retirement date is effective.

SEC. 18. Section 24209.3 of the Education Code is amended to read:

24209.3. (a) Notwithstanding subdivision (a) of Section 24209 and subdivision (d) of Section 24204, and exclusive of any amounts payable during the prior retirement for service pursuant to Section 22714, 22714.5, or 22715:

(1) A member who retired, other than pursuant to Section 24210, 24211, 24212, or 24213, and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service performed prior to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation.

(2) A member who retired pursuant to Section 24210 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:



(A) An amount calculated pursuant to this chapter based on service credit accrued prior to the effective date of the disability retirement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and indexed final compensation to the effective date of the initial service retirement.

(B) An amount calculated pursuant to this chapter based on the service credit accrued after termination of the disability retirement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(C) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation.

(3) A member who retired pursuant to Section 24211 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) The greater of (i) the disability allowance the member was receiving immediately prior to termination of that allowance, excluding the children's portion, or (ii) an amount calculated pursuant to this chapter based on service credit accrued prior to the effective date of the disability allowance, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount equal to either of the following:

(i) For a member who was receiving a benefit pursuant to subdivision (a) of Section 24211, the member's credited service at the time of the retirement pursuant to Section 24211, excluding service credited pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200).

(ii) For a member who was receiving a benefit pursuant to subdivision (b) of Section 24211, the member's projected service,



excluding service credited pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200).

(C) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation using compensation earnable or projected final compensation or a combination of both.

(D) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) or, for credited service performed during the most recent reinstatement, Section 22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(4) A member who retired pursuant to Section 24212 or 24213 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on the member's projected service credit, excluding service credited pursuant to Section 22717, 22717.5, or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation, using compensation earnable or projected final compensation or a combination of both.



(C) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) or, for credited service performed during the most recent reinstatement, Section 22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than the number of years required to be eligible for an increased allowance pursuant to this chapter or Section 22134.5, the amounts identified in this section shall be calculated pursuant to the section authorizing the increased benefit.

(c) For members receiving an allowance pursuant to Section 24410.5 or 24410.6, the amount payable pursuant to this section shall not be less than the amount payable to the member as of the effective date of reinstatement.

(d) The amount payable pursuant to this section shall not be less than the amount that would be payable to the member pursuant to Section 24209.

(e) For purposes of determining an allowance increase pursuant to Sections 24415 and 24417, the calendar year of retirement shall be the year of the subsequent retirement if the final compensation used to calculate the allowance pursuant to this section is higher than the final compensation used to calculate the allowance for the prior retirement.

(f) The allowance paid pursuant to this section to a member receiving a lump-sum payment pursuant to Section 24221 shall be actuarially reduced to reflect that lump-sum payment.

SEC. 19. 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 excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), 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 excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), 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.

(c) The allowance shall be increased by an amount based on any service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), and final



compensation using compensation earnable, or projected final compensation, or a combination of both.

(d) If the total amount of credited service, other than projected service or service that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, the amounts identified in subdivisions (a) and (b) shall be calculated pursuant to Sections 24203.5 and 24203.6.

SEC. 20. Section 24212 of the Education Code is amended to read:

24212. (a) 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 under the Defined Benefit Program, the member's service retirement allowance, when payable, shall be based on projected service, excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), 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.

(b) The allowance shall be increased by an amount based on any service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) and final compensation using compensation earnable, or projected final compensation, or a combination of both.

SEC. 21. 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, excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with



Section 22800) or Chapter 14.2 (commencing with Section 22820). The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance. The allowance shall be increased by an amount based on any service credited pursuant to Section 22714, 22714.5, 22715, or 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) and projected final compensation to normal retirement age.

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

SEC. 22. Section 24214 of the Education Code, as amended by Section 2 of Chapter 903 of the Statutes of 2002, 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 may 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 may 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 may 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) (1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work after the date of retirement and, for a period of at least 12 consecutive months, has not performed 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.

