

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY MARCH 24, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 654

Introduced by Assembly Member Mendoza

February 25, 2009

An act to amend Sections 22714, 22715, ~~22954, 22955, 22955.5,~~ 23003, 23006, 23008, 26301, and 26303 of, to amend, repeal, and add Section 22162 of, and to add Sections ~~23006.5, 23010,~~ 23010 and 26303.5 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 654, as amended, Mendoza. State teachers' retirement.

(1) The State Teachers' Retirement Law prescribes the rights and benefits of members of the State Teachers' Retirement System. The law provides that retirement benefits under the Defined Benefit Program of the State Teachers' Retirement Plan are based on the member's final compensation and years of credited service. Generally, final compensation is the highest average annual compensation earnable by the member during a 3-year period. However, for a member with 25 or more years of credited service, final compensation is the highest average annual compensation earnable by the member during a one-year period. That law authorizes the Governor, a school district, community college district, or county office of education to grant members of the Defined Benefit Program of the State Teachers' Retirement Plan 2 additional years of service credit, if the member retires for service within a

designated period and certain conditions are satisfied, including the transfer of a specified amount to the Teachers' Retirement Fund.

This bill would require regular interest to be charged on the unpaid balance if the transfer to the retirement fund is made in installments. The bill would modify the definition of "regular interest" for purposes of the State Teachers' Retirement Law.

~~(2) Under the law, a continuous appropriation is made annually from the General Fund for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund to fund supplemental purchase power protection payments to retired members, disabled members, and beneficiaries of the Defined Benefit Program of the State Teachers' Retirement System. The law provides that the total amount of the appropriation for each year shall be equal to 2.5% of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments, as specified. The law also provides for annual continuous appropriations from the General Fund for transfer to the Teachers' Retirement Fund to fund the benefits of the Defined Benefit Program. Those appropriations for each year are equal to 2.017% and 0.524% of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as specified.~~

~~This bill would clarify, for purposes of calculating those appropriations, that the total of the creditable compensation reported to the system during the fiscal year ending in the immediately preceding calendar year, includes creditable compensation that was earned either during that fiscal year or the immediately preceding fiscal year.~~

~~(3)~~

~~(2) The law specifies the date by which member and employer contributions are due in the office of the State Teachers' Retirement System, and provides that payments thereafter shall be delinquent and subject to interest, as specified. If a county superintendent of schools, employing agency, school district, or community college district that reports directly to the system fails to pay the contributions, the Teachers' Retirement Board may assess penalties and charge regular interest on the delinquent contributions.~~

This bill, instead, would require the board, in accordance with regulations, to assess penalties and charge regular interest for any delinquent contributions, as specified. The bill would provide that any penalties or interest may be appealed, as specified.

(4)

(3) The law requires the county superintendent of schools or employing agency, and authorizes a school district or community college district, with approval of the Teachers' Retirement Board, to submit a report monthly to the State Teachers' Retirement System containing information as the board may require in the administration of the State Teachers' Retirement Plan. If those monthly reports are submitted late or in an unacceptable form, or include late or improper adjustments, the board is authorized to assess penalties pursuant to a specified formula, or a fee of \$500, whichever is greater.

This bill, instead, would require the board, in accordance with regulations, to assess those penalties, pursuant to a specified formula, or a fee of \$500, whichever is greater. ~~The bill would additionally require the board to assess penalties, pursuant to a specified formula, if a county superintendent of schools, or an employing agency, school district, or community college district that reports directly to the system, includes in those monthly reports creditable compensation earned during any prior fiscal year, except for the immediately preceding fiscal year. If creditable compensation earned during the immediately preceding fiscal year is included in other specified monthly reports to the system, that creditable compensation would be required to be included for purposes of calculating the appropriations described in paragraph (2) above. The bill would provide that any penalties or interest may be appealed, as specified.~~

(5)

(4) The law permits an employer to offer benefits under the Cash Balance Benefit Program to certain employees who are employed less than 50% of full time, and requires employers to transmit and report contributions paid on behalf of each participant in each pay period, along with all other information required by the system by specified due dates. The board is authorized to collect interest for delinquent contributions and to assess a penalty for a report submitted late or in an unacceptable form pursuant to a specified formula, or a fee of \$500, whichever is greater.

