

AMENDED IN SENATE AUGUST 21, 2000

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN SENATE JUNE 13, 2000

AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 820**

---

---

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

February 24, 1999

---

---

An act to amend Sections ~~22662~~, 22652, 22662, 22705, 22802, 23200, 23201, 23202, 24750, and 24751 of, to add Sections 24300.6, 26144.5, 26403, 26501.5, and 26503.5 to, and to repeal Section 26401.5 of, the Education Code, relating to teachers' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 820, as amended, Committee on Public Employees, Retirement and Social Security. Teachers' retirement.

Existing law establishes the State Teachers' Retirement System to provide retirement benefits to participating teachers.

(1) Under existing law, if a member whose accumulated retirement contributions have been refunded again becomes a member or another specified condition exists, or if a nonmember spouse is awarded a separate account and

accumulated contributions have been previously refunded to the member, the member or nonmember spouse may elect to redeposit those contributions with regular interest from the date of refund to the date of payment.

This bill would authorize the member or nonmember spouse, *effective July 1, 2001*, to redeposit a portion of the refunded contributions, as specified, *and make additional changes with respect to the division of accounts between a member and a nonmember spouse.*

(2) Existing law provides that a member, prior to retirement, may elect one of several options for a modified retirement allowance payable for the life of the member and the member's designated option beneficiary, as specified.

This bill would, effective July 1, 2001, authorize a retired member, who was unmarried at the time of retirement and who did not elect one of the options, to make such an election if he or she marries after retirement, and to designate the member's new spouse as the option beneficiary, subject to specified conditions.

(3) Under the ~~State~~ Teachers' Retirement Law, the Cash Balance Benefit Program provides a retirement plan for persons who perform creditable service, as defined, on a part-time basis. If an employer elects to provide the benefits of the program, and an eligible employee elects to participate, the employer and employee make contributions to the program, as specified, which are deposited in the Teachers' Retirement Fund, a continuously appropriated special fund. Under existing law, a part-time employee who performs creditable service for multiple employers may elect to participate in the program only if all of his or her employers provide benefits under the program.

This bill would repeal that provision with respect to multiple employers. The bill would also authorize persons who provide trustee service, as defined, to elect to participate in the program and, upon that election, would require those persons and their employers to make contributions, as specified, thereby making an appropriation.

(4) *Existing law prohibits a member from receiving credit under the Defined Benefit Program for service for which the*



*member is entitled to receive a retirement benefit from another retirement system, as specified.*

*This bill would provide that that prohibition would not apply to any retirement benefit received from a qualified defined contribution plan.*

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

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

1 SECTION 1. *Section 22652 of the Education Code is*  
2 *amended to read:*

3 22652. (a) Upon the legal separation or dissolution of  
4 marriage of a member, *other than a retired member*, the  
5 court shall include in the judgment or a court order the  
6 date on which the parties separated.

7 (b) The court may order in the judgment or court  
8 order that the *member's* accumulated retirement  
9 contributions and service credit *under the Defined*  
10 *Benefit Program, or an amount equal to the member's*  
11 *Defined Benefit Supplement account balance, or both,*  
12 under this part that are attributable to periods of service  
13 during the marriage be divided into two separate and  
14 distinct accounts in the name of the member and the  
15 nonmember spouse, respectively. Any service credit ~~or~~  
16 *and* accumulated retirement contributions *under the*  
17 *Defined Benefit Program and any accumulated Defined*  
18 *Benefit Supplement account balance* under this part that  
19 are not explicitly awarded by the judgment or court order  
20 shall be deemed the exclusive property of the member in  
21 the Defined Benefit Program *or the Defined Benefit*  
22 *Supplement Program, as applicable.*

23 (c) The determination of the court of community  
24 property rights pursuant to this section shall be consistent  
25 with this chapter and shall address the rights of the  
26 nonmember spouse, including, but not limited to, the  
27 following:

28 (1) The right to a retirement allowance under ~~this~~  
29 ~~part~~ *the Defined Benefit Program and, if applicable, a*



1 *retirement benefit under the Defined Benefit*  
 2 *Supplement Program.*

3 (2) The right to a refund of accumulated retirement  
 4 contributions under ~~this part~~ *the Defined Benefit*  
 5 *Program and the return of the accumulated Defined*  
 6 *Benefit Supplement account balance that were awarded*  
 7 *to the nonmember spouse.*

