

ASSEMBLY BILL

No. 2201

**Introduced by Assembly Member Honda
(Coauthor: Assembly Member Kuehl)**

February 24, 2000

An act to amend Sections 22134, 22136, 22140, 22141, 22200, 22664, 24201, 24202.5, 24203.5, 24411, 24412, 24415, 24416, and 24417 of, and to repeal Section 22135 of, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2201, as introduced, Honda. State teachers' retirement: benefits: retirement board.

(1) Under the existing State Teachers' Retirement Law, calculation of service retirement allowances of members, other than classroom teachers, as defined, is based on the highest average annual compensation earnable by the member during any 3-year period.

This bill would provide that the calculation of those allowances shall be based on the highest annual compensation earnable by the member during any 12-month period and make related changes.

(2) The State Teachers' Retirement Law provides that benefits be annually increased by a 2% improvement factor and that the factor shall not be compounded.

This bill would provide that, effective September 1, 2003, the annual improvement factor shall be compounded.

(3) Under existing law, the State Teachers' Retirement System is administered by the 12-member Teachers'

Retirement Board. Two of the members of the board must be members or participants who are classroom teachers in kindergarten or grades 1 through 12, another member must be a retired member or participant, and another member must be a community college instructor with specified experience. All 4 of these members are appointed by the Governor from lists submitted by specified officials. One member of the board must be an officer of a life insurance company and one must be an officer of a bank or savings and loan. These members are appointed by the Governor, subject to Senate confirmation.

This bill would increase the number of board members to 13 and require that 4 members be elected by active members and 2 members be elected by retired members. The bill would delete the requirement that 2 members must be, respectively, officers of a life insurance company and a bank or savings and loan and would instead provide that the Governor appoint 2 persons representing the public, subject to Senate confirmation. The bill would authorize the Governor to fill vacancies of the board, as specified; require the board to adopt regulations regarding the elections, as specified; and authorize the board to contract with a private firm to conduct the elections in specified circumstances.

(4) The State Teachers' Retirement Law prescribes a 2% at age 60 formula for calculating retirement allowances for members who retire for service and for specified nonmember spouses.

This bill would instead prescribe a 2% at age 55 formula for those members and nonmember spouses and make related changes.

(4) Under the State Teachers' Retirement Law, quarterly supplemental payments are made to retired members, disabled members, and beneficiaries from specified accounts to restore up to 75% of the purchasing power of the initial monthly allowances provided under the Defined Benefit Program, as specified.

This bill would provide that those supplemental payments shall be made to restore up to 80% of the purchasing power of those allowances.



(5) The bill would state that it shall be known and referred to as the “Teachers’ Pension Equity Act” and would make related findings and declarations of legislative intent. The bill’s provisions would be operative January 1, 2003.

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. (a) This act shall be known and may be
2 referred to as the “Teachers’ Pension Equity Act.”

3 (b) The Legislature finds that superior investment
4 returns have resulted in multi-billion dollar surpluses in
5 the Teachers’ Retirement Fund. Those surpluses should
6 be used exclusively for the benefit of members of the
7 Defined Benefit Program of the State Teachers’
8 Retirement System, whose contributions made the
9 surplus possible.

10 (c) It is the intent of the Legislature to provide public
11 school and community college educators with pensions
12 that are equal to those now provided other state and
13 school employees, such as school secretaries, bus drivers,
14 custodians, and state employees under the Public
15 Employees’ Retirement System. Those pensions shall be
16 funded exclusively from the Teachers’ Retirement Fund
17 and not from the General Fund.

18 SEC. 2. Section 22134 of the Education Code is
19 amended to read:

20 22134. (a) “Final compensation” means the highest
21 ~~average~~ annual compensation earnable by a member
22 during any period of ~~three 12~~ consecutive ~~school~~ ~~years~~
23 *months* while an active member of the Defined Benefit
24 Program or time during which he or she was not a
25 member but for which the member has received credit
26 under the Defined Benefit Program, except time that was
27 so credited for service performed outside this state prior
28 to July 1, 1944. The last ~~three 12~~ consecutive ~~years~~ *months*
29 of employment shall be used by the system in
30 determining final compensation unless designated to the
31 contrary in writing by the member.