This bill, instead, would require the board to collect interest on delinquent contributions, as specified, and to assess ~~penalties~~ *a penalty*, in accordance with regulations, against the employer for a report submitted late or in an unacceptable form pursuant to a specified formula, or a fee of \$500, whichever is greater. The bill would provide that any ~~penalties~~ *penalty* or interest may be appealed, as specified.

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

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

1 SECTION 1. Section 22162 of the Education Code is amended
2 to read:

3 22162. "Regular interest" means interest that is compounded
4 annually based on the annual equivalent of the prior year's average
5 yield to maturity on the investment-grade fixed income securities
6 attributable to the Defined Benefit Program, but not on assets
7 attributable to the Defined Benefit Supplement Program. The
8 regular interest rate shall be adopted annually by the board as a
9 plan amendment with respect to the Defined Benefit Program.

10 This section shall become inoperative on June 30, 2010, and, as
11 of January 1, 2011, is repealed, unless a later enacted statute, that
12 becomes operative on or before January 1, 2011, deletes or extends
13 the dates on which it becomes inoperative and is repealed.

14 SEC. 2. Section 22162 is added to the Education Code, to read:

15 22162. "Regular interest" means interest that is equal to the
16 actuarially assumed rate of return on investments on assets of the
17 Defined Benefit Program. The regular interest rate shall be adopted
18 annually by the board as a plan amendment with respect to the
19 Defined Benefit Program.

20 This section shall become operative on July 1, 2010.

21 SEC. 3. Section 22714 of the Education Code is amended to
22 read:

23 22714. (a) Whenever the governing board of a school district
24 or a community college district or a county office of education,
25 by formal action, determines pursuant to Section 44929 or 87488
26 that, because of impending curtailment of, or changes in, the
27 manner of performing services, the best interests of the district or
28 county office of education would be served by encouraging
29 certificated employees or academic employees to retire for service
30 and that the retirement will result in a net savings to the district or
31 county office of education, an additional two years of service credit
32 shall be granted under this part to a member of the Defined Benefit
33 Program if all of the following conditions exist:

34 (1) The member is credited with five or more years of service
35 credit and retires for service under Chapter 27 (commencing with

1 Section 24201) during a period of not more than 120 days or less
2 than 60 days, commencing no sooner than the effective date of the
3 formal action of the employer that shall specify the period.

4 (2) (A) The employer transfers to the retirement fund an amount
5 determined by the Teachers' Retirement Board to equal the
6 actuarial equivalent of the difference between the allowance the
7 member receives after receipt of service credit pursuant to this
8 section and the amount the member would have received without
9 the service credit and an amount determined by the Teachers'
10 Retirement Board to equal the actuarial equivalent of the difference
11 between the purchasing power protection supplemental payment
12 the member receives after receipt of service credit pursuant to this
13 section and the amount the member would have received without
14 the service credit. The payment for purchasing power shall be
15 deposited in the Supplemental Benefit Maintenance Account
16 established by Section 22400 and shall be subject to Section 24415.
17 The transfer to the retirement fund shall be made in a manner and
18 a time period, not to exceed eight years, that is acceptable to the
19 Teachers' Retirement Board. The employer shall transfer the
20 required amount for all eligible employees who retire pursuant to
21 this section.

22 (B) Regular interest shall be charged on the unpaid balance if
23 the employer makes the transfer to the retirement fund in
24 installments.

25 (3) The employer transmits to the retirement fund the
26 administrative costs incurred by the system in implementing this
27 section, as determined by the Teachers' Retirement Board.

28 (4) The employer has considered the availability of teachers or
29 academic employees to fill the positions that would be vacated
30 pursuant to this section.

31 (b) (1) The school district shall demonstrate and certify to the
32 county superintendent that the formal action taken would result in
33 a net savings to the district.

34 (2) The county superintendent shall certify to the Teachers'
35 Retirement Board that the result specified in paragraph (1) can be
36 demonstrated. The certification shall include, but not be limited
37 to, the information specified in subdivision (c) of Section 14502.1.