8 (3) The right to redeposit *all or a portion of*  
 9 *accumulated retirement contributions previously*  
 10 *refunded to the member which are the member is*  
 11 *eligible for to redeposit under this part by the member*  
 12 ~~under pursuant to~~ Sections 23200 to 23203, inclusive, and  
 13 *shall specify the shares of the redeposit amount awarded*  
 14 *to the member and the nonmember spouse of the eligible*  
 15 ~~redeposit amount.~~

16 (4) The right to purchase additional service credit  
 17 ~~under this part which~~ *that the member is eligible for*  
 18 ~~purchase by the member under~~ *to purchase pursuant to*  
 19 Sections 22800 to 22810, inclusive, and *shall specify the*  
 20 *shares of the additional service credit awarded to the*  
 21 *member and the nonmember spouse of the service credit*  
 22 ~~eligible for purchase.~~

23 *SEC. 2.* Section 22662 of the Education Code is  
 24 amended to read:

25 22662. The nonmember spouse who is awarded a  
 26 separate account under ~~this part~~ *the Defined Benefit*  
 27 *Program* may redeposit accumulated retirement  
 28 contributions previously refunded to the member in  
 29 accordance with the determination of the court pursuant  
 30 to Section 22652.

31 (a) The nonmember spouse may redeposit under this  
 32 part only those accumulated retirement contributions  
 33 that were previously refunded to the member and in  
 34 which the court has determined the nonmember spouse  
 35 has a community property interest.

36 (b) The nonmember spouse shall inform the system in  
 37 writing of his or her intent to redeposit within 180 days  
 38 after the judgment or court order ~~addressing that~~  
 39 *specifies* the redeposit rights of the nonmember spouse is  
 40 entered. The nonmember spouse's election to redeposit



1 shall be made on a form provided by the system within 30  
2 days after the system mails an election form and the  
3 billing.

4 (c) If the nonmember spouse elects to redeposit under  
5 ~~this part~~ *the Defined Benefit Program*, he or she shall  
6 repay all or a portion of the member's refunded  
7 accumulated retirement contributions that were  
8 awarded to the nonmember spouse and shall pay regular  
9 interest from the date of the refund to the date of  
10 payment.

11 (d) *An election to redeposit shall be considered an*  
12 *election to repay all or a part of accumulated retirement*  
13 *contributions previously refunded under the Defined*  
14 *Benefit Program in which the nonmember spouse has a*  
15 *community property interest. All payments shall be*  
16 *received by the system before the effective date of the*  
17 *nonmember spouse's retirement under* ~~this part~~ *the*  
18 *Defined Benefit Program. If any payment due because of*  
19 *the election is not received at the system's office in*  
20 *Sacramento within 120 days of its due date, the election*  
21 *shall be canceled and any payments made under the*  
22 *election shall be returned to the nonmember spouse.*

23 (e) The right of the nonmember spouse to redeposit  
24 shall be subject to Section 23203.

25 (f) The member shall not have a right to redeposit the  
26 share of the nonmember spouse in the previously  
27 refunded accumulated retirement contributions under  
28 this part whether or not the nonmember spouse elects to  
29 redeposit. However, any accumulated retirement  
30 contributions previously refunded under this part and  
31 not explicitly awarded to the nonmember spouse under  
32 this part by the judgment or court order shall be deemed  
33 the exclusive property of the member.

34 ~~SEC. 2.—~~

35 *SEC. 3. Section 22705 of the Education Code is*  
36 *amended to read:*

37 22705. No service shall be included under this part for  
38 which a member of the Defined Benefit Program is  
39 entitled to receive a retirement benefit in a lump sum or  
40 installment payments, for other than military service,



1 from any public retirement system other than this system,  
2 or under the American Gratuity Act No. 4151 relating to  
3 service in the Philippine Islands under which 15 or more  
4 years of creditable service has accrued, or the San  
5 Francisco City and County Employees Retirement  
6 System. If a retired member under this part becomes  
7 entitled to such a retirement benefit, his or her  
8 retirement allowance shall be reduced thereafter to  
9 exclude the service upon which the retirement benefit is  
10 based, without other change in his or her retirement  
11 status. *This section shall not apply to any retirement*  
12 *benefit received from a defined contribution plan that is*  
13 *qualified under Section 401(a), Section 403(b), or Section*  
14 *457 of the Internal Revenue Code.*

15 SEC. 4. Section 22802 of the Education Code is  
16 amended to read:

17 22802. (a) A member who was previously excluded  
18 from membership in the Defined Benefit Program may  
19 elect to receive credit for:

20 (1) Service as a substitute excluded under Section  
21 22602.