(2) The postretirement compensation limitation provisions set forth in this section are not 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, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(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, and if that compensation is not exempt from that limitation under subdivision (e) or any other provisions of law, 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.

(i) This section shall be repealed on January 1, 2008, unless later enacted legislation extends or deletes that date.

SEC. 23. Section 24214 of the Education Code, as amended by Section 21 of Chapter 859 of the Statutes of 2003, 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 may 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 may 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 may 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 are not 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, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(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 may 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 language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on January 1, 2008.

SEC. 24. Section 25000.9 of the Education Code is amended to read:

25000.9. For purposes of this chapter and Section 23300, “nonmember spouse” means a member’s spouse or former spouse, and also includes a member’s registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part. A nonmember spouse may not be considered a



member based upon his or her receipt of any of the following being awarded to the nonmember spouse as a result of legal separation, dissolution of marriage, or dissolution of domestic partnership:

(a) A separate account of service credit and accumulated retirement contributions, a retirement allowance, or an interest in the member's retirement allowance under the Defined Benefit Program.

(b) A separate account based on the member's Defined Benefit Supplement account balance, a retirement benefit, or an interest in the member's retirement benefit under the Defined Benefit Supplement Program.

SEC. 25. Section 25100 of the Education Code is amended to read:

25100. (a) The board shall establish a vendor registration process through which information about tax-deferred retirement investment products as described in Section 403(b) of the Internal Revenue Code of 1986 shall be made available for consideration by public employees of all local school districts, community college districts, and county offices of education.

(b) For the purposes of this chapter, "403(b) product or 403(b) products" means tax-deferred retirement investment products as described in Section 403(b) of the Internal Revenue Code of 1986, and its subsequent amendments, and complying with applicable California insurance laws, and federal and California securities laws and rules as applied by appropriate regulatory entities.

(c) For the purposes of this chapter, "vendor" means a public retirement system, broker-dealer, registered investment company, nonbank custodian, or life insurance company qualified to do business in California that provides 403(b) products. "Vendor" does not include individual registered representatives, brokers, financial planners, or agents. "Nonbank custodian" means a fund custodian, other than a bank, that meets the criteria of a trustee specified in Section 408(a)(2) of the Internal Revenue Code. "Broker-dealer" means only those broker-dealers who offer a proprietary 403(b) product or who charge fees that are otherwise not disclosed.

SEC. 26. Section 25107 of the Education Code is amended to read:



25107. A vendor may not charge a fee associated with a registered 403(b) product that is not disclosed, pursuant to Section 25101.

SEC. 27. Section 26002.5 is added to the Education Code, to read:

26002.5. Except as excluded in Sections 26004 and 27406, any reference to a “spouse” in this part includes a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code.

SEC. 28. Section 26004 of the Education Code is amended to read:

26004. Notwithstanding any other provision of law:

(a) The benefits payable to any participant or beneficiary under this part shall be subject to the limitations imposed by Section 415 of Title 26 of the United States Code.

(b) The amount of compensation that is taken into account in computing benefits under this part for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 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 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 respective annual compensation limit applicable to that period.

(c) Distributions from the plan under this part shall be made in accordance with Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution of a retirement benefit, disability benefit, or termination benefit, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70¹/₂ years or the calendar year in which the



participant terminates all employment subject to coverage by the plan.

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity, payment of the annuity shall begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70¹/₂ years or the calendar year in which the participant terminates employment in all positions subject to coverage by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

(3) In the case of a death benefit, distributions shall commence no later than the date provided in Section 27001.

(d) If a person becomes entitled to a distribution from the plan under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified. This subdivision does not apply to the surviving domestic partner of a member, consistent with Section 402 of the Internal Revenue Code.

(e) The amount of any benefit from the plan under this part that is determined on the basis of actuarial assumptions shall be based on actuarial assumptions adopted by the board pursuant to Section 26213 as a plan amendment with respect to the Cash Balance Benefit Program and those assumptions shall preclude employer discretion and comply with Section 401(a)(25) of Title 26 of the United States Code.

