

Senate Bill No. 634

Passed the Senate September 2, 2009

Secretary of the Senate

Passed the Assembly August 27, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22115, 22508, 22515, 22661, 22713, 22801, 22802, 22803, 22805, 22820, 22821, 22822, 22823, 22826, 23200, 23201, 23859, 24001, 24101, 24201.5, 24216, 24216.5, 24216.6, 24301, 24309, 25007, 25010, 25011.1, 25017, and 25020 of, to amend the heading of Part 14 (commencing with Section 26000) of Division 1 of Title 1 of, and to add Section 25008.5 to, the Education Code, relating to teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 634, Committee on Public Employment and Retirement. State Teachers' Retirement System.

(1) Under the State Teachers' Retirement Law, the compensation earnable for a member of the State Teachers' Retirement System employed by a community college prior to July 1, 1996, is defined by a specified number of hours based on provisions in effect on June 30, 1996. That law permits the Teachers' Retirement Board to establish and implement certain factors and assumptions to determine the compensation earnable of a member employed by a community college prior to July 1, 1996, including when the community college subsequently acts to reduce the minimum standard for full time, as specified.

This bill would clarify that these provisions apply when the community college subsequently acts to reduce the minimum standard for full time for the class of employees, as specified.

(2) That law authorizes substitute teachers and other part-time employees who perform creditable service, as defined, to elect membership in the Defined Benefit Program of the State Teachers' Retirement Plan.

This bill would provide that membership election is irrevocable and remains in effect until the member terminates employment.

(3) That law prescribes a comprehensive system of rights and benefits for its members and specifically permits a court, upon legal separation or dissolution of marriage, to award to a nonmember spouse, as defined to include a member's registered domestic partner, a separate account under the Defined Benefit Program pursuant to that person's community property interest.

The nonmember spouse who is awarded a separate account has 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.

This bill would provide an exception for nonmember domestic partners in connection with federal tax law limitations.

(4) That law authorizes the governing board of a school district or a community college district or a county superintendent of schools to establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload and receive the service credit for full-time work. Among other things, the regulations must include a requirement that the member have at least 10 years of credited service, including 5 years of credited service for full-time employment immediately preceding the reduction in workload.

This bill would revise the regulation to require the member to have at least 10 years of credited service prior to the reduction in workload and to have, in addition, 5 years of credited service for full-time employment immediately preceding the reduction in workload.

(5) That law permits a member of the Defined Benefit Program to elect to purchase additional service credit, including out-of-state service credit, if specified contributions are paid to the State Teachers' Retirement System. That law provides that regular interest shall be charged on all contributions from the end of the school year on which the contributions were based to the date of payment. Among other things, the law permits the member to purchase as additional service credit time spent on approved family care or medical leave of up to 4 months in any 12-month period, as specified.

This bill would instead add regular interest, as specified, only when the member is not employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit. The bill would permit a member of the Defined Benefit Program to request to purchase as additional service credit time spent on employer-approved leave based on the guidelines for the Family and Medical Leave Act or the California Family Rights Act, or

both. The bill would make related technical and conforming changes.

(6) That law permits a member of the Defined Benefit Program to apply for a disability allowance or disability retirement if the member has 5 or more years of credited service, and subject to specified requirements.

This bill would require the member to make that application in writing to the Teachers' Retirement Board on a properly executed form provided by the State Teachers' Retirement System.

(7) That law provides that upon termination of a survivor benefit allowance, if the total allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of death, the remaining balance of accumulated retirement contributions shall be paid to the estate of the spouse.

This bill would provide that if there is no spouse, and if there is a designated beneficiary, as specified, then upon termination of the survivor benefit allowance payable to all eligible dependent children, if the total allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of death, the remaining balance of the accumulated retirement contributions shall be paid to the member's designated beneficiary, as specified.

(8) That law permits a member of the Defined Benefit Program who is eligible and applies for a disability allowance or disability retirement to apply for and receive a service retirement pending a determination of his or her application for disability, and subject to specified requirements and restrictions. That law provides that if a member who applies for a service retirement pending a determination of his or her application for disability dies prior to a determination of the application for disability, any subsequent benefits payable to the member's surviving spouse or beneficiary shall be based on the service retirement allowance, as specified. That law also provides that if a member who is granted a disability allowance or a disability retirement dies prior to receiving notification of the approval of his or her application for disability, the disability allowance or disability retirement shall be payable to the member's surviving spouse or beneficiary, as specified.

This bill, instead, would provide that if a member who applies for a service retirement pending a determination of his or her application for disability dies prior to a determination of the

application for disability, the member shall be considered retired for service at the time of death and any subsequent benefits shall be paid accordingly. The bill also would provide that if a member who is granted a disability allowance or a disability retirement dies after the board has approved the member's application for disability, the member shall be considered a disabled member, or retired for disability, at the time of death, and any subsequent benefits shall be paid accordingly, even if the member died prior to receiving notification of the approval of his or her application for disability. The bill would provide that if the board approves the application for disability and the member has received service retirement allowance payments, the effective date for the disability allowance or disability retirement shall be the same as the effective date of the service retirement allowance.

(9) That law limits the amount of postretirement compensation that may be earned in specified types of employment by a retired member of the Defined Benefit Program without a reduction in the retirement benefits of the member. That law, operative until June 30, 2010, provides exemptions from this limit, as specified. The law requires the employing school district to submit documentation to substantiate the eligibility of the temporary employment of a member retired from service for the exemption. Existing law also provides that the period of exemption for members who retired for service and are appointed or assigned to specified positions ends no more than 2 calendar years from the date of appointment or assignment.