1 (b) For purposes of this section, periods of service
2 separated by breaks in service may be aggregated to
3 constitute a period of ~~three~~ 12 consecutive ~~years~~ months,
4 if the periods of service are consecutive except for the
5 breaks.

6 (c) The determination of final compensation of a
7 member who has concurrent membership in another
8 retirement system pursuant to Section 22115.2 shall take
9 into consideration the compensation earnable while a
10 member of the other system, provided that all of the
11 following exist:

12 (1) The member was in state service or in the
13 employment of a local school district or a county
14 superintendent of schools.

15 (2) Service under the other system was not performed
16 concurrently with service under the Defined Benefit
17 Program.

18 (3) Retirement under the Defined Benefit Program is
19 concurrent with the member's retirement under the
20 other system.

21 (d) The compensation earnable for the first position in
22 which California service was credited shall be used when
23 additional compensation earnable is required to
24 accumulate ~~three~~ 12 consecutive ~~years~~ months for the
25 purpose of determining final compensation under
26 Section 23805.

27 (e) If a member has received service credit for
28 part-time service performed prior to July 1, 1956, the
29 member's final compensation shall be adjusted for that
30 service in excess of one year by the ratio that part-time
31 service bears to full-time service.

32 (f) The board may specify a different final
33 compensation with respect to disability allowances,
34 disability retirement allowances, family allowances, and
35 children's portions of survivor benefit allowances payable
36 on and after January 1, 1978. The compensation earnable
37 for periods of part-time service shall be adjusted by the
38 ratio that part-time service bears to full-time service.



1 (g) The amendment of former Section 22127 made by
2 Chapter 782 of the Statutes of 1982 does not constitute a
3 change in, but is declaratory of, the existing law.

4 SEC. 3. Section 22135 of the Education Code is
5 repealed.

6 ~~22135. (a) Notwithstanding subdivisions (a) and (b)~~
7 ~~of Section 22134, “final compensation” means the highest~~
8 ~~annual compensation earnable by an active member who~~
9 ~~is a classroom teacher who retires, becomes disabled, or~~
10 ~~dies, after June 30, 1990, during any period of 12~~
11 ~~consecutive months during his or her membership in the~~
12 ~~plan’s Defined Benefit Program. The last 12 consecutive~~
13 ~~months of employment shall be used by the system in~~
14 ~~determining final compensation unless designated to the~~
15 ~~contrary in writing by the member.~~

16 ~~(b) Section 22134, except subdivision (a) of that~~
17 ~~section, shall apply to classroom teachers who retire after~~
18 ~~June 30, 1990, and any statutory reference to Section~~
19 ~~22134 or “final compensation” with respect to a classroom~~
20 ~~teacher who retires, becomes disabled, or dies, after June~~
21 ~~30, 1990, shall be deemed to be a reference to this section.~~

22 ~~(c) As used in this section, “classroom teacher” means~~
23 ~~any of the following:~~

24 ~~(1) All teachers and substitute teachers in positions~~
25 ~~requiring certification qualifications who spend, during~~
26 ~~the last 10 years of their employment with the same~~
27 ~~employer which immediately precedes their retirement,~~
28 ~~60 percent or more of their contract time each year~~
29 ~~providing direct instruction. For the purpose of~~
30 ~~determining continuity of employment within the~~
31 ~~meaning of this subdivision, an authorized leave of~~
32 ~~absence for sabbatical or illness or other collectively~~
33 ~~bargained or employer approved leaves shall not~~
34 ~~constitute a break in service.~~

35 ~~(2) Other certificated personnel who spend, during~~
36 ~~the last 10 years of their employment with the same~~
37 ~~employer that immediately precedes their retirement, 60~~
38 ~~percent or more of their contract time each year~~
39 ~~providing direct services to pupils, including, but not~~
40 ~~limited to, librarians, counselors, nurses, speech~~



1 therapists, resource specialists, audiologists,
2 audiometrists, hygienists, optometrists, psychologists,
3 driver safety instructors, and personnel on special
4 assignment to perform school attendance and adjustment
5 services.

6 (d) As used in this section, “classroom teacher” does
7 not include any of the following:

8 (1) Certificated employees whose job descriptions
9 require an administrative credential.

