

AMENDED IN SENATE JUNE 29, 2004

AMENDED IN SENATE JUNE 1, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 3076

Introduced by Assembly Member Mullin

March 11, 2004

An act to amend Sections 22502, 22504, 22601.5, 22604, 26400, and 26401 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 3076, as amended, Mullin. State Teachers' Retirement Law: part-time community college faculty.

Existing law requires any person who performs creditable service, as defined, on a part-time basis to become a member of the Defined Benefit Program of the State Teachers' Retirement Plan if the person is not already a member and is employed to perform 50% or more of the full-time equivalent for the position. Existing law provides that persons who teach adult or community college classes for not more than 60% of the full-time assignment are classified as temporary employees.

This bill would, as of July 1, 2005, exclude community college faculty members from mandatory membership in the Defined Benefit Program so long as they are classified as temporary employees. The bill would make related technical and conforming changes.

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

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

SECTION 1. Section 22502 of the Education Code is amended to read:

22502. (a) Any person employed by a school district or county office of education to perform creditable service on a part-time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following his or her employment to perform creditable service for 50 percent or more of the full-time position, unless excluded from membership pursuant to Section 22601.

(b) Any person employed by a community college district to perform creditable service on a part-time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following his or her employment to perform creditable service that is not subject to Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded from membership pursuant to Section 22601.

(c) This section shall apply to persons who perform service subject to coverage under this part and to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

SEC. 2. Section 22504 of the Education Code is amended to read:

22504. (a) Any person employed by a school district or county office of education to perform creditable service on a part-time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following the pay period in which the person performed at least 60 hours of creditable service, if employed on an hourly basis, or 10 days of creditable service, if employed on a daily basis, during the school year, in one school district, ~~community college district,~~ or county ~~superintendent's office~~ *office of education*, unless excluded from membership pursuant to Section 22601.

(b) Any person employed by a community college district to perform creditable service on a part-time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following his or her employment to perform creditable service that is not subject to

1 Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded
2 from membership pursuant to Section 22601.

3 (c) Subdivision (a) does not apply to persons who are employed
4 by employers who provide benefits for their employees under Part
5 14 (commencing with Section 26000).

6 SEC. 3. Section 22601.5 of the Education Code is amended
7 to read:

8 22601.5. (a) Any person employed by a school district or
9 county office of education to perform creditable service who is not
10 already a member in the Defined Benefit Program and whose basis
11 of employment is less than 50 percent of the time an employer
12 requires for the full-time position is excluded from mandatory
13 membership in the Defined Benefit Program.

14 (b) Any person employed by a community college district to
15 perform creditable service pursuant to Section 87474, 87480,
16 87481, 87482, or 87482.5 who is not already a member of the
17 Defined Benefit Program is excluded from mandatory
18 membership in the Defined Benefit Program.

19 (c) This section shall apply to persons who perform service
20 subject to coverage under this part and to persons who are
21 employed by employers who provide benefits for their employees
22 under Part 14 (commencing with Section 26000).

23 SEC. 4. Section 22604 of the Education Code is amended to
24 read:

25 22604. (a) Any person employed to perform creditable
26 service on a part-time basis, who is not already a member of the
27 Defined Benefit Program and who performs less than 60 hours of
28 creditable service in a pay period if employed on an hourly basis,
29 or less than 10 days of creditable service in a pay period if
30 employed on a daily basis, during the school year in one school
31 district or county ~~superintendent's office~~ *office of education*, is
32 excluded from mandatory membership in the Defined Benefit
33 Program.

34 (b) Any person employed by a community college district to
35 perform creditable service pursuant to Section 87474, 87480,
36 87481, 87482, or 87482.5, who is not already a member of the
37 Defined Benefit Program, is excluded from mandatory
38 membership in the Defined Benefit Program.

1 (c) Subdivision (a) does not apply to persons who are employed
2 by employers who provide benefits for their employees under Part
3 14 (commencing with Section 26000).