This bill would require the documentation to be received by the system no later than June 30 of the school year for which the exemption is to apply. The bill would also provide that the exemption would end no more than 24 consecutive months, rather than 2 calendar years, from the date the exemption commenced.

(10) Under that law, a member may change or cancel a preretirement election of an option on a properly executed form provided by the State Teachers' Retirement System, subject to receipt within 30 days of the member's signature and on or before the effective date of retirement or other specified date.

This bill would additionally require the spouse's signature, if applicable, to be included within that 30-day period.

(11) That law requires the board to establish and maintain a segregated account within the retirement fund to be known as the

Annuitant Reserve, for the payment of annuities under the Defined Benefit Supplement Program. Existing law provides that when the board declares an additional earnings credit for a plan year, the board may also declare by plan amendment an additional annuity credit, for members and annuity beneficiaries who are receiving an annuity as of a specified date, based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve.

This bill would instead provide that the credit shall be based on the annuity of the member and annuity beneficiaries for the plan year and paid to the members and annuity beneficiaries on the date specified by the board.

(12) That law establishes eligibility criteria for a member to receive a retirement or a disability benefit under the Defined Benefit Supplement Program, including that a member submit an application for the benefit or allowance on a form prescribed by the system. Existing law also provides that a final benefit under this program becomes payable when the system receives proof of the member's death.

This bill would expand the eligibility criteria to provide that a member retiring for service, as specified, on or after January 1, 2010, or whose disability allowance or disability retirement allowance is effective on or after January 1, 2010, shall not receive an allowance unless the member has submitted a completed application on a form prescribed by the system. The bill would also provide that no benefit shall be paid to a beneficiary until the final benefit is paid.

(13) The bill would make other technical and conforming changes to related provisions.

(14) The bill would provide that any section of any other act enacted by the Legislature during the 2009 calendar year that takes effect on or before January 1, 2010, and that affects a provision of this act would prevail over this act.

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

SECTION 1. Section 22115 of the Education Code is amended to read:

22115. (a) "Compensation earnable" means the creditable compensation a person could earn in a school year for creditable

service performed on a full-time basis, excluding service for which contributions are credited by the system to the Defined Benefit Supplement Program.

(b) The board may determine compensation earnable for persons employed on a part-time basis.

(c) If service credit for a school year is less than 1.000, compensation earnable shall be the quotient obtained when creditable compensation paid in that year is divided by the service credit for that year, except as provided in subdivision (d).

(d) If a member earns creditable compensation at multiple pay rates during a school year and service credit at the highest pay rate is at least 0.900 of a year, compensation earnable shall be determined as if all service credit for that year had been earned at the highest pay rate. This subdivision shall be applicable only for purposes of determining final compensation. If a member earns creditable compensation at multiple pay rates during a school year and service credit at the highest pay rate is less than 0.900 of a year, compensation earnable shall be determined pursuant to subdivision (c).

(e) (1) For purposes of determining compensation earnable for a member employed by a community college prior to July 1, 1996, full time shall be defined pursuant to Section 22138.5 and pursuant to Section 20521 of Title 5 of the California Code of Regulations, as those provisions read on June 30, 1996, if application of that definition will increase the compensation earnable or otherwise enhance the benefits of the member.

(2) For purposes of administering this subdivision, the board shall have the authority to do both of the following:

(A) Establish and implement factors and assumptions necessary to calculate and compare the benefits payable under the definition of compensation earnable described in this subdivision. Those factors and assumptions may be based on information reported by the employer, including, but not limited to, all of the following:

- (i) Base hours.
- (ii) Actual earnings.
- (iii) Compensation earnable.

(B) Review member benefit calculations that were performed using the factors and assumptions described in subparagraph (A). If the board determines that an employer failed to identify part-time service performed, the board shall consider that part-time service

to be performed in a part-time lecture assignment as defined by the employer. If the board determines by the review of the member benefit calculations that the required information reported by the employer is inaccurate, incomplete, or the factors and assumptions were applied incorrectly, the board may recalculate member benefits using additional factors and assumptions that may include, but are not limited to, all of the following:

- (i) Base hours.
- (ii) Actual earnings.
- (iii) Compensation earnable.

(3) This subdivision shall apply to a member employed by a community college prior to July 1, 1996, if the community college subsequently acts to reduce the minimum standard for full time as described in subdivision (c) of Section 22138.5 for the class of employees, and that community college provides written notice to the system of the act of the community college to reduce that minimum standard.

(4) This subdivision shall not apply to a member employed by a community college that has not reduced the minimum standard as described in subdivision (c) of Section 22138.5.

SEC. 2. Section 22508 of the Education Code is amended to read:

22508. (a) A member who becomes employed by the same or a different school district or community college district, or a county superintendent, or who becomes employed by the state in a position described in subdivision (b), to perform service that requires membership in a different public retirement system, and who is not excluded from membership in that public retirement system, may elect to have that service subject to coverage by the Defined Benefit Program of this plan and excluded from coverage by the other public retirement system. The election shall be made in writing on a form prescribed by this system within 60 days from the date of hire in the position requiring membership in the other public retirement system. If that election is made, the service performed for the employer after the date of hire shall be considered creditable service for purposes of this part.

(b) Subdivision (a) shall apply to a member who becomes employed by the state only if the member is also one of the following:

(1) Represented by a state bargaining unit that represents educational consultants, professional educators, or librarians employed by the state.

(2) Excluded from the definition of “state employee” in subdivision (c) of Section 3513 of the Government Code, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).

(3) In a position not covered by civil service and in the executive branch of government, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).