10 (2) Certificated employees whose job descriptions
11 include responsibility for supervision of certificated staff.

12 (3) Certificated employees who serve as advisers,
13 coordinators, consultants, or developers or planners of
14 curricula, instructional materials, or programs, who
15 spend, during the last 10 years of their employment with
16 the same employer that immediately precedes their
17 retirement, less than 60 percent of their contract time in
18 direct instruction.

19 (4) Certificated employees whose job descriptions
20 require provision of direct instruction or services, but
21 who are functioning in nonteaching assignments.

22 (5) Classified employees.

23 (e) This section shall apply only to teachers employed
24 by an employer that has, pursuant to Chapter 10.7
25 (commencing with Section 3540) of Division 4 of Title 1
26 of the Government Code, entered into a written
27 agreement with an exclusive representative, that makes
28 this section applicable to all of its classroom teachers, as
29 defined in subdivision (c).

30 (f) The written agreement shall include a mechanism
31 to pay for all increases in allowances provided for by this
32 section through employer contributions or employee
33 contributions or both, which shall be collected and
34 retained by the employer in a trust fund to be used solely
35 and exclusively to pay the system for all increases in
36 allowances provided by this section and related
37 administrative costs; and a mechanism for disposition of
38 the employee’s contributions if employment is
39 terminated before retirement, and for the establishment
40 of a trust fund board. The trust fund board shall



1 ~~administer the trust fund and shall be composed of an~~
2 ~~equal number of members representing classroom~~
3 ~~teachers chosen by the bargaining agent and the~~
4 ~~employer. If the employer agrees to pay the total cost of~~
5 ~~increases in allowances, the establishment of a trust fund~~
6 ~~and a trust fund board shall be optional to the employer.~~
7 ~~The employer, within 30 days of receiving an invoice~~
8 ~~from the system, shall reimburse the retirement fund the~~
9 ~~amount determined by the Teachers' Retirement Board~~
10 ~~to be the actuarial equivalent of the difference between~~
11 ~~the allowance the member or beneficiary receives~~
12 ~~pursuant to this section and the allowance the member or~~
13 ~~beneficiary would have received if the member's final~~
14 ~~compensation had been computed under Section 22134~~
15 ~~and the proportionate share of the cost to the plan's~~
16 ~~Defined Benefit Program, as determined by the~~
17 ~~Teachers' Retirement Board, of administering this~~
18 ~~section. The payment shall include the cost of all increases~~
19 ~~in allowances provided for by this section for all years of~~
20 ~~service credited to the member as of the benefit effective~~
21 ~~date. Interest shall be charged at the regular interest rate~~
22 ~~for any payment not received within 30 days of receipt of~~
23 ~~the invoice. Payments not received within 30 days after~~
24 ~~receipt of the invoice may be collected pursuant to~~
25 ~~Section 23007.~~

26 ~~(g) Upon the execution of the agreement, the~~
27 ~~employer shall notify all certificated employees of the~~
28 ~~agreement and any certificated employee of the~~
29 ~~employer, who is a member of the Public Employees'~~
30 ~~Retirement System pursuant to Section 22508, that he or~~
31 ~~she may, within 60 days following the date of notification,~~
32 ~~elect to terminate his or her membership in the Public~~
33 ~~Employees' Retirement System and become a member of~~
34 ~~this plan's Defined Benefit Program. However, only~~
35 ~~service credited under the Defined Benefit Program~~
36 ~~subsequent to the date of that election shall be subject to~~
37 ~~this section.~~

38 ~~(h) An employer that agrees to become subject to this~~
39 ~~section, shall, on a form and within the timeframes~~
40 ~~prescribed by the system, certify the applicability of this~~



1 ~~section to a member pursuant to the criteria set forth in~~
2 ~~this section when a retirement, disability, or family~~
3 ~~allowance becomes payable.~~

4 ~~(i) For a nonmember spouse, final compensation shall~~
5 ~~be determined pursuant to paragraph (2) of subdivision~~
6 ~~(e) of Section 22664. The employer, within 30 days of~~
7 ~~receiving an invoice from the system, shall reimburse the~~
8 ~~retirement fund pursuant to subdivision (f). Interest shall~~
9 ~~be charged at the regular interest rate for payments not~~
10 ~~received within the prescribed timeframe. Payments not~~
11 ~~received within 30 days of invoicing may be collected~~
12 ~~pursuant to Section 23007.~~

13 SEC. 4. Section 22136 of the Education Code is
14 amended to read:

15 22136. ~~(a)~~ “Final compensation” with respect to a
16 member whose salary while an active member was
17 reduced because of a reduction in school funds means the
18 ~~highest—average~~ annual compensation earnable by the
19 member during any ~~three—years~~ *12 months* while
20 employed to perform creditable service subject to
21 coverage by the Defined Benefit Program if the member
22 elects to be subject to this section.