38 (3) The school district shall reimburse the county superintendent
39 for all costs to the county superintendent that result from the
40 certification.

1 (c) (1) The county office of education shall demonstrate and
2 certify to the Superintendent of Public Instruction that the formal
3 action taken would result in a net savings to the county office of
4 education.

5 (2) The Superintendent of Public Instruction shall certify to the
6 Teachers' Retirement Board that the result specified in paragraph
7 (1) can be demonstrated. The certification shall include, but not
8 be limited to, the information specified in subdivision (c) of Section
9 14502.1.

10 (3) The Superintendent of Public Instruction may request
11 reimbursement from the county office of education for all
12 administrative costs that result from the certification.

13 (d) (1) The community college district shall demonstrate and
14 certify to the chancellor's office that the formal action taken would
15 result in a net savings to the district.

16 (2) The chancellor shall certify to the Teachers' Retirement
17 Board that the result specified in paragraph (1) can be
18 demonstrated. The certification shall include, but not be limited
19 to, the information specified in subdivision (c) of Section 84040.5.

20 (3) The chancellor may request reimbursement from the
21 community college district for all administrative costs that result
22 from the certification.

23 (e) The opportunity to be granted service credit pursuant to this
24 section shall be available to all members employed by the school
25 district, community college district, or county office of education
26 who meet the conditions set forth in this section.

27 (f) The amount of service credit shall be two years.

28 (g) Any member of the Defined Benefit Program who retires
29 under this part for service under Chapter 27 (commencing with
30 Section 24201) with service credit granted under this section and
31 who subsequently reinstates shall forfeit the service credit granted
32 under this section.

33 (h) Any member of the Defined Benefit Program who retires
34 under this part for service under Chapter 27 (commencing with
35 Section 24201) with service credit granted under this section and
36 who takes any job with the school district, community college
37 district, or county office of education that granted the member the
38 service credit less than five years after receiving the credit shall
39 forfeit the ongoing benefit he or she receives from the additional
40 service credit granted under this section.

1 (i) This section does not apply to any member otherwise eligible
2 if the member receives any unemployment insurance payments
3 arising out of employment with an employer subject to this part
4 within one year following the effective date of the formal action
5 under subdivision (a), or if the member is not otherwise eligible
6 to retire for service.

7 SEC. 4. Section 22715 of the Education Code is amended to
8 read:

9 22715. (a) Notwithstanding any other provisions of this part,
10 whenever the Governor, by executive order, determines that
11 because of an impending curtailment of, or change in the manner
12 of performing service, the best interest of the state would be served
13 by encouraging the retirement of state employees, and that
14 sufficient economies could be realized to offset any cost to state
15 agencies resulting from this section, an additional two years of
16 service shall be credited under this part to members of the Defined
17 Benefit Program, who are state employees, if the following
18 conditions exist:

19 (1) The member is credited with five or more years of service
20 and retires during a period not to exceed 120 days or less than 60
21 days commencing no sooner than the date of issuance of the
22 Governor's executive order specifying that period.

23 (2) (A) The appointing power, as defined in Section 18524 of
24 the Government Code, transfers to the retirement fund an amount
25 determined by the board to equal the actuarial equivalent of the
26 difference between the allowance the member receives after the
27 receipt of service credit under this section and the amount the
28 member would have received without the service credit. The
29 transfer to the retirement fund shall be made in a manner and time
30 period acceptable to the employer and the board.

31 (B) Regular interest shall be charged on the unpaid balance if
32 the employer makes the transfer to the retirement fund in
33 installments.

34 (3) The appointing power determines that it is electing to
35 exercise the provisions of this section, pursuant to the Governor's
36 order, and certifies to the Department of Finance and to the
37 Legislative Analyst, as to the specific economies that would be
38 realized if the additional service credit toward retirement were
39 granted.

1 (b) As used in this section, “member” means a state employee
2 who is employed in a job classification, department, or other
3 organizational unit designated by the appointing power, as defined
4 in Section 18524 of the Government Code.