(c) (1) A member of the Public Employees’ Retirement System described in paragraph (2) who is subsequently employed to perform creditable service requiring coverage by the Defined Benefit Program of this plan may elect to have that subsequent service subject to coverage by the Public Employees’ Retirement System and excluded from coverage by the Defined Benefit Program pursuant to Section 20309 of the Government Code. If the election is made, creditable service performed for the employer after the date of hire shall be subject to coverage by the Public Employees’ Retirement System.

(2) This subdivision shall apply to a member of the Public Employees’ Retirement System who either (A) is employed by a school district, community college district, a county superintendent, or the State Department of Education or (B) has at least five years of credited service under the system.

(d) An election made by a member pursuant to this section shall be irrevocable.

SEC. 3. Section 22515 of the Education Code is amended to read:

22515. Persons excluded from membership pursuant to Sections 22601.5, 22602, and 22604 may elect membership in the Defined Benefit Program at any time while employed to perform creditable service subject to coverage under that program. The election shall be in writing on a form prescribed by this system and shall be filed in the office of this system prior to submission of contributions. The election is irrevocable and shall remain in effect until the member terminates employment. The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

SEC. 4. 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 in the account under the Defined Benefit Program 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 as defined in Section 22161.5 or the return of the 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. 5. Section 22713 of the Education Code is amended to read:

22713. (a) Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and have his or her retirement allowance, as well as other benefits that the member is entitled to under this part, based, in part, on final compensation determined from the compensation earnable the member would have been entitled to if the member had been employed on a full-time basis, and as further specified in Sections 44922, 87483, and 89516.

(b) The regulations shall include, but may not be limited to, the following:

(1) The option to reduce the member's workload shall be exercised at the request of the member and may be revoked only with the mutual consent of the employer and the member. The agreement to reduce a member's workload shall be in effect at the beginning of the school year.

(2) The member shall have been employed on a full-time basis to perform creditable service subject to coverage under the Defined Benefit Program and have a minimum of 10 years of credited service prior to the reduction in workload. Additionally, the member shall have five years of full-time employment immediately preceding the reduction in workload.

(3) The member may not have had a break in service during the five years immediately preceding the reduction in workload. For purposes of this subdivision, sabbaticals, other approved leaves

of absence, and unpaid absences from the performance of creditable service for personal reasons from full-time employment do not constitute a break in service. For purposes of this subdivision, the period of time during which a member is retired for service shall constitute a break in service and a member who reinstates from retirement shall be required to be employed on a full-time basis to perform creditable service for at least five school years immediately preceding the reduction in workload.

(4) The member shall have reached 55 years of age prior to the reduction in workload.

(5) The reduced workload shall be performed for a period of time, as specified in the regulations, up to and including 10 years. The period of time specified in the regulations may not exceed 10 years.

(6) The reduced workload shall be equal to at least one-half of the time the employer requires for full-time employment in accordance with Section 22138.5 pursuant to the member's contract of employment during his or her last school year of full-time employment preceding the reduction in workload.

(7) The member shall be paid creditable compensation that is the pro rata share of the creditable compensation the member would have been paid had the member not reduced his or her workload.

(c) Prior to the reduction of a member's workload under this section, the employer, in conjunction with the administrative staff of the State Teachers' Retirement Plan and the Public Employees' Retirement System, shall verify the member's eligibility for the reduced workload program.

(d) For each school year the member's workload is reduced pursuant to this section, the member shall make contributions to the Teachers' Retirement Fund in the amount that the member would have contributed if the member had performed creditable service on a full-time basis and if that service was subject to coverage under the Defined Benefit Program.

(e) For each school year the member's workload is reduced pursuant to this section, the employer shall contribute to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member if the member had performed creditable service on

a full-time basis and if that service was subject to coverage under the Defined Benefit Program.

(f) The employer shall maintain the necessary records to separately identify each member who participates in the reduced workload program pursuant to this section.

(g) A member who retires or otherwise separates from service prior to the end of the school year shall be in violation of this section and the member's service credit for that period of the contract shall be computed in accordance with Section 22701.

SEC. 6. Section 22801 of the Education Code is amended to read:

22801. (a) A member who requests to purchase additional service credit as provided in this chapter and Chapter 14.2 (commencing with Section 22820) shall pay, prior to retirement, all contributions with respect to that service at the contribution rate for additional service credit, adopted by the board as a plan amendment, in effect on the date of the request to purchase additional service credit. If the system is unable to inform the member or beneficiary of the amount required to purchase additional service credit 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. Contributions shall be made in a lump sum, or in not more than 120 monthly installments, not to exceed ten years. No installment, except the final installment, shall be less than twenty-five dollars (\$25).

(b) If the member is employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

(c) If the member is not employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit, the contributions shall be based upon the compensation earnable in

the last school year of credited service or either of the two immediately preceding school years, whichever is highest, and additional regular interest shall be added to the contributions from July 1 of the subsequent year in which the member last performed creditable service subject to coverage by the Defined Benefit Program to 20 days after the date of the request.

(d) The employer may pay the amount required as employer contributions for additional service credited under paragraphs (7), (8), (9), and (10) of subdivision (a) of Section 22803.

(e) The Public Employees' Retirement System shall transfer the actuarial present value of the assets of a person who makes an election pursuant to paragraph (11) of subdivision (a) of Section 22803.