23 ~~(b) For the purposes of this section, a year shall be~~
24 ~~considered to be a period of 12 consecutive months.~~

25 SEC. 5. Section 22140 of the Education Code is
26 amended to read:

27 22140. “Improvement factor” means an increase of 2
28 percent in benefits for each year commencing on
29 September 1, following the first anniversary of the
30 effective date of retirement, or the date on which the
31 monthly benefits commenced to accrue to any
32 beneficiary other than a retired member or other periods
33 specifically stated in this part. ~~The—Effective September~~
34 ~~1, 2003, the~~ factor shall ~~not~~ be compounded ~~nor~~ but shall
35 ~~it~~ *not* be applicable to annuities payable from the
36 accumulated annuity deposit contributions or the
37 accumulated tax-sheltered annuity contributions. The
38 Legislature reserves the right to adjust the amount of the
39 improvement factor up or down as economic conditions
40 dictate. No adjustments of the improvement factor shall



1 reduce the monthly retirement allowance or benefit
2 below that which would be payable to the recipient under
3 this part had this section not been enacted.

4 SEC. 6. Section 22141 of the Education Code is
5 amended to read:

6 22141. Notwithstanding Section 22140,
7 “improvement factor” means an increase of 2 percent in
8 benefits provided under Sections 24408 and 24409 for
9 each year commencing on September 1, 1981. ~~The~~
10 *Effective September 1, 2003, the* factor shall ~~not~~ be
11 compounded ~~nor~~ *but* shall ~~it~~ *not* be applicable to
12 annuities payable from the accumulated annuity deposit
13 contributions or the accumulated tax-sheltered annuity
14 contributions. The Legislature reserves the right to adjust
15 the amount of the improvement factor up or down as the
16 economic conditions dictate. No adjustments of the
17 improvement factor shall reduce the monthly retirement
18 allowance or benefit below that which would be payable
19 to the recipient under this part had this section not been
20 enacted.

21 SEC. 7. Section 22200 of the Education Code is
22 amended to read:

23 22200. (a) The plan and the system are administered
24 by the Teachers’ Retirement Board. The members of the
25 board are as follows:

- 26 (1) The Superintendent of Public Instruction.
- 27 (2) The Controller.
- 28 (3) The Treasurer.
- 29 (4) The Director of Finance.
- 30 (5) One person who, at the time of appointment, is a
31 member of the governing board of a school district or a
32 community college district.

33 (6) ~~Three~~ *Four* persons who, *at the time of election,*
34 are either *active* members of the Defined Benefit
35 Program or *active* participants in the Cash Balance
36 Benefit Program, ~~as follows:~~

37 ~~(A) Two persons who, at the time of appointment, are~~
38 ~~classroom teachers in kindergarten or grades 1 through~~
39 ~~12.~~



1 ~~(B) One person who, at the time of appointment, is a~~
2 ~~community college instructor with expertise in the areas~~
3 ~~of business or economics or both business and economics~~
4 ~~and who shall be appointed by the Governor for a term~~
5 ~~of four years from a list submitted by the Board of~~
6 ~~Governors of the California Community Colleges. These~~
7 ~~members shall be elected by the active members and~~
8 ~~participants of the system for four-year terms, pursuant~~
9 ~~to regulations adopted by the board.~~

10 ~~(7) One person who is either a retired member under~~
11 ~~this part or a retired participant under Part 14~~
12 ~~(commencing with Section 26000) Two persons who are~~
13 ~~either retired members of the Defined Benefit Program~~
14 ~~or retired participants receiving an annuity under the~~
15 ~~Cash Balance Benefit Program. These members shall be~~
16 ~~elected by the retired members and participants of the~~
17 ~~system for four-year terms, pursuant to regulations~~
18 ~~adopted by the board.~~