5 (c) The amount of service credit shall be two years regardless
6 of credited service, but shall not exceed the number of years
7 intervening between the date of the member’s retirement under
8 this part and the date the member would be required to be retired
9 because of age. The appointing power shall make the payment
10 with respect to all eligible employees who retire pursuant to this
11 section.

12 (d) Any member who qualifies under this section, upon
13 subsequent reinstatement under this part, shall forfeit the service
14 credit granted under this section.

15 (e) This section shall not be applicable to any member otherwise
16 eligible if that member receives any unemployment insurance
17 payments arising out of employment with an employer subject to
18 this part during a period extending one year beyond the date of
19 issuance of the executive order or if the member is not eligible to
20 retire without the additional credit available under this section.

21 (f) The benefit provided by this section shall not be applicable
22 to the employees of any appointing power until the Director of
23 Finance approves the transmittal of funds by that appointing power
24 or the Board of Regents or the Board of Trustees to the retirement
25 fund pursuant to paragraph (2) of subdivision (a).

26 (g) The Director of Finance shall approve the transmittal of
27 funds by the appointing power not sooner than 30 days after
28 notification in writing of the necessity therefor to the chairperson
29 of the committee in each house of the Legislature that considers
30 appropriations and the Chairperson of the Joint Legislative Budget
31 Committee, or not sooner than any lesser time that the chairperson
32 of the committee, or his or her designee, may in each instance
33 determine. If there is any written communication between the
34 Director of Finance and the Legislative Analyst, a copy of the
35 communication shall be transmitted to the chairperson of each
36 appropriate policy committee.

37 ~~SEC. 5. Section 22954 of the Education Code is amended to~~
38 ~~read:~~

39 ~~22954. (a) Notwithstanding Section 13340 of the Government~~
40 ~~Code, a continuous appropriation is hereby annually made from~~

1 the General Fund to the Controller, pursuant to this section, for
2 transfer to the Supplemental Benefit Maintenance Account in the
3 Teachers' Retirement Fund.

4 (b) Except as reduced pursuant to subdivision (c), the total
5 amount of the appropriation for each year shall be equal to 2.5
6 percent of the total of the creditable compensation of the fiscal
7 year ending in the immediately preceding calendar year, which
8 was earned either during that fiscal year or the immediately
9 preceding fiscal year, upon which members' contributions are
10 based for purposes of funding the supplemental payments
11 authorized by Section 24415, as reported annually to the Director
12 of Finance, the Chairperson of the Joint Legislative Budget
13 Committee, and the Legislative Analyst pursuant to Section
14 22955.5.

15 (c) Beginning with the 2008-09 fiscal year, the appropriation
16 in subdivision (b) shall be reduced in accordance with the following
17 schedule:

18	
19	2008-09.....\$66,386,000
20	2009-10.....\$70,000,000
21	2010-11.....\$71,000,000
22	2011-12 and each fiscal year thereafter.....\$72,000,000
23	

24 (d) Transfers made to the Supplemental Benefit Maintenance
25 Account, pursuant to subdivision (a) shall be made on November
26 1 and April 1 of each fiscal year.

27 (e) The board may deduct from the annual appropriation made
28 pursuant to this section an amount necessary for the administrative
29 expenses of Section 24415.

30 (f) It is the intent of the Legislature in enacting this section to
31 establish the supplemental payments pursuant to Section 24415
32 as vested benefits pursuant to a contractually enforceable promise
33 to make annual contributions from the General Fund to the
34 Supplemental Benefit Maintenance Account in the Teachers'
35 Retirement Fund in order to provide a continuous annual source
36 of revenue for the purposes of making the supplemental payments
37 under Section 24415.