(f) Regular interest shall be charged on the monthly unpaid balance if the member pays in installments. Regular interest may not be charged or be payable for the period of a delay caused by the system's inability or failure to determine and inform the member or beneficiary of the amount of contributions and interest that is payable. The period of delay shall commence on the 20th day following the day on which the member or beneficiary who wishes to make payment evidences in writing to the system that he or she is ready, willing, and able to make payment to the system. The period of delay shall cease on the first day of the month following the mailing of notification of contributions and interest payable.

(g) If the payment described in subdivision (a) is not received at the system's headquarters office, as described in Section 22375, within 120 days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for additional service based on the payments that were made or the member may request a return of his or her payments.

(h) If the election to purchase additional service credit is canceled as described in subdivision (g), the member may, prior to the effective date of his or her retirement, elect to purchase additional service credit pursuant to this section.

SEC. 7. Section 22802 of the Education Code is amended to read:

22802. (a) A member, other than a retired member, who was previously excluded from membership in the Defined Benefit Program may request to purchase service credit for:

(1) Service as a substitute excluded under Section 22602.

(2) Creditable service subject to coverage under the Cash Balance Benefit Program, excluding service credited pursuant to Section 26402, if the member is currently contributing to the Defined Benefit Program and has terminated all service subject to coverage under the Cash Balance Benefit Program. Upon requesting to purchase service credit under this paragraph, the member shall cease to be eligible for a benefit for the same service or time previously credited under the Cash Balance Benefit Program pursuant to Part 14 (commencing with Section 26000).

(3) Service performed on a part-time basis excluded under Section 22601.5 or Section 22604, other than service credited under paragraph (2).

(4) Adult education service excluded under Section 22603, as it read on December 31, 1995.

(5) Service as a school nurse excluded under Section 22606, as it read on December 31, 1995.

(6) Service performed in a position prior to the date the position was made subject to coverage under the Defined Benefit Program.

(7) Service subject to coverage under the Defined Benefit Program performed while a member of another California public retirement system, provided the member has ceased to be a member of, and has ceased to be entitled to benefits from, the other retirement system. The member shall not receive credit for the service if the member may redeposit withdrawn contributions and subsequently be eligible for any benefits based upon the same service or based upon other full-time service performed during the same period, from another California public retirement system.

(b) A member who requests to purchase service credit under this part for service performed while excluded from membership under the Defined Benefit Program shall pay all of the required contributions for all or the portion of that service for which the member requests to purchase service credit.

(c) A member may not request to purchase service credit for service or time described in paragraphs (1) and (3) to (7), inclusive, of subdivision (a) if, after the request, the member would continue to receive credit for the same service or time in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system.

SEC. 8. Section 22803 of the Education Code is amended to read:

22803. (a) A member, other than a retired member, may request to purchase service credit for any of the following:

(1) Service performed in a teaching position in the University of California or California State University that is not covered by another public retirement system.

(2) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(3) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

(4) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(5) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering the job corps and returned to employment to perform creditable service subject to coverage under the Defined Benefit Program within six months following the date of termination of service in the job corps.

(6) Time served, not to exceed two years, in a teaching position as a member of the Peace Corps if the member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering the Peace Corps and returned to employment to perform creditable service subject to coverage under the Defined Benefit Program within six months following the date of termination of service in the Peace Corps.

(7) Time spent on a sabbatical leave, approved by an employer in this state after meeting the requirements of Section 44969.

(8) Time spent on an approved leave, approved by an employer in this state, to participate in any program under the federal Mutual Educational and Cultural Exchange Program.

(9) Time spent on leave approved by an employer in this state as maternity or paternity leave, not to exceed 24 consecutive

months, regardless of whether or not the leave was taken before or after the addition of this subdivision.

(10) Time spent on an employer-approved leave based on the guidelines for the Family and Medical Leave Act or the California Family Rights Act, or both, up to four months in any 12-month period.

(11) Time spent employed by the Board of Governors of the California Community Colleges in a position subject to coverage by the Public Employees' Retirement System between July 1, 1991, and December 31, 1997, provided the member has elected to return to coverage under the State Teachers' Retirement System pursuant to Section 20309 of the Government Code.

(b) In no event shall the member receive credit for service or time described in paragraphs (1) to (11), inclusive, of subdivision (a) if the member has received or is eligible to receive credit for the same service or time in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system.

SEC. 9. Section 22805 of the Education Code is amended to read:

22805. (a) A member may request to receive credit under this part for time served in the active military service of the United States or of this state, including active service in any uniformed auxiliary to any branch of that military service authorized as an auxiliary by Congress or the Legislature, or in the full-time paid service of the American Red Cross prior to September 1957, if both of the following conditions exist:

(1) The time served was during war with any foreign power or during other national emergency, or in time of peace if the member was drafted for that service by the United States government.

(2) The member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering that service. Time included under this section shall be considered as served in the state in which the member was last employed before entering that service.

(b) Time during which the member was absent without compensation for other cause, on leave or otherwise, shall not be included.

SEC. 10. Section 22820 of the Education Code is amended to read:

22820. (a) A member, other than a retired member, may request to purchase out-of-state service credit for any of the following:

(1) Service performed in a position while employed by a public educational institution located in another state or territory of the United States.

(2) Educational service performed as an employee of the United States.

(3) Service performed as an employee of an educational institution located outside of the United States and its territories that receives a portion of its funding from any foreign or domestic public sources and provides a level of education comparable to kindergarten and grades 1 to 12, inclusive, as determined by the applicable law of the jurisdiction in which the educational institution is located.

(4) As an employee of an educational institution that receives funds under Section 2701 of Title 22 of the United States Code.

(b) The member may not receive credit for this service if the member retains or is eligible to receive credit for the same service in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security.