19 ~~(8) One officer of a life insurance company appointed~~
20 ~~by the Governor for a term of four years, subject to~~
21 ~~confirmation by the Senate.~~

22 ~~(9) One officer of a bank or a savings and loan~~
23 ~~institution who has had at least five years of broad~~
24 ~~professional investment experience handling various~~
25 ~~asset classes such as stocks, bonds, and mortgage~~
26 ~~investments and who shall be appointed by the Governor~~
27 ~~for a term of four years, subject to confirmation by the~~
28 ~~Senate.~~

29 ~~(10) One person~~ *Two persons* representing the public,
30 appointed by the Governor for a term of four years,
31 subject to confirmation by the Senate.

32 ~~(b) The members of the board described in~~
33 ~~paragraphs (5) and (7) and subparagraph (A) of~~
34 ~~paragraph (6) of subdivision (a) shall be appointed by the~~
35 ~~Governor for four-year terms from a list submitted by the~~
36 ~~Superintendent of Public Instruction~~ *The Governor may*
37 *fill any vacancy in the member, school board, or public*
38 *seats due to resignation or death.*

39 (c) The members of the board shall annually elect a
40 chairperson and vice chairperson.



1 (d) After any elected member of the board has served
2 two consecutive terms, or eight consecutive years, on the
3 board, that member may not be elected for an additional
4 term until at least one year after the expiration of the
5 member's last term.

6 (e) If a person serving on the board pursuant to
7 paragraph (5) of subdivision (a) ceases to serve on the
8 governing board of a school district or a community
9 college district and two or more years remain in his or her
10 term on the board, that person shall resign or be removed
11 from the board. If, however, less than two years remain
12 in his or her term, that person may complete his or her
13 term on the board or a new member may be immediately
14 appointed by the Governor.

15 (f) The regulations adopted by the board pursuant to
16 paragraphs (6) and (7) of subdivision (a) shall authorize
17 candidates for elected positions on the board to submit
18 candidate's statements expressing their opinions and
19 ideas, and the regulations shall not restrict the reasonable
20 content of those statements.

21 (g) The board may contract with a private firm to
22 conduct the elections described in paragraphs (6) and
23 (7) of subdivision (a) if the board determines that the
24 contract would result in a cost savings to the board and
25 ensure fairness of the election process.

26 SEC. 8. Section 22664 of the Education Code is
27 amended to read:

28 22664. The nonmember spouse who is awarded a
29 separate account shall have the right to a service
30 retirement allowance under this part.

31 (a) The nonmember spouse shall be eligible to retire
32 for service under this part if the following conditions are
33 satisfied:

34 (1) The member had at least five years of credited
35 service during the period of marriage, at least one year of
36 which had been performed subsequent to the most
37 recent refund to the member of accumulated retirement
38 contributions. The credited service may include service
39 credited to the account of the member as of the date of
40 the dissolution or legal separation, previously refunded



1 service, out-of-state service, and permissive service credit
2 that the member is eligible to purchase at the time of the
3 dissolution or legal separation.

4 (2) The nonmember spouse has at least two and
5 one-half years of credited service in his or her separate
6 account.

7 (3) The nonmember spouse has attained the age of 55
8 years or more.

9 (b) A service retirement allowance of a nonmember
10 spouse under this part shall become effective upon any
11 date designated by the nonmember spouse, provided:

12 (1) The requirements of subdivision (a) are satisfied.

13 (2) The nonmember spouse has filed an application for
14 service retirement on a form provided by the system, that
15 is executed no earlier than six months before the effective
16 date of the retirement allowance.

17 (3) The effective date is no earlier than the first day of
18 the month in which the application is received at the
19 system's office in Sacramento and the effective date is
20 after the date the judgment or court order pursuant to
21 Section 22652 was entered.