SEC. 29. Section 26140 of the Education Code is amended to read:

26140. (a) "Spouse" means the person married to the participant on the date the participant files a beneficiary



designation, or an application for a benefit, or on the date of the participant's death.

(b) Except as excluded in Sections 26004 and 27406, "spouse" also includes the person who is the registered domestic partner of the participant, as established pursuant to Section 297 or 299.2 of the Family Code, on the date the participant files a beneficiary designation or an application for a benefit, or on the date of the participant's death.

SEC. 30. Section 27400 of the Education Code is amended to read:

27400. (a) 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.

(b) For purposes of this chapter, any reference to "dissolution of marriage or legal separation" also includes the termination or dissolution of a domestic partnership, nullity of a domestic partnership, or the legal separation of the partners in a domestic partnership, as provided in Section 299 of the Family Code.

SEC. 31. Section 27401 of the Education Code is amended to read:

27401. For purposes of this chapter, "nonparticipant spouse" means a participant's spouse or former spouse, and also includes a participant's registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the benefits determined by reference to the amounts credited to a participant's employee and employer accounts or the participant's annuity. A nonparticipant spouse who is awarded separate nominal accounts is not a participant in the Cash Balance Benefit Program. A nonparticipant spouse who receives or is awarded an interest in a participant's annuity is not a participant in the Cash Balance Benefit Program.

SEC. 32. 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.

(c) 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. This subdivision shall not apply to a nonparticipant domestic partner, consistent with Section 402 of the Internal Revenue Code.

(d) The nonparticipant spouse is deemed to have permanently waived all rights to an annuity when the distribution becomes effective.

(e) The nonparticipant spouse may not cancel a distribution after the distribution is effective.

(f) The nonparticipant spouse shall have no right to elect to redeposit the distribution after the distribution is effective.

SEC. 33. Section 44987 of the Education Code is amended to read:

44987. (a) The governing board of a school district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local school district public employee organization, or any statewide or national public employee organization with which the local organization is affiliated.

The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the school district as employer. The required employer contribution rate shall be the rate adopted by the Teachers' Retirement Board



as a plan amendment with respect to the Defined Benefit Program as provided in Section 22711. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by Section 22711. The maximum amount of the service credit earned may not exceed twelve calendar years. Any employee who serves as a full-time officer of a public employee organization is not eligible for disability benefits under the State Teachers' Retirement Plan while on the leave of absence.

Following the school district's payment of the employee for the leave of absence, the school district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee.

The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code.

For purposes of this section, "school district" also means "county superintendent of schools."

(b) An employee who after August 31, 1978, was absent on account of elected-officer service, shall receive full service credit in the State Teachers' Retirement Plan; provided that, not later than April 30, 1981: (1) the employee makes a written request to the employer for a leave of absence for the period of the elected-officer service, and (2) the employee organization of which the employee is an elected officer pays to the employee's school district an amount equal to the required State Teachers' Retirement Plan member and employer retirement contributions, as prescribed by this section.

The school district, following this written request and payment, shall transmit the amount received to the State Teachers' Retirement System, informing it of the period of the employee's leave of absence. The State Teachers' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.



If the employee has been compensated by the school district for the period of the service, then, as a condition to the employee's entitlement to service credit for this period, the school district shall be reimbursed by the employee organization for the amount of the compensation.

The provisions of this subdivision shall apply retroactively to all service as an elective officer in a public employee organization occurring after August 31, 1978.

SEC. 34. Any section of any act enacted by the Legislature during the second year of the 2003–04 Regular Session that amends, amends and renumbers, adds, repeals and adds, or repeals a statute that is amended by this act shall prevail over this act, whether that act is enacted prior or subsequent to the enactment of this act.



Approved _____, 2004

Governor

