

AMENDED IN SENATE FEBRUARY 24, 2000
AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 816

**Introduced by Committee on Public Employees, Retirement
and Social Security (Correa (Chair), Firebaugh, Honda,
Knox, and Pescetti)**

February 24, 1999

An act to amend Sections 22138.5, 22163, 22508.5, 23001, 23008, 23300, 24201, 24307, and 24410.5 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 816, as amended, Committee on Public Employees, Retirement and Social Security. State Teachers' Retirement System.

(1) The State Teachers' Retirement Law authorizes a member of the Defined Benefit Program to designate, or change the designation of, a beneficiary to receive benefits payable under the program, except as specified.

This bill would additionally authorize an option beneficiary to designate, or change the designation of, a beneficiary to receive those benefits.

(2) The State Teachers' Retirement Law defines "full time" and "reinstatement" for purposes of calculating creditable service for service retirement benefits. Existing law also, provides a specified membership option to



employees of a community college district who have been previously or are subsequently employed by the Board of Governors of the California Community Colleges, prescribes reporting and payment requirements for specified employing agencies, specifies eligibility requirements for service retirement, prescribes allowances payable to designated beneficiaries under specified preretirement options, and prescribes minimum annual allowances payable to a retired member, an option beneficiary, or a surviving spouse receiving specified death benefits.

This bill would make technical changes to those provisions.

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 22138.5 of the Education Code is
 2 amended to read:
 3 22138.5. (a) “Full time” means the days or hours of
 4 creditable service the employer requires to be performed
 5 by a class of employees in a school year in order to earn
 6 the compensation earnable as defined in Section 22115
 7 and specified under the terms of a collective bargaining
 8 agreement or employment agreement. For the purpose
 9 of crediting service under this part, “full time” shall not
 10 be less than the minimum standards specified in this
 11 section.
 12 (b) The minimum standard for full time in
 13 kindergarten through grade 12 shall be:
 14 (1) One hundred seventy-five days per year or 1,050
 15 hours per year, except as provided in paragraphs (2) and
 16 (3).
 17 (2) (A) One hundred ninety days per year or 1,520
 18 hours per year for all principals and program managers,
 19 including advisers, coordinators, consultants, and
 20 developers or planners of curricula, instructional
 21 materials, or programs, and for administrators, except as
 22 provided in subparagraph (B).
 23 (B) Two hundred fifteen days per year or 1,720 hours
 24 per year including school and legal holidays pursuant to



1 the policy adopted by the employer's governing board for
2 administrators at a county office of education.

3 (3) One thousand fifty hours per year for teachers in
4 adult education programs.

5 (c) The minimum standard for full time in community
6 colleges shall be:

7 (1) One hundred seventy-five days per year or 1,050
8 hours per year, except as provided in paragraphs (2), (3),
9 (4), (5), and (6). Full time shall include time for duties
10 the employer requires to be performed as part of the
11 full-time assignment for a particular class of employees.

12 (2) One hundred ninety days per year or 1,520 hours
13 per year for all program managers and for administrators,
14 except as provided in paragraph (3).

15 (3) Two hundred fifteen days per year or 1,720 hours
16 per year including school and legal holidays pursuant to
17 the policy adopted by the employer's governing board for
18 administrators at a district office.

19 (4) One hundred seventy-five days per year or 1,050
20 hours per year for all counselors and librarians.

21 (5) Five hundred twenty-five instructional hours per
22 school year for all instructors employed on a part-time
23 basis, except instructors specified in paragraph (6). If an
24 instructor receives compensation for office hours
25 pursuant to Article 10 (commencing with Section 87880)
26 of Chapter 3 of Part 51, then the minimum standard
27 established herein shall be increased appropriately by the
28 number of office hours required annually for the class of
29 employees.

30 (6) Eight hundred seventy-five instructional hours per
31 school year for all instructors employed in adult
32 education programs. If an instructor receives
33 compensation for office hours pursuant to Article 10
34 (commencing with Section 87880) of Chapter 3 of Part 51,
35 then the minimum standard established herein shall be
36 increased appropriately by the number of office hours
37 required annually for the class of employees.

38 (d) The board shall have final authority to determine
39 full time for purposes of crediting service under this part
40 if full time is not otherwise specified herein.



1 SEC. 2. *Section 22163 of the Education Code is*
2 *amended to read:*

3 22163. “Reinstatement” means the change in status
4 with respect to the Defined Benefit Program under this
5 part from a disabled or retired member to an active or
6 inactive member and termination of one of the following:

7 (a) A service retirement allowance pursuant to
8 Section 24208.