38 SEC. 6. Section 22955 of the Education Code is amended to
39 read:

1 22955. (a) ~~Notwithstanding Section 13340 of the Government~~
2 ~~Code, commencing July 1, 2003, a continuous appropriation is~~
3 ~~hereby annually made from the General Fund to the Controller,~~
4 ~~pursuant to this section, for transfer to the Teachers' Retirement~~
5 ~~Fund. The total amount of the appropriation for each year shall be~~
6 ~~equal to 2.017 percent of the total of the creditable compensation~~
7 ~~of the fiscal year ending in the immediately preceding calendar~~
8 ~~year, which was earned either during that fiscal year or the~~
9 ~~immediately preceding fiscal year, upon which members'~~
10 ~~contributions are based, as reported annually to the Director of~~
11 ~~Finance, the Chairperson of the Joint Legislative Budget~~
12 ~~Committee, and the Legislative Analyst pursuant to Section~~
13 ~~22955.5, and shall be divided into four equal quarterly payments.~~

14 (b) ~~Notwithstanding Section 13340 of the Government Code,~~
15 ~~commencing October 1, 2003, a continuous appropriation, in~~
16 ~~addition to the appropriation made by subdivision (a), is hereby~~
17 ~~annually made from the General Fund to the Controller for transfer~~
18 ~~to the Teachers' Retirement Fund. The total amount of the~~
19 ~~appropriation for each year shall be equal to 0.524 percent of the~~
20 ~~total of the creditable compensation of the fiscal year ending in~~
21 ~~the immediately preceding calendar year, which was earned either~~
22 ~~during that fiscal year or the immediately preceding fiscal year,~~
23 ~~upon which members' contributions are based, as reported annually~~
24 ~~to the Director of Finance, the Chairperson of the Joint Legislative~~
25 ~~Budget Committee, and the Legislative Analyst pursuant to Section~~
26 ~~22955.5, and shall be divided into four equal quarterly payments.~~
27 ~~The percentage shall be adjusted to reflect the contribution required~~
28 ~~to fund the normal cost deficit or the unfunded obligation as~~
29 ~~determined by the board based upon a recommendation from its~~
30 ~~actuary. If a rate increase is required, the adjustment may be for~~
31 ~~no more than 0.25 percent per year and in no case may the transfer~~
32 ~~made pursuant to this subdivision exceed 1.505 percent of the total~~
33 ~~of the creditable compensation of the fiscal year ending in the~~
34 ~~immediately preceding calendar year upon which members'~~
35 ~~contributions are based. At any time when there is neither an~~
36 ~~unfunded obligation nor a normal cost deficit, the percentage shall~~
37 ~~be reduced to zero. The funds transferred pursuant to this~~
38 ~~subdivision shall first be applied to eliminating on or before June~~
39 ~~30, 2027, the unfunded actuarial liability of the fund identified in~~
40 ~~the actuarial valuation as of June 30, 1997.~~

1 ~~(c) For the purposes of this section, the term “normal cost~~
2 ~~deficit” means the difference between the normal cost rate as~~
3 ~~determined in the actuarial valuation required by Section 22311~~
4 ~~and the total of the member contribution rate required under Section~~
5 ~~22901 and the employer contribution rate required under Section~~
6 ~~22950, and shall exclude (1) the portion for unused sick leave~~
7 ~~service credit granted pursuant to Section 22717, and (2) the cost~~
8 ~~of benefit increases that occur after July 1, 1990. The contribution~~
9 ~~rates prescribed in Section 22901 and Section 22950 on July 1,~~
10 ~~1990, shall be utilized to make the calculations. The normal cost~~
11 ~~deficit shall then be multiplied by the total of the creditable~~
12 ~~compensation upon which member contributions under this part~~
13 ~~are based to determine the dollar amount of the normal cost deficit~~
14 ~~for the year.~~

15 ~~(d) Pursuant to Section 22001 and case law, members are~~
16 ~~entitled to a financially sound retirement system. It is the intent of~~
17 ~~the Legislature that this section shall provide the retirement fund~~
18 ~~stable and full funding over the long term.~~

19 ~~(e) This section continues in effect but in a somewhat different~~
20 ~~form, fully performs, and does not in any way unreasonably impair,~~
21 ~~the contractual obligations determined by the court in California~~
22 ~~Teachers’ Association v. Cory, 155 Cal.App.3d 494.~~

23 ~~(f) Subdivision (b) shall not be construed to be applicable to~~
24 ~~any unfunded liability resulting from any benefit increase or change~~
25 ~~in contribution rate under this part that occurs after July 1, 1990.~~