4 SEC. 5. Section 26400 of the Education Code is amended to
5 read:

6 26400. (a) A person employed on a part-time basis by a
7 school district or county office of education to perform creditable
8 service for less than 50 percent of each full-time position shall
9 become a participant on the later of the first day on which
10 creditable service is performed for an employer that provides the
11 Cash Balance Benefit Program or the effective date of the
12 employer's governing board's action to provide the Cash Balance
13 Benefit Program, provided the person is not subject to mandatory
14 membership in the Defined Benefit Program.

15 (b) A person employed on a temporary basis by a community
16 college district, who is not subject to mandatory membership in
17 the Defined Benefit Program pursuant to Section 22502 or 22504,
18 shall become a participant on the later of the first day on which
19 creditable service is performed for an employer that provides the
20 Cash Balance Benefit Program or the effective date of the
21 employer's governing board's action to provide the Cash Balance
22 Benefit Program.

23 (c) If the employer's governing board's action to provide the
24 Cash Balance Benefit Program gives employees the right to elect
25 coverage under social security or an alternative retirement plan
26 offered by the employer in addition to the Cash Balance Benefit
27 Program, the employee may elect within 60 calendar days of the
28 latest of the first day on which creditable service is performed, the
29 date of the employer's governing board's action to provide the
30 Cash Balance Benefit Program, or the effective date of the
31 employer's governing board's action to provide the Cash Balance
32 Benefit Program to be covered by social security or to participate
33 in the alternative retirement plan in lieu of participating in the Cash
34 Balance Benefit Program. Any election may not preclude an
35 employee from participating in the Cash Balance Benefit Program
36 at a later date so long as the Cash Balance Benefit Program is
37 provided by the employer and the employee is eligible to
38 participate in the Cash Balance Benefit Program.

39 (d) If subdivision (c) is applicable, the employer shall inform
40 employees pursuant to subdivision (c) of Section 26300 of their



right to make an election and the election shall be made on a form prescribed by the system and filed with the employer. The election shall become effective on the later of the first day on which creditable service is performed or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program.

(e) If the participant's basis of employment with a school district or county office of education that provides the Cash Balance Benefit Program changes to employment to perform creditable service for 50 percent or more of the full-time position during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

(f) If the participant's basis of employment with a community college district changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Section 22501, 22502, or 22504 during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

SEC. 6. Section 26401 of the Education Code is amended to read:

26401. (a) A member of the Defined Benefit Program who is employed to perform creditable service on a part-time basis for less than 50 percent of each full-time position by a school district or county office of education that provides the Cash Balance Benefit Program may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided that the creditable service is not performed for the same employer with whom the member is also subject to mandatory membership in the Defined Benefit Program.

(b) A member of the Defined Benefit Program who is employed pursuant to Section 87474, 87480, 87481, 87482, or

1 ~~87472.5~~ 87482.5 by a community college district that provides the
2 Cash Balance Benefit Program may elect to become a participant
3 for creditable service subject to coverage under the Cash Balance
4 Benefit Program for that employer, provided that the creditable
5 service is not performed for the same employer with whom the
6 member is also subject to mandatory membership in the Defined
7 Benefit Program.

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

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

21 (e) If an election is made pursuant to subdivision (a) and the
22 participant's basis of employment with that employer changes to
23 employment to perform creditable service for 50 percent or more
24 of the full-time position during one school year with the same
25 employer, creditable service performed for that employer shall no
26 longer be covered under the Cash Balance Benefit Program.
27 Creditable service performed for that employer shall be subject to
28 coverage under the Defined Benefit Program as of the first day of
29 the pay period following the change in the participant's basis of
30 employment.

31 (f) If an election is made pursuant to subdivision (b) and the
32 participant's basis of employment with the community college
33 district changes to employment that is subject to mandatory
34 membership in the Defined Benefit Program pursuant to Section
35 22501, 22502, or 22504 during one school year with the same
36 employer, creditable service performed for that employer shall no
37 longer be covered under the Cash Balance Benefit Program.
38 Creditable service performed for that employer shall be subject to
39 coverage under the Defined Benefit Program as of the first day of

- 1 the pay period following the change in the participant's basis of
- 2 employment.
- 3 SEC. 7. This act shall be operative on July 1, 2005.

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