(c) The amount of out-of-state service credit a member may purchase may not exceed the number of years of service performed by the member in a position described in subdivision (a).

(d) Out-of-state service credit may be purchased under this section by means of any of the following actions:

(1) Paying an amount equal to the amount refunded from the other public retirement system and receiving service credit under the Defined Benefit Program pursuant to subdivision (a) of Section 22823.

(2) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(3) Paying an amount equal to the amount refunded from the other public retirement system and an additional amount in accordance with subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(4) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service not credited to a public retirement system.

(e) Compensation for out-of-state service may not be used in determining the highest average annual compensation earnable when calculating final compensation.

(f) The service credit purchased under this section may not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 11. Section 22821 of the Education Code is amended to read:

22821. A member's request to purchase out-of-state service credit pursuant to this chapter shall be submitted in writing and shall include information as required by the board.

SEC. 12. Section 22822 of the Education Code is amended to read:

22822. A request pursuant to Section 22820 to purchase out-of-state service credit may be made by a member any time prior to the effective date of a family, survivor, disability, or retirement allowance.

SEC. 13. Section 22823 of the Education Code is amended to read:

22823. A member who requests to purchase out-of-state service credit pursuant to Section 22820 shall pay, prior to retirement, all contributions with respect to that service at the contribution rate for additional service credit adopted by the board as a plan amendment, in effect on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801.

SEC. 14. Section 22826 of the Education Code is amended to read:

22826. (a) A member, other than a retired member, may request to purchase up to five years of nonqualified service credit provided the member is vested in the Defined Benefit Program as provided in Section 22156.

(b) A member who requests to purchase nonqualified service credit as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the plan with respect to the Defined Benefit Program

in effect on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801.

SEC. 15. Section 23200 of the Education Code is amended to read:

23200. (a) If a person, whose accumulated retirement contributions have been refunded, again becomes a member of the Defined Benefit Program or is subject to Section 23201, the person may request to redeposit all or a portion of those contributions with regular interest from the date of refund to the date of payment.

(b) If a nonmember spouse, as defined in Section 22651, withdraws accumulated contributions in accordance with Section 22661, the member may redeposit all or a portion of those contributions pursuant to subdivision (a), providing he or she is not receiving an allowance under Chapter 26 (commencing with Section 24100) or Chapter 27 (commencing with Section 24201).

(c) If a member requests to redeposit a portion of all accumulated retirement contributions that were previously refunded subject to requirements imposed by the board, the member shall receive pro rata service credit in proportion to the amount redeposited.

SEC. 16. Section 23201 of the Education Code is amended to read:

23201. Any person whose accumulated retirement contributions were refunded, who wishes to establish concurrent membership, and who has received, or will qualify to receive, a retirement allowance from one or more of the retirement systems defined in Section 22115.2, may request to redeposit all or a portion of the accumulated retirement contributions that were refunded, with regular interest from the date of refund to the date of payment, without being employed to perform creditable service subject to coverage under the Defined Benefit Program.

SEC. 17. Section 23859 of the Education Code is amended to read:

23859. (a) Upon termination of a survivor benefit allowance pursuant to this chapter, if the total allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of death, the remaining balance of accumulated retirement contributions shall be paid to the estate of the spouse.

(b) If there is no spouse, and if there is a designated beneficiary pursuant to Section 23300, then upon termination of the survivor benefit allowance payable to all eligible dependent children pursuant to Section 23852, if the total allowance paid or payable is less than the amount of the member's accumulated retirement contributions at the time of death, the remaining balance of the accumulated retirement contributions shall be paid to the member's designated beneficiary pursuant to Section 23300.

(c) Payments provided under this section shall include credited interest on the unpaid balance calculated from the date the last survivor benefit allowance payment was made or from the date of death of the member, if no survivor benefit allowance payments were made, to the date the balance is paid.

SEC. 18. Section 24001 of the Education Code is amended to read:

24001. (a) A member may apply for a disability allowance under the Defined Benefit Program, upon written application for disability allowance to the board on a properly executed form provided by the system, if the member has five or more years of credited service and if all of the following requirements are met:

(1) At least four years were credited for actual performance of service subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be counted toward the four-year requirement in accordance with Section 22710.

(2) The last five years of credited service were performed in this state.

(3) Except as described in subdivision (d) of Section 24201.5, at least one year was credited for service performed subsequent to the date on which the member terminated the service retirement allowance under Section 24208.

(4) At least one year was credited for service performed subsequent to the most recent refund of accumulated retirement contributions.

(5) The member has neither attained normal retirement age, nor possesses sufficient unused sick leave days to receive creditable compensation on account of sick leave to normal retirement age.

(6) The member is not applying for a disability allowance because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program

commenced and remains substantially unchanged at the time of application.

(b) Nothing in subdivision (a) shall affect the right of a member to a disability allowance under this part if the reason that the member is credited with less than four years of actual service performed subject to coverage under the Defined Benefit Program is due to an on-the-job injury or a disease that occurred while the member was employed and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5 (commencing with Section 22850) in addition to any credit received from workers' compensation payments.

(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability allowance if the following conditions are met:

(1) The member has at least one year of credited service performed in this state.

(2) The disability is the direct result of an unlawful act of bodily injury that was perpetrated on his or her person by another human being while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.

(3) The member provides documentation of the unlawful act in the form of an official police report or official employer incident report.

(d) A member who is eligible to apply for a disability allowance pursuant to this section may also apply for a service retirement pending a determination of his or her application for disability as described in Section 24201.5.