9 (b) A disability retirement allowance pursuant to
10 Section 24117.

11 (c) A disability allowance pursuant to Section 24004,
12 24006, or 24015.

13 (d) A service retirement allowance or disability
14 retirement allowance pursuant to Section 23404.

15 SEC. 3. *Section 22508.5 of the Education Code is*
16 *amended to read:*

17 22508.5. (a) Any person who is a member of the
18 Defined Benefit Program of the State Teachers’
19 Retirement Plan employed by a community college
20 district who subsequently is employed by the Board of
21 Governors of the California Community Colleges to
22 perform duties that are subject to membership in a
23 different public retirement system, shall be excluded
24 from membership in that different system if he or she
25 elects, in writing, and files that election in the office of the
26 State Teachers’ Retirement System within 60 days after
27 the person’s entry into the new position, to continue as a
28 member of the Defined Benefit Program. Only a person
29 who has achieved plan vesting is eligible to elect to
30 continue as a member of the program.

31 (b) A member of the Public Employees’ Retirement
32 System who is employed by the Board of Governors of the
33 California Community Colleges who subsequently is
34 employed by a community college district to perform
35 ~~creditable service subject to coverage under that requires~~
36 *membership in the Defined Benefit Program*, may elect
37 to have that service subject to coverage by the Public
38 Employees’ Retirement System and excluded from
39 coverage under the Defined Benefit Program pursuant
40 to Section 20309 of the Government Code.



1 (c) This section shall apply to changes in employment
2 effective on or after January 1, 1998.

3 *SEC. 4. Section 23001 of the Education Code is*
4 *amended to read:*

5 23001. Each county superintendent, *district*
6 *superintendent, chancellor of a community college*
7 *district, or other employing agency that reports directly*
8 *to the system* shall draw ~~his or her~~ requisitions for
9 contributions required by Sections 22901 and 22950 in
10 favor of the State Teachers' Retirement System, and the
11 requisitions, when allowed and signed by the county
12 auditor, shall constitute a warrant against the county
13 treasury. The county superintendent, *district*
14 *superintendent, chancellor of a community college*
15 *district, or other employing agency* thereupon shall
16 forward the warrants to the board in Sacramento. The
17 amounts received shall be deposited immediately in the
18 State Treasury to the Teachers' Retirement Fund.

19 *SEC. 5. Section 23008 of the Education Code is*
20 *amended to read:*

21 23008. (a) If more or less than the required
22 contributions specified in this part and Section 44987 are
23 paid to the system based on any payment of creditable
24 compensation to a member, proper adjustments shall be
25 made *on a monthly report*, by the county
26 superintendent, *district superintendent, chancellor of a*
27 *community college district*, or other employing agency
28 ~~on a monthly~~ *who submitted the report*, within 60 days
29 ~~of~~ *after* discovery or ~~of~~ notification by the system and any
30 refunds shall be made to the member within the same
31 time period by the employing agency.

32 (b) The board may assess penalties for late or
33 improper adjustments pursuant to Section 23006. These
34 penalties shall be no more than the regular interest as
35 defined in Section 22162. The penalty so assessed shall be
36 deemed interest earned in the year in which it was
37 received.

38 (c) If a required report contains erroneous
39 information and the system, acting in good faith,
40 disburses funds from the Teacher's Retirement Fund



1 based on that information, the county superintendent,
2 *district superintendent, chancellor of a community*
3 *college district,* or other employing agency who
4 submitted the report shall reimburse the retirement fund
5 in full for the amount of the erroneous disbursement.
6 Reimbursement shall be made immediately upon
7 notification by the system.

8 *SEC. 6. Section 23300 of the Education Code is*
9 *amended to read:*

10 23300. (a) A member of the Defined Benefit
11 Program *or an option beneficiary* may at any time
12 designate a beneficiary, or change the designation of a
13 beneficiary, to receive benefits payable under this part,
14 except that no beneficiary designation may be made in
15 derogation of the community property share of any
16 nonmember spouse under this part when any ~~such~~
17 benefit is derived, in whole or in part, from community
18 property contributions or service credited during the
19 period of marriage, unless the nonmember spouse has
20 previously obtained an alternative order for distribution
21 pursuant to Section 2610 of the Family Code. A
22 designation of beneficiary shall be in writing on a form
23 prescribed by the system, executed by the member *or*
24 *option beneficiary,* witnessed by two witnesses, neither of
25 whom may be beneficiaries. To be valid the instrument
26 shall be received in the office of the system in Sacramento
27 before the ~~member's~~ *death of the designating party.*

28 (b) Except as otherwise stated in this section, the
29 designation of beneficiary, other than an option
30 beneficiary, may be revoked by the ~~member~~ *party*
31 making the designation, and a different beneficiary
32 designated in the same manner as provided in this
33 section.