22 (c) (1) Upon service retirement—~~at normal~~
23 ~~retirement age~~ under this part, *on or after January 1, 2003*,
24 the nonmember spouse shall receive a retirement
25 allowance that shall consist of an annual allowance
26 payable in monthly installments equal to ~~2 percent of final~~
27 ~~compensation for each year of credited service.~~

28 (2) ~~If the nonmember spouse's retirement is effective~~
29 ~~at less than normal retirement age and between early~~
30 ~~retirement age under this part and normal retirement~~
31 ~~age, the retirement allowance shall be reduced by~~
32 ~~one-half of 1 percent for each full month, or fraction of a~~
33 ~~month, that will elapse until the nonmember spouse~~
34 ~~would have reached normal retirement age.~~

35 (3) ~~If the nonmember spouse's service retirement is~~
36 ~~effective at an age greater than normal retirement age~~
37 ~~and is effective on or after January 1, 1999, the percentage~~
38 ~~of final compensation for each year of credited service~~
39 ~~shall be determined pursuant to set forth opposite the~~



1 *nonmember spouse's age at retirement in the following*
2 *table multiplied by each year of credited service:*

3		
4	Age at Retirement	Percentage
5	55	2.00
6	55 1/4	2.016
7	55 1/2	2.032
8	55 3/4	2.048
9	56	2.064
10	56 1/4	2.080
11	56 1/2	2.096
12	56 3/4	2.11
13	57	2.126
14	57 1/4	2.142
15	57 1/2	2.158
16	57 3/4	2.172
17	58	2.188
18	58 1/4	2.204
19	58 1/2	2.220
20	58 3/4	2.236
21	59	2.250
22	59 1/4	2.268
23	59 1/2	2.282
24	59 3/4	2.298
25	60	2.314
26	60 1/4	2.033 2.33
27	60 1/2	2.067 2.346
28	60 3/4	2.10 2.36
29	61	2.133 2.376
30	61 1/4	2.167 2.392
31	61 1/2	2.20 2.406
32	61 3/4	2.233 2.422
33	62	2.267 2.438
34	62 1/4	2.30 2.454
35	62 1/2	2.333 2.47
36	62 3/4	2.367 2.486
37	63 and over	2.40 2.50
38		
39	(4)	



1 (2) In computing the retirement allowance of the
2 nonmember spouse, the age of the nonmember spouse on
3 the last day of the month in which the retirement
4 allowance begins to accrue shall be used.

5 ~~(5)~~

6 (3) Final compensation, for purposes of calculating the
7 service retirement allowance of the nonmember spouse
8 under this subdivision, shall be calculated according to
9 the definition of final compensation in Section 22134,
10 ~~22135~~, or 22136, whichever is applicable, and shall be
11 based on the compensation earnable of the member up
12 to the date the parties separated, as established in the
13 judgment or court order pursuant to Section 22652.

14 (4) The nonmember spouse shall not be entitled to use
15 any other calculation of final compensation.

16 (d) (1) If the member is or was receiving a disability
17 allowance under this part with an effective date before or
18 on the date the parties separated as established in the
19 judgment or court order pursuant to Section 22652, or at
20 any time applies for and receives a disability allowance
21 with an effective date that is before or coincides with the
22 date the parties separated as established in the judgment
23 or court order pursuant to Section 22652, the nonmember
24 spouse shall not be eligible to retire until after the
25 disability allowance of the member terminates.

26 (2) If the member who is or was receiving a disability
27 allowance returns to employment to perform creditable
28 service subject to coverage under the Defined Benefit
29 Program or has his or her allowance terminated under
30 Section 24015, the nonmember spouse may not be paid a
31 retirement allowance until at least six months after
32 termination of the disability allowance and the return of
33 the member to employment to perform creditable
34 service subject to coverage under the Defined Benefit
35 Program, or the termination of the disability allowance
36 and the employment or self-employment of the member
37 in any capacity, notwithstanding Section 22132. If at the
38 end of the six-month period, the member has not had a
39 recurrence of the original disability or has not had his or
40 her earnings fall below the amounts described in Section



1 24015, the nonmember spouse may be paid a retirement
2 allowance if all other eligibility requirements are met.

