

## Assembly Bill No. 820

### CHAPTER 1020

An act to amend Sections 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.

[Approved by Governor September 30, 2000. Filed  
with Secretary of State September 30, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 820, 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 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.

Appropriation: yes.

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

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

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

(b) The court may order in the judgment or court order that the member's accumulated retirement contributions and service credit under the Defined Benefit Program, or an amount equal to the member's Defined Benefit Supplement account balance, or both, under this part that are attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember spouse, respectively. Any service credit and accumulated retirement contributions under the Defined Benefit Program and any accumulated Defined Benefit Supplement account balance under this part that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member in the Defined Benefit Program or the Defined Benefit Supplement Program, as applicable.

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

(1) The right to a retirement allowance under the Defined Benefit Program and, if applicable, a retirement benefit under the Defined Benefit Supplement Program.



(2) The right to a refund of accumulated retirement contributions under the Defined Benefit Program and the return of the accumulated Defined Benefit Supplement account balance that were awarded to the nonmember spouse.

(3) The right to redeposit all or a portion of accumulated retirement contributions previously refunded to the member which the member is eligible to redeposit pursuant to Sections 23200 to 23203, inclusive, and shall specify the shares of the redeposit amount awarded to the member and the nonmember spouse .

(4) The right to purchase additional service credit that the member is eligible to purchase pursuant to Sections 22800 to 22810, inclusive, and shall specify the shares of the additional service credit awarded to the member and the nonmember spouse .

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

22662. The nonmember spouse who is awarded a separate account under the Defined Benefit Program may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court pursuant to Section 22652.

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

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order that specifies the redeposit rights of the nonmember spouse is entered. The nonmember spouse's election to redeposit shall be made on a form provided by the system within 30 days after the system mails an election form and the billing.

(c) If the nonmember spouse elects to redeposit under the Defined Benefit Program, he or she shall repay all or a portion of the member's refunded accumulated retirement contributions that were awarded to the nonmember spouse and shall pay regular interest from the date of the refund to the date of payment.

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

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



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

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

22705. No service shall be included under this part for which a member of the Defined Benefit Program is entitled to receive a retirement benefit in a lump sum or installment payments, for other than military service, from any public retirement system other than this system, or under the American Gratuity Act No. 4151 relating to service in the Philippine Islands under which 15 or more years of creditable service has accrued, or the San Francisco City and County Employees Retirement System. If a retired member under this part becomes entitled to such a retirement benefit, his or her retirement allowance shall be reduced thereafter to exclude the service upon which the retirement benefit is based, without other change in his or her retirement status. This section shall not apply to any retirement benefit received from a defined contribution plan that is qualified under Section 401(a), Section 403(b), or Section 457 of the Internal Revenue Code.

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

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

- (1) Service as a substitute excluded under Section 22602.
- (2) Service performed on a part-time basis excluded under Section 22601.5 or Section 22604.
- (3) Adult education service excluded under Section 22603, as it read on December 31, 1995.
- (4) Service as a school nurse excluded under Section 22606, as it read on December 31, 1995.
- (5) Service performed in a position prior to the date the position was made subject to coverage under the Defined Benefit Program.
- (6) 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 elects to receive 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 elects to receive credit.

SEC. 5. 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 elect to redeposit all or a portion of those contributions with regular interest from the date of refund to the date of payment.

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

(c) 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).

(d) If a member elects 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. 6. 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 elect 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. 7. Section 23202 of the Education Code is amended to read:

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

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

(c) If any payment due because of this election is not received at the system's office in Sacramento within 120 days of its due date, the election shall be canceled. Upon the cancellation of election, the member shall receive credit for the payments made under the



election or, at the request of the member, those payments shall be refunded.

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

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

24300.6. (a) Any retired member who was unmarried on the effective date of retirement who did not elect an option pursuant to Section 24300, and who thereafter marries, may, after the effective date of the member's retirement under this part, elect an option described in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300, naming his or her new spouse as the option beneficiary, subject to all of the following:

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

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

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

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

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

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

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

24750. Those members who took a refund of their accumulated contributions from the former Los Angeles Unified School District Retirement System or the former Los Angeles Community College District Retirement System or the San Francisco City and County Employees' Retirement System, prior to July 1, 1972, and who have former Permanent Fund contributions only on deposit related to former local system service shall have those accumulated former Permanent Fund contributions on deposit as of July 1, 1972, treated in the same manner as accumulated retirement contributions of all nonlocal members. Upon discovery and notification to those members, they shall do either of the following:



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

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

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

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

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

26144.5. "Trustee service" means duties performed by a member of the governing body of an employer.

SEC. 12. Section 26401.5 of the Education Code is repealed.

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

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

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

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

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

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



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

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