34 *SEC. 7. Section 24201 of the Education Code is*
35 *amended to read:*

36 24201. (a) A member may retire for service under
37 this part upon written application for retirement to the
38 board, under paragraph (1) or (2) as follows:

39 (1) The member has attained the age of 55 years or
40 more and has at least five years of credited service, at least



1 one year of which has been performed subsequent to the
2 most recent refund of accumulated retirement
3 contributions. The five years of credited service may
4 include out-of-state service purchased pursuant to
5 Section 22820. The number of years of credited service
6 performed in California shall not be less than the number
7 of years necessary to determine final compensation
8 pursuant to Section 22134 or 22135, whichever is
9 applicable to the member.

10 (2) The member is credited with service that is not
11 used as a basis for benefits under any other public
12 retirement system, excluding the federal social security
13 system, if the member has attained the age of 55 years or
14 older and retires concurrently under one or more of the
15 retirement systems with which the member has
16 concurrent membership as defined in Section 22115.2.

17 (b) Application for retirement under paragraph (2) of
18 subdivision (a) may be made even if the member has not
19 earned five years of *credited* service.

20 *SEC. 8. Section 24307 of the Education Code is*
21 *amended to read:*

22 24307. (a) A member who qualifies to apply for
23 retirement under Section 24201 or 24203 may make a
24 preretirement election of an option, as provided in
25 Section 24300 without right of revocation or change after
26 the effective date of retirement, except as provided in
27 this part. The preretirement election of an option shall
28 become effective on the date a properly executed form
29 prescribed by the system is signed, providing the election
30 is received in the system's office in Sacramento within 30
31 days after the date of signature.

32 (b) A member who makes a preretirement election of
33 an Option 2, Option 3, Option 4, Option 5, Option 6, or
34 Option 7 may subsequently make a preretirement
35 election of Option 8. The member may retain the same
36 option and the same option beneficiary as named in the
37 prior preretirement election, as an option under Option
38 8.

39 (c) Upon the member's death prior to the effective
40 date of retirement, the beneficiary who was designated



1 under the option elected and who survives shall receive
2 an allowance calculated under the option, under the
3 assumption that the member retired for service *pursuant*
4 *to Section 24202, 24202.5, 24203, 24203.5, 24206, 24209,*
5 *24210, 24211, or 24212* on the date of death. The payment
6 of the allowance to the option beneficiary shall be in lieu
7 of the family allowance provided in Section 23804, the
8 payment provided in paragraph (1) of subdivision (a) of
9 Section 23802, the survivor benefit allowance provided in
10 Section 23854, and the payment provided in subdivisions
11 (a) and (b) of Section 23852, except that if the beneficiary
12 dies before all of the member's accumulated retirement
13 contributions are paid, the balance, if any, shall be paid to
14 the estate of the person last receiving or entitled to
15 receive the allowance. The accumulated annuity deposit
16 contributions and the death payment provided in
17 Sections 23801 and 23851 shall be paid to the beneficiary
18 in a lump sum.

19 (d) If the member subsequently retires for service,
20 and the elected option has not been canceled pursuant to
21 Section 24309, a modified service retirement allowance
22 computed under Section 24300 and the option elected
23 shall be paid.

24 (e) The amount of the service retirement allowance
25 prior to applying the option factor shall be calculated as
26 of the earlier of the member's age at death before
27 retirement or age on the last day of the month in which
28 the member requested service retirement be effective.
29 The modification of the service retirement allowance
30 under the option elected shall be based on the ages of the
31 member and the beneficiary designated under the
32 option, ~~at~~ *as of* the date the election was signed.

33 (f) A member who terminates the service retirement
34 allowance pursuant to Section 24208 shall not be eligible
35 to file a preretirement election of an option until one
36 calendar year elapses from the date the allowance is
37 terminated.

38 (g) The system shall inform members who are
39 qualified to make a preretirement election of an option,



1 through the annual statements of account, that the
2 election of an option can be made.