26 ~~(g) The provisions of this section shall be construed and~~
27 ~~implemented to be in conformity with the judicial intent expressed~~
28 ~~by the court in California Teachers’ Association v. Cory, 155~~
29 ~~Cal.App.3d 494.~~

30 ~~(h) This section shall become operative on July 1, 2003, if the~~
31 ~~revenue limit cost-of-living adjustment computed by the~~
32 ~~Superintendent of Public Instruction for the 2001–02 fiscal year~~
33 ~~is equal to or greater than 3.5 percent. Otherwise this section shall~~
34 ~~become operative on July 1, 2004.~~

35 ~~SEC. 7. Section 22955.5 of the Education Code is amended to~~
36 ~~read:~~

37 ~~22955.5. (a) For purposes of Sections 22954 and 22955,~~
38 ~~“creditable compensation” shall include only creditable~~
39 ~~compensation for which member contributions are credited under~~
40 ~~the Defined Benefit Program.~~

~~(b) On or after October 1 and on or before October 25 of each year, beginning in 2008, the board shall calculate the total amount of creditable compensation for the fiscal year that ended on the immediately preceding June 30, which was earned either during that fiscal year or the immediately preceding fiscal year. For the purpose of informing the Department of Finance and the Legislature of the amount of the state's appropriations pursuant to Sections 22954 and 22955 in the next fiscal year, the system shall immediately submit a report that includes this calculation to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst.~~

~~(c) After submission of the report described in subdivision (b), on or before the April 15 after submission of the report described in subdivision (b), the system shall notify the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst of any revisions in its calculation of the total amount of creditable compensation for the fiscal year that ended on the immediately preceding June 30.~~

~~(d) The last revised calculation submitted pursuant to subdivision (c) on or before April 15 of each year or, if no such revised calculation is submitted, the calculation in the report submitted pursuant to subdivision (b) shall be the calculation of creditable compensation upon which the state's appropriations pursuant to Sections 22954 and 22955 will be based in the next fiscal year. On or after April 15 and on or before May 1 of each year, the system shall submit to the Controller a copy of this calculation, along with a requested schedule of transfers to be made pursuant to the appropriations in Sections 22954 and 22955 in the next fiscal year beginning on the next July 1. The system shall also provide a copy of this schedule to the Director of Finance and the Legislative Analyst.~~

~~SEC. 8:~~

~~SEC. 5.~~ Section 23003 of the Education Code is amended to read:

23003. (a) If a county superintendent of schools or employing agency or school district or community college district that reports directly to the system fails to make payment of contributions as provided in Section 23002, the board shall, in accordance with regulations, assess penalties.

(b) The board shall, in accordance with regulations, charge regular interest on any delinquent contributions under this part.

~~SEC. 9.~~

SEC. 6. Section 23006 of the Education Code is amended to read:

23006. (a) If a county superintendent of schools or employing agency or school district or community college district that reports directly to the system, submits monthly reports, as specified by Section 23004, late, as defined in Section 23005, or in unacceptable form, the board shall, in accordance with regulations, assess penalties.

(b) The board shall, in accordance with regulations, assess penalties, based on the sum of the employer and employee contributions required under this part by the report, for late or unacceptable submission of reports, at a rate of interest equal to the regular interest rate or a fee of five hundred dollars (\$500), whichever is greater.

~~SEC. 10.~~ Section 23006.5 is added to the Education Code, to read:

~~23006.5. (a) If a county superintendent of schools, or an employing agency, school district, or community college district that reports directly to the system, includes creditable compensation earned during any prior fiscal year, except for the immediately preceding fiscal year, in the monthly reports specified in Section 23004, the board shall, in accordance with regulations, assess penalties. The penalties shall be equal to the product of the creditable compensation earned during relevant prior fiscal years and the contribution rate specified in Sections 22954 and 22955, plus the product of the creditable compensation earned during relevant prior fiscal years and the regular interest rate for the period from July 1 of the fiscal year following the year in which the creditable compensation is earned and the time the penalty is received in full by the system.~~