SEC. 19. Section 24101 of the Education Code is amended to read:

24101. (a) A member may apply for a disability retirement under this part, upon written application for disability retirement to the board on a properly executed form provided by the system, if the member has five or more years of credited service and if all of the following requirements are met:

(1) At least four years were credited for actual service performed subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be

counted toward the four-year requirement in accordance with Section 22710.

(2) The last five years of credited service were performed in this state.

(3) Except as described in subdivision (d) of Section 24201.5, at least one year of credited service was earned subsequent to the date on which the member terminated the service retirement allowance under Section 24208.

(4) At least one year of credited service was earned subsequent to the date on which the member's disability retirement was terminated.

(5) At least one year of credited service was earned subsequent to the most recent refund of accumulated retirement contributions.

(6) The member is not applying for a disability retirement because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and that remains substantially unchanged at the time of application.

(b) Nothing in subdivision (a) shall affect the right of a member to a disability retirement if the reason that the member has performed less than four years of actual service is due to an on-the-job injury or a disease while in employment subject to coverage by the Defined Benefit Program and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5 (commencing with Section 22850) in addition to any credit received from workers' compensation payments.

(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability retirement allowance if the following conditions are met:

(1) The member has at least one year of credited service performed in this state.

(2) The disability is a direct result of an unlawful act of bodily injury that was perpetrated on his or her person by another human being while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.

(3) The member provides documentation of the unlawful act in the form of an official police report or official employer incident report.

(d) A member who is eligible to apply for a disability retirement pursuant to this section may also apply for a service retirement pending a determination of his or her application for disability as described in Section 24201.5.

SEC. 20. Section 24201.5 of the Education Code is amended to read:

24201.5. (a) A member who is eligible and applies for a disability allowance or retirement pursuant to Section 24001 or 24101 may apply to receive a service retirement allowance pending the determination of his or her application for disability, subject to all of the following:

(1) The member is eligible to retire for service under Section 24201 or 24203.

(2) The member submits the application on a form provided by the system, subject to all of the following:

(A) The application is executed no earlier than six months before the effective date of the retirement allowance and the effective date is no earlier than the first day of the month in which the application is received at the system's headquarters office, as established pursuant to Section 22375.

(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 one year following the date on which a retirement allowance was terminated pursuant to Section 24208 or subdivision (a) of Section 24117.

(3) The effective date of the service retirement allowance can be 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.

(4) A member who applies for service retirement under this section is not eligible to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to Section 24221.

(5) A member who applies for service retirement under this section is not eligible to receive an allowance calculated pursuant to Section 24205.

(6) (A) Except as described in subparagraph (B), a member who applies for service retirement under this section shall not

receive service credit for each day of accumulated and unused leave of absence for illness or injury or for education pursuant to Section 22717 or 22717.5.

(B) If the application for disability is denied, the member's service retirement allowance shall be adjusted to the effective date of the service retirement to include service credited pursuant to Section 22717 or 22717.5.

(7) If the application for disability is denied, a member who applies for a service retirement allowance under this section is subject to all of the following:

(A) Unless otherwise provided in this part, a member who, on his or her application for service retirement, elects an option pursuant to Section 24300.1 or 24307 may not change or revoke that option.

(B) If the member receives a modified service retirement allowance based on the election of an option pursuant to Section 24300.1 or 24307, that modified service retirement allowance shall continue in effect and unchanged.

(C) If the member did not elect an option pursuant to Section 24300.1 or 24307 and receives an unmodified service retirement allowance, that unmodified service retirement allowance shall continue in effect and unchanged.

(b) A member who applies for service retirement under this section may change or cancel his or her service retirement application pursuant to Section 24204, or may terminate his or her service retirement allowance pursuant to Section 24208.

(c) A member may not cancel his or her application for disability prior to a determination of that application unless he or she submits a written request to the system's headquarters office, as established pursuant to Section 22375. If a member elects to cancel his or her service retirement application or elects to terminate his or her service retirement allowance as described in subdivision (b), that election shall not cancel the application for disability.

(d) (1) Paragraph (3) of subdivision (a) of Sections 24001 and 24101 shall not apply to a member who cancels an application for service retirement pursuant to Section 24204 or who terminates a service retirement allowance pursuant to Section 24208, if all of the following apply:

(A) The member earned at least one year of credited service subsequent to the most recent terminated service retirement allowance.

(B) The member's application for disability under this section is pending determination by the board.

(2) If the member's application for disability under this section is denied, paragraph (3) of subdivision (a) of Sections 24001 and 24101 shall apply if the member submits a new application for disability.

(e) (1) If the board approves the application for disability, and notwithstanding subdivision (f) of Section 24204, the board shall cancel the member's application for service retirement and shall authorize payment of a disability allowance or disability retirement.

(2) If the board approves the application for disability and the member has received service retirement allowance payments under this part, the effective date for the disability allowance or disability retirement shall be the same as the effective date of the service retirement allowance.

(f) If a member who applies for service retirement under this section dies prior to a determination by the board on the application for disability, the member shall be considered retired for service at the time of death, and any subsequent benefits shall be paid accordingly.

(g) If a member who applies for service retirement under this section dies after the board has approved the member's application for disability, the member shall be considered a disabled member, or retired for disability, at the time of death, and any subsequent benefits shall be paid accordingly, even if the member died prior to receiving notification of the approval of his or her application for disability.

(h) If the member changes or cancels his or her service retirement application or terminates his or her service retirement allowance as described in subdivision (b), the system shall make appropriate adjustments to the applicable service retirement allowance, disability allowance, or disability retirement allowance, retroactive to the effective date of the disability allowance or disability retirement allowance. Subdivision (a) of Section 24617 shall not apply.