22 (2) Service performed on a part-time basis excluded  
23 under Section 22601.5 or Section 22604.

24 (3) Adult education service excluded under Section  
25 22603, as it read on December 31, 1995.

26 (4) Service as a school nurse excluded under Section  
27 22606, as it read on December 31, 1995.

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

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



1 performed during the same period, from another  
2 California public retirement system.

3 (b) A member who elects to receive credit under this  
4 part for service performed while excluded from  
5 membership under the Defined Benefit Program shall  
6 pay all of the required contributions for all or the portion  
7 of that service for which the member elects to receive  
8 credit.

9 ~~SEC. 3.~~

10 *SEC. 5.* Section 23200 of the Education Code is  
11 amended to read:

12 23200. (a) If a person, whose accumulated  
13 retirement contributions have been refunded, again  
14 becomes a member of the Defined Benefit Program or is  
15 subject to Section 23201, the person may elect to  
16 redeposit all or a portion of those contributions with  
17 regular interest from the date of refund to the date of  
18 payment.

19 (b) For time prior to July 1, 1944, regular interest shall  
20 be at 2 1/2 percent compounded annually.

21 (c) If a nonmember spouse, as defined in Section  
22 22651, withdraws accumulated contributions in  
23 accordance with Section 22661, the member may  
24 redeposit ~~a sum equal to~~ *all or a portion of* those  
25 contributions pursuant to subdivision (a), providing he  
26 or she is not receiving an allowance under Chapter 26  
27 (commencing with Section 24100) or Chapter 27  
28 (commencing with Section 24201).

29 (d) If a member elects to redeposit a portion of all  
30 accumulated retirement contributions that were  
31 previously refunded subject to requirements imposed by  
32 the board, the member shall receive pro rata service  
33 credit in proportion to the amount redeposited.

34 ~~SEC. 4.~~

35 *SEC. 6.* Section 23201 of the Education Code is  
36 amended to read:

37 23201. Any person whose accumulated retirement  
38 contributions were refunded, who wishes to establish  
39 concurrent membership, and who has received, or will  
40 qualify to receive, a retirement allowance from one or



1 more of the retirement systems defined in Section  
2 22115.2, may elect to redeposit all or a portion of the  
3 accumulated retirement contributions that were  
4 refunded, with regular interest from the date of refund  
5 to the date of payment, without being employed to  
6 perform creditable service subject to coverage under the  
7 Defined Benefit Program.

8 ~~SEC. 5.~~

9 *SEC. 7.* Section 23202 of the Education Code is  
10 amended to read:

11 23202. (a) An election pursuant to Section 23200 to  
12 redeposit accumulated retirement contributions may be  
13 made by a member anytime prior to the effective date of  
14 the member's retirement under this part.

15 (b) An election to redeposit refunded accumulated  
16 retirement contributions shall be considered as an  
17 election to repay accumulated retirement contributions  
18 previously refunded, up to but not exceeding the amount  
19 required to restore the total service credit refunded,  
20 under the provisions of this chapter.

21 (c) If any payment due because of this election is not  
22 received at the system's office in Sacramento within 120  
23 days of its due date, the election shall be canceled. Upon  
24 the cancellation of ~~election~~, *election*, the member shall  
25 receive credit for the payments made under the election  
26 or, at the request of the member, those payments shall be  
27 refunded.

28 (d) If the election is canceled, the member may at any  
29 time prior to the effective date of retirement under this  
30 part, again elect to redeposit accumulated retirement  
31 contributions previously withdrawn or refunded, in  
32 accordance with Section 23200 and all the laws, rules, and  
33 regulations pertaining thereto.

34 ~~SEC. 6.~~

35 *SEC. 8.* Section 24300.6 is added to the Education  
36 Code, to read:

37 24300.6. (a) Any retired member who was  
38 unmarried on the effective date of retirement who did  
39 not elect an option pursuant to Section 24300, and who  
40 thereafter marries, may, after the effective date of the



1 member's retirement under this part, elect an option  
2 described in paragraphs (1) to (6), inclusive, of  
3 subdivision (a) of Section 24300, naming his or her new  
4 spouse as the option beneficiary, subject to all of the  
5 following:

6 (1) The retired member shall have been married for  
7 at least one year prior to making the election of the  
8 option.

9 (2) The retired member shall notify the board, in  
10 writing on a form provided by the system, of the election  
11 of the option and the designation of the member's new  
12 spouse as the option beneficiary.