3 (h) This section shall become operative on January 1,
4 2000.

5 *SEC. 9.* Section 24410.5 of the Education Code is
6 amended to read:

7 24410.5. (a) Notwithstanding any provision of this
8 part, including, but not limited to, subdivision (e) of
9 Section 22664, the annual allowance payable on the
10 effective date of this section to a retired member, an
11 option beneficiary, or a surviving spouse receiving an
12 allowance pursuant to either Section 23805 or 23855 shall
13 not be less than the amount identified in the following
14 schedule for the number of years of the member's
15 credited service under the Defined Benefit Program at
16 the time of the member's retirement, disability, or death,
17 excluding service credited pursuant to Sections 22714,
18 22715, 22717 and 22826, after the application of all
19 allowances and allowance increases authorized by this
20 part, including those specified in Sections 24412 and
21 24415, as those sections read on December 31, 1999,
22 excluding annuities payable from the accumulated
23 annuity deposit contributions or the accumulated
24 tax-sheltered annuity contributions:

25		
26	20 years of credited service	\$15,000
27	21 years of credited service	\$15,500
28	22 years of credited service	\$16,000
29	23 years of credited service	\$16,500
30	24 years of credited service	\$17,000
31	25 years of credited service	\$17,500
32	26 years of credited service	\$18,000
33	27 years of credited service	\$18,500
34	28 years of credited service	\$19,000
35	29 years of credited service	\$19,500
36	30 years or more of credited service	\$20,000

37
38 (b) Notwithstanding subdivision (a), the amount
39 identified in the schedule in subdivision (a) shall be
40 reduced:



1 (1) By 50 percent for a beneficiary receiving an
2 allowance under Option 3 or Option 7.

3 (2) By one-third for an option beneficiary receiving an
4 allowance under Option 4 after the death of the member
5 or for a member receiving an allowance under Option 4
6 after the death of the option beneficiary.

7 (3) By 50 percent for an option beneficiary receiving
8 an allowance under Option 5 after the death of the
9 member or for a member receiving an allowance under
10 Option 5 after the death of the option beneficiary.

11 (4) By a percentage equal to 100 percent minus the
12 percentage of the member's modified allowance
13 received by the option beneficiary for each option
14 beneficiary receiving an allowance under Option 8.

15 (5) By 60 percent for a surviving spouse receiving an
16 allowance pursuant to subdivision (a) of Section 23805.

17 (6) By 50 percent for a surviving spouse receiving an
18 allowance pursuant to subdivision (c) of Section 23805 or
19 Section 23855.

20 (c) A member to whom a disability allowance is
21 payable on January 1, 2000, who subsequently receives a
22 service retirement allowance pursuant to Section 24213
23 shall, upon the retirement for service, receive an increase
24 in the service retirement allowance pursuant to this
25 section.

26 (d) A member, beneficiary, or surviving spouse may
27 receive an allowance pursuant to this section only if the
28 member was an active member at the time of the
29 member's retirement, or death and, for those members
30 who retired for service, the member retired on or after
31 age 55, unless the member's allowance was not subject to
32 a reduction due to retirement prior to an age specified in
33 this part.

34 (e) A retired member, option beneficiary, or surviving
35 spouse subject to this section shall receive the annual
36 minimum allowance pursuant to this section unless the
37 system receives in writing, on a form prescribed by the
38 system, notification from the member, option
39 beneficiary, or surviving spouse before May 1, 2000, of his



1 or her election not to receive the increase provided under
2 this section.

3 (f) Benefits payable under this section shall be initially
4 paid by the system on July 1, 2000.

5 ~~SEC. 3.~~

6 *SEC. 10.* Any section of any act enacted by the
7 Legislature during the 2000 calendar year that takes
8 effect on or before January 1, 2001, and that amends,
9 amends and renumbers, adds, repeals and adds, or repeals
10 a section that is amended, amended and renumbered,
11 repealed and added, or repealed by this act, shall prevail
12 over this act, whether that act is enacted prior to, or
13 subsequent to, the enactment of this act. The repeal, or
14 repeal and addition, of any article, chapter, part, title, or
15 division of any code by this act shall not become operative
16 if any section of any other act that is enacted by the
17 Legislature during the 2000 calendar year and takes effect
18 on or before January 1, 2001, amends, amends and
19 renumbers, adds, repeals and adds, or repeals any section
20 contained in that article, chapter, part, title, or division.