~~(b) If a county superintendent of schools, or an employing agency, school district, or community college district that reports directly to the system, includes creditable compensation earned during the immediately preceding fiscal year in the monthly reports specified in Section 23004, that creditable compensation shall be subject to Sections 22954, 22955, and 22955.5.~~

1 ~~SEC. 11.~~

2 ~~SEC. 7.~~ Section 23008 of the Education Code is amended to
3 read:

4 23008. (a) If more or less than the required contributions
5 specified in this part and Section 44987 are paid to the system
6 based on any payment of creditable compensation to a member,
7 proper adjustments shall be made on a monthly report, by the
8 county superintendent, district superintendent, chancellor of a
9 community college district, or other employing agency who
10 submitted the report, within 60 days after discovery or notification
11 by the system and any refunds shall be made to the member within
12 the same time period by the employing agency.

13 (b) The board shall, in accordance with regulations, assess
14 penalties for late or improper adjustments, ~~as specified in Sections~~
15 ~~23006 and 23006.5.~~ *adjustments pursuant to Section 23006. These*
16 *penalties shall be no more than the regular interest as defined in*
17 *Section 22162. The penalty so assessed shall be deemed interest*
18 *earned in the year in which it was received.*

19 (c) If a required report contains erroneous information and the
20 system, acting in good faith, disburses funds from the Teachers'
21 Retirement Fund based on that information, the county
22 superintendent, district superintendent, chancellor of a community
23 college district, or other employing agency who submitted the
24 report shall reimburse the retirement fund in full for the amount
25 of the erroneous disbursement. Reimbursement shall be made
26 immediately upon notification by the system.

27 ~~SEC. 12.~~

28 ~~SEC. 8.~~ Section 23010 is added to the Education Code, to read:

29 23010. A person or entity that reports directly to the system
30 that is assessed penalties or interest pursuant to Section 23003,
31 23006, ~~23006.5,~~ or 23008 may appeal the assessed penalties or
32 interest subject to the appeals process established pursuant to
33 Section 22219.

34 ~~SEC. 13.~~

35 ~~SEC. 9.~~ Section 26301 of the Education Code is amended to
36 read:

37 26301. (a) Employers shall report contributions paid on behalf
38 of each participant in each pay period, along with all other
39 information required by the system no later than 10 working days
40 following the last day of the pay period in which the salary was

1 earned, and the report shall be delinquent immediately thereafter.
2 That report shall be submitted electronically in an encrypted format
3 provided by the system that ensures the security of the transmitted
4 participant data.

5 (b) The board shall, in accordance with regulations, assess
6 ~~penalties~~ *a penalty* against the employer for a report submitted late
7 or in an unacceptable form. The ~~penalties~~ *penalty* shall be based
8 upon the sum of the employee and employer contributions required
9 to be reported under this part at a rate of interest equal to the regular
10 interest rate, accruing on the balance for the period between the
11 time the report was due and the time an acceptable report is actually
12 received by the system, or a fee of five hundred dollars (\$500),
13 whichever is greater.

14 ~~SEC. 14.~~

15 *SEC. 10.* Section 26303 of the Education Code is amended to
16 read:

17 26303. (a) Employers shall transmit to the plan the employee
18 contributions and employer contributions with respect to the Cash
19 Balance Benefit Program for salary paid to each participant during
20 the pay period no later than 10 working days following the last
21 day of the pay period in which the salary was earned.

22 (b) Payments shall be delinquent on the 11th working day
23 thereafter, and interest shall begin to accrue at the regular interest
24 rate from that day until payment for the contributions and interest
25 is received in full by the system. The board shall collect interest
26 for late payment from the employer under this subdivision.

27 ~~SEC. 15.~~

28 *SEC. 11.* Section 26303.5 is added to the Education Code, to
29 read:

30 26303.5. A person or entity that reports directly to the system
31 that is assessed ~~penalties~~ *a penalty* or interest pursuant to Section
32 26301 or 26303 may appeal the assessed ~~penalties~~ *penalty* or
33 interest using the appeals process established pursuant to Section
34 22219.