(i) The system may recover a service retirement allowance overpayment made to a member by deducting that overpayment from any subsequent disability benefit payable to the member.

(j) Nothing in this section shall be construed to allow a member or beneficiary to receive more than one type of retirement or disability allowance for the same period of time.

SEC. 21. Section 24216 of the Education Code is amended to read:

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent pursuant to Section 41320.1, or who is appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28) or the High Priority Schools Grant Program (Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28), or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of 24 consecutive months.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system providing that the Superintendent or the county superintendent of schools submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) (1) A member retired for service under this part who is employed by an employer to perform creditable service in an emergency situation to fill a vacant administrative position requiring highly specialized skills shall be exempt from the provisions of subdivisions (d) and (f) of Section 24214 for creditable service performed up to one-half of the full-time position, if the vacancy occurred due to circumstances beyond the control of the employer.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system subject to the following conditions:

(A) The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.

(B) The employment is reported in a public meeting of the governing body of the employer.

(C) The employer submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision.

(c) This section does not apply to any person who has received additional service credit pursuant to Section 22715 or 22716.

(d) A person who has received additional service credit pursuant to Section 22714 or 22714.5 shall be ineligible for one year from the effective date of retirement for the exemption provided in this section for service performed in any school district, community college district, or county office of education in the state.

(e) This section shall remain in effect only until June 30, 2010, and shall be repealed on January 1, 2011, unless a later enacted statute deletes or extends that date.

SEC. 22. Section 24216.5 of the Education Code is amended to read:

24216.5. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2007.

(2) The member retired for service is employed by a school district to provide any of the following:

(A) Direct classroom instruction to pupils enrolled in kindergarten or any of grades 1 to 12, inclusive.

(B) Support and assessment for new teachers through the Beginning Teacher Support and Assessment program authorized by Section 44279.1.

(C) Support to individuals completing student teaching assignments.

(D) Support to individuals participating in the following programs:

(i) Pre-Internship Teaching Program authorized pursuant to Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25.

(ii) Alternative certification programs authorized pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25.

(iii) School Paraprofessional Teacher Training Program established pursuant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25.

(E) Instruction and pupil services provided to pupils enrolled in special education programs authorized pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2.

(F) Instruction to pupils enrolled in English language learner programs authorized pursuant to Chapter 3 (commencing with Section 300), Chapter 4 (commencing with Section 400), and Chapter 6 (commencing with Section 430) of Part 1 of Division 1.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a community college district.

(d) This section shall remain in effect only until June 30, 2010, and shall be repealed as of January 1, 2011, unless a later enacted statute deletes or extends that date.

SEC. 23. Section 24216.6 of the Education Code is amended to read:

24216.6. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2007.

(2) The member retired for service is employed by a school district to provide direct remedial instruction to pupils in grades 2 to 12, inclusive. "Remedial instruction" means the programs specified in Sections 37252 and 37252.2.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the

exemption under this subdivision. That documentation shall be on a properly executed form provided by the system and shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a county office of education or a community college district.

(d) This section shall remain in effect only until June 30, 2010, and shall be repealed as of January 1, 2011, unless a later enacted statute deletes or extends that date.

SEC. 24. Section 24301 of the Education Code is amended to read:

24301. (a) A member who has filed an application under this part for a disability retirement pursuant to Chapter 26 (commencing with Section 24100) may elect, as provided in Section 24300 or 24300.1 to receive an actuarially modified disability retirement allowance. After receipt of a disability retirement application from a member, the board shall mail an acknowledgment notice to the member. A 30-day period shall commence with the mailing of the acknowledgment, during which time the member may change the option election made on the disability retirement application.

(b) The option shall become effective on the effective date of the disability retirement allowance. The modification of the disability retirement allowance under the option elected shall be based on the ages of the retired member and the designated option beneficiary as of the effective date of the disability retirement. The modification shall be applicable only to the disability retirement allowance payable pursuant to subdivision (a) of Section 24106.

(c) Except as provided in Sections 24300, 24300.1, 24300.6, 24305, 24305.5, and 24306, the elected option may not be revoked or changed after the later of the effective date of the disability retirement allowance or 30 days after the mailing of the acknowledgment notice pursuant to this section.

(d) If a member dies prior to electing an unmodified allowance or an option, the death benefits shall be payable under Chapter 23 (commencing with Section 23850), regardless of whether the disability retirement application is or would have been approved.

SEC. 25. Section 24309 of the Education Code is amended to read:

24309. (a) A member may change or cancel the election of an option made pursuant to Section 24307. The change or cancellation shall be on a properly executed form provided by the system and received at the system's headquarters office, as established pursuant to Section 22375, within 30 days of the date of the member's signature and, if applicable, the spouse's signature, and on or before the effective date of retirement under this part or during the period between termination of the retirement allowance pursuant to Section 24208 or 24117 and the effective date of the subsequent retirement under this part. The change or cancellation shall become effective as of the date of the member's signature.

(1) Any change to an election of an option shall be made according to Section 24307 and shall be considered a new preretirement election of an option.

(2) Regardless of how the member elects to receive his or her retirement allowance, a change made to an election of an option or a cancellation of an option shall result in the reduction of that allowance by an amount determined by the board to be the actuarial equivalent of the coverage the member received as a result of the preretirement election and that does not result in any adverse funding to the plan.

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the day following the date of death and the member's subsequent retirement allowance under this part shall be subject to the allowance reduction prescribed in this section.