13 (3) The election of an option under this section is  
14 subject to approval by the board. A retired member may  
15 not elect a joint and survivor option that would result in  
16 any additional liability to the retirement fund. A retired  
17 member may not elect Option 8.

18 (4) The election shall be effective six months after the  
19 date the notification is received by the board, provided  
20 that both the retired member and the retired member's  
21 designated spouse are then living.

22 (b) The election of the option and designation of the  
23 option beneficiary under this section shall result in an  
24 actuarial modification of the member's retirement  
25 allowance that shall be payable through the life of the  
26 member and the member's new spouse. Modification of  
27 the member's retirement allowance pursuant to this  
28 section shall be based on the ages of the retired member  
29 and the retired member's new spouse as of the effective  
30 date of the election.

31 (c) This section shall be operative July 1, 2001.

32 ~~SEC. 7.~~

33 *SEC. 9.* Section 24750 of the Education Code is  
34 amended to read:

35 24750. Those members who took a refund of their  
36 accumulated contributions from the former Los Angeles  
37 Unified School District Retirement System or the former  
38 Los Angeles Community College District Retirement  
39 System or the San Francisco City and County Employees'  
40 Retirement System, prior to July 1, 1972, and who have



1 former Permanent Fund contributions only on deposit  
2 related to former local system service shall have those  
3 accumulated former Permanent Fund contributions on  
4 deposit as of July 1, 1972, treated in the same manner as  
5 accumulated retirement contributions of all nonlocal  
6 members. Upon discovery and notification to those  
7 members, they shall do either of the following:

8 (a) Redeposit all or a portion of the accumulated  
9 retirement contributions required to bring the account  
10 into full balance with regular interest prior to retirement  
11 under this part.

12 (b) Leave those former Permanent Fund  
13 accumulated contributions on deposit and receive a  
14 reduced retirement allowance under the law as it read on  
15 June 30, 1972.

16 ~~SEC. 8.~~

17 *SEC. 10.* Section 24751 of the Education Code is  
18 amended to read:

19 24751. Those members who took a refund of their  
20 accumulated retirement contributions from the former  
21 Los Angeles Unified School District Retirement System  
22 or the former Los Angeles Community College District  
23 Retirement System or the San Francisco City and County  
24 Employees' Retirement System, prior to July 1, 1972, and  
25 who also took a refund of their Permanent Fund  
26 contributions from the State Teachers' Retirement  
27 System with respect to the Defined Benefit Program, and  
28 who redeposited their contributions in the local system  
29 but did not redeposit their Permanent Fund  
30 contributions in the State Teachers' Retirement System  
31 with respect to the Defined Benefit Program, shall  
32 redeposit all or a portion of the accumulated retirement  
33 contributions required to bring the account into full  
34 balance with regular interest from the date of refund to  
35 the date of payment. The redeposit may be made  
36 immediately upon notification by the system and shall be  
37 made prior to retirement under this part. The redeposit  
38 shall be made in a lump sum or by installment payments  
39 as specified by the chief executive officer.

40 ~~SEC. 9.~~



1 *SEC. 11.* Section 26144.5 is added to the Education  
2 Code, to read:

3 26144.5. “Trustee service” means duties performed  
4 by a member of the governing body of an employer.

5 ~~SEC. 10.~~

6 *SEC. 12.* Section 26401.5 of the Education Code is  
7 repealed.

8 ~~SEC. 11.~~

9 *SEC. 13.* Section 26403 is added to the Education  
10 Code, to read:

11 26403. A person who performs trustee service for an  
12 employer who has elected to provide benefits pursuant to  
13 this part to its employees may elect to participate in the  
14 Cash Balance Benefit Program for that service.

15 ~~SEC. 12.~~

16 *SEC. 14.* Section 26501.5 is added to the Education  
17 Code, to read:

18 26501.5. A person who elects, pursuant to Section  
19 26403, to participate in the Cash Balance Benefit Program  
20 shall make contributions, as provided in Section 26501,  
21 based on his or her salary or other compensation earned  
22 for trustee service.

23 ~~SEC. 13.~~

24 *SEC. 15.* Section 26503.5 is added to the Education  
25 Code, to read:

26 26503.5. If a person elects, pursuant to Section 26403,  
27 to participate in the Cash Balance Benefit Program, his  
28 or her employer shall make contributions, as provided in  
29 Section 26503, based on the salary or other compensation  
30 paid for trustee service.

31 *SEC. 16.* *Sections 1, 2, 5, 6, 7, 8, 9, and 10 of this act shall*  
32 *become operative July 1, 2001.*

