

**Assembly Bill No. 3076**

CHAPTER 474

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

[Approved by Governor September 10, 2004. Filed with Secretary of State September 10, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3076, 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 with respect to the Cash Balance Benefit Program.

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

(c) Subdivision (a) does not apply to persons who perform service subject to coverage under this part and who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(d) Subdivision (b) 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. 3. Section 22601.5 of the Education Code is amended to read:

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

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

(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. 4. Section 22604 of the Education Code is amended to read:

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

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

(c) Subdivision (a) does not apply to persons who perform service subject to coverage under this part and who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(d) Subdivision (b) 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. 5. Section 26400 of the Education Code is amended to read:

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

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

(c) If the employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect coverage



under social security or an alternative retirement plan offered by the employer in addition to the Cash Balance Benefit Program, the employee may elect within 60 calendar days of the latest of the first day on which creditable service is performed, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program to be covered by social security or to participate in the alternative retirement plan in lieu of participating in the Cash Balance Benefit Program. Any election may not preclude an employee from participating in the Cash Balance Benefit Program at a later date so long as the Cash Balance Benefit Program is provided by the employer and the employee is eligible to participate in the Cash Balance Benefit Program.

(d) If subdivision (c) is applicable, the employer shall inform 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 87482.5 by a community college district 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.

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

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

(e) If an election is made pursuant to subdivision (a) and the participant's basis of employment with that employer 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 under 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 an election is made pursuant to subdivision (b) and the participant's basis of employment with the 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 under the Defined Benefit



Program as of the first day of the pay period following the change in the participant's basis of employment.

SEC. 7. This act shall be operative on July 1, 2005.