(c) If the option elected pursuant to Section 24307 is Option 8 as described in paragraph (7) of subdivision (a) of Section 24300 or the compound option as described in paragraph (4) of subdivision (a) of Section 24300.1, a member may cancel the designation of an option beneficiary. If the member cancels the designation of the option beneficiary or the option beneficiary predeceases the member prior to the member's retirement, the

member may elect to receive that portion of the retirement allowance without modification for the option or elect one or multiple new or existing option beneficiaries as described in Section 24307. Any change or cancellation of the designation of the option beneficiary under this subdivision shall result in the allowance reduction prescribed in this section.

SEC. 26. Section 25007 of the Education Code is amended to read:

25007. When the board declares an additional earnings credit for a plan year, the board also may declare by plan amendment an additional annuity credit, for members and annuity beneficiaries who are receiving an annuity as of the date specified by the board pursuant to Section 25006, based on the annuity of the member and annuity beneficiaries for the plan year. The additional annuity credit shall be paid in a lump sum to the members and annuity beneficiaries on the date specified by the board. In addition to the considerations specified in Section 25006, prior to declaring an additional earnings credit, the board shall consider both of the following:

(a) The amount required for the plan year to apply the additional earnings credit to the Defined Benefit Supplement accounts of members who are not receiving an annuity under the Defined Benefit Supplement Program for the plan year.

(b) Any other obligations incurred by the plan with respect to the Defined Benefit Supplement Program.

SEC. 27. Section 25008.5 is added to the Education Code, to read:

25008.5. Notwithstanding any other law, if (a) a member or beneficiary whose effective date for a benefit received pursuant to any other chapter of this part was prior to January 1, 2010, (b) the member or beneficiary was required to receive a distribution of the balance of credits from the member's Defined Benefit Supplement account pursuant to this chapter, and (c) the member or beneficiary failed to submit an application for the distribution of the member's Defined Benefit Supplement account prior to January 1, 2010, the system shall distribute the balance of credits in the member's Defined Benefit Supplement account in a lump-sum payment to the member or beneficiary, as applicable, by March 31, 2010.

SEC. 28. Section 25010 of the Education Code is amended to read:

25010. (a) A member who meets the following eligibility requirements shall receive a retirement benefit under the Defined Benefit Supplement Program:

(1) The member has terminated all employment to perform creditable service subject to coverage by the plan. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated.

(2) The member has retired for service under the Defined Benefit Program pursuant to Chapter 27 (commencing with Section 24201).

(b) A member shall submit an application for a retirement benefit on a form prescribed by the system.

(c) A member retiring for service pursuant to Chapter 27 (commencing with Section 24201) on or after January 1, 2010, shall not receive an allowance pursuant to Chapter 27 unless the member has submitted a completed application pursuant to subdivision (b).

SEC. 29. Section 25011.1 of the Education Code is amended to read:

25011.1. (a) A member may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payments have been made from the account. If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payments:

(1) Member only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the retired member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the annuitant reserve shall be returned in a lump-sum payment to the beneficiary of the member.

(2) One hundred percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the

member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 100 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(3) Seventy-five percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not elect this annuity if a beneficiary is more than exactly 19 years younger than the member, unless the beneficiary is the member's spouse or former spouse and the election is pursuant to a determination of community property rights. Upon the death of the member, 75 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(4) Fifty percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 50 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member as the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member

only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300.1, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(c) If a nonmember spouse elects to receive the retirement benefit as an annuity, the nonmember spouse shall elect the form of payment specified in paragraph (1) or (5) of subdivision (a) and, in those paragraphs, references to a "member" shall apply to the nonmember spouse.

(d) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) or (5) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(e) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the member to change the annuity to the detriment of the community property interest of the nonmember spouse.

SEC. 30. Section 25017 of the Education Code is amended to read:

25017. (a) A member shall receive a disability benefit under the Defined Benefit Supplement Program beginning on the effective date of the member's disability allowance pursuant to Chapter 25 (commencing with Section 24001) or a disability retirement allowance pursuant to Chapter 26 (commencing with Section 24100) under the Defined Benefit Program.

(b) The member, or the member's employer or conservator on behalf of the member, shall submit an application for a disability benefit on a form prescribed by the system.

(c) A member whose disability allowance or disability retirement allowance is effective on or after January 1, 2010, shall not receive an allowance pursuant to Chapter 25 (commencing with Section 24001) or Chapter 26 (commencing with Section 24100), as applicable, unless the member has submitted a completed application pursuant to subdivision (b).

SEC. 31. Section 25020 of the Education Code is amended to read:

25020. (a) A final benefit under the Defined Benefit Supplement Program shall become payable when the system receives proof of the member's death. For a member who died on or after January 1, 2010, no benefit shall be paid to a beneficiary of the member pursuant to other chapters of this part until the final benefit is paid pursuant to this article.

(b) If the member's death occurs before an annuity under the Defined Benefit Supplement Program becomes payable, the final benefit shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death, plus minimum interest credited through the date of payment.

(c) Upon distribution of a final benefit in a lump-sum payment, no other benefit shall be payable under the Defined Benefit Supplement Program to the member's beneficiary.

SEC. 32. The heading of Part 14 (commencing with Section 26000) of Division 1 of Title 1 of the Education Code is amended to read:

PART 14. STATE TEACHERS' RETIREMENT SYSTEM CASH BENEFIT PROGRAM

SEC. 33. Any section of any other act enacted by the Legislature during the 2009 calendar year that takes effect on or before January 1, 2010, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act shall prevail over this act, whether that act is enacted prior to or subsequent to the enactment of this act. The repeal, or

repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2009 calendar year and takes effect on or before January 1, 2010, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

Approved _____, 2009

Governor