3 ~~(1)~~

4 (3) The retirement allowance of the nonmember
5 spouse under this subdivision shall be calculated as
6 follows: the disability allowance the member was
7 receiving, exclusive of the benefits for dependent
8 children, shall be divided between the share of the
9 member and the share of the nonmember spouse. The
10 share of the nonmember spouse shall be the amount
11 obtained by multiplying the disability allowance,
12 exclusive of the benefits for dependent children, by the
13 years of service credited to the separate account of the
14 nonmember spouse, including service projected to the
15 date of separation, and dividing by the projected service
16 of the member. The nonmember spouse's retirement
17 allowance shall be the lesser of the share of the
18 nonmember spouse under this subdivision or the
19 retirement allowance under subdivision (c).

20 ~~(2)~~

21 (4) The share of the member shall be the total
22 disability allowance reduced by the share of the
23 nonmember spouse. The share of the member shall be
24 considered the disability allowance of the member for
25 purposes of Section 24213.

26 (e) The nonmember spouse who receives a
27 retirement allowance is not a retired member under this
28 part. However, the allowance of the nonmember spouse
29 shall be increased by application of the improvement
30 factor and shall be eligible for the application of
31 supplemental increases and other benefit maintenance
32 provisions under this part, including, but not limited to,
33 Sections 24411, 24412, and 24415 based on the same
34 criteria used for the application of these benefit
35 maintenance increases to the service retirement
36 allowances of members.

37 SEC. 9. Section 24201 of the Education Code is
38 amended to read:



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

4 (1) The member has attained the age of 55 years or
5 more and has at least five years of credited service, at least
6 one year of which has been performed subsequent to the
7 most recent refund of accumulated retirement
8 contributions. The five years of credited service may
9 include out-of-state service purchased pursuant to
10 Section 22820. The number of years of credited service
11 performed in California shall not be less than the number
12 of years necessary to determine final compensation
13 pursuant to Section 22134—~~or 22135, whichever is~~
14 ~~applicable to the member.~~

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

22 (b) Application for retirement under paragraph (2) of
23 subdivision (a) may be made even if the member has not
24 earned five years of service.

25 SEC. 10. Section 24202.5 of the Education Code is
26 amended to read:

27 24202.5. (a) A member who retires for service on or
28 after January 1,~~1999~~ 2003, shall receive a retirement
29 allowance consisting of all of the following:

30 (1) An annual allowance payable in monthly
31 installments, upon retirement equal to the percentage of
32 the final compensation set forth opposite the member's
33 age at retirement in the following table multiplied by
34 each year of credited service:

35	Age at Retirement	Percentage
36	55	2.00
37	55 1/4	2.016
38	55 1/2	2.032
39	55 3/4	2.048
40		



1	56	.....	2.064
2	56 ¹ / ₄	.....	2.080
3	56 ¹ / ₂	.....	2.096
4	56 ³ / ₄	.....	2.11
5	57	.....	2.126
6	57 ¹ / ₄	.....	2.142
7	57 ¹ / ₂	.....	2.158
8	57 ³ / ₄	.....	2.172
9	58	.....	2.188
10	58 ¹ / ₄	.....	2.204
11	58 ¹ / ₂	.....	2.220
12	58 ³ / ₄	.....	2.236
13	59	.....	2.250
14	59 ¹ / ₄	.....	2.268
15	59 ¹ / ₂	.....	2.282
16	59 ³ / ₄	.....	2.298
17	60	.....	2.00 2.314
18	60 ¹ / ₄	.....	2.033 2.33
19	60 ¹ / ₂	.....	2.067 2.346
20	60 ³ / ₄	.....	2.10 2.36
21	61	.....	2.133 2.376
22	61 ¹ / ₄	.....	2.167 2.392
23	61 ¹ / ₂	.....	2.20 2.406
24	61 ³ / ₄	.....	2.233 2.422
25	62	.....	2.267 2.438
26	62 ¹ / ₄	.....	2.30 2.454
27	62 ¹ / ₂	.....	2.333 2.47
28	62 ³ / ₄	.....	2.367 2.486
29	63 and over	.....	2.40 2.50

30
31 ~~(2) If the member's retirement is effective at less than~~
32 ~~normal retirement age and between early retirement age~~
33 ~~and normal retirement age, the member's allowance shall~~
34 ~~be reduced by one-half of 1 percent for each full month,~~
35 ~~or fraction of a month that will elapse until the member~~
36 ~~will attain normal retirement age.~~

37 ~~(3)~~An annuity that shall be the actuarial equivalent of
38 the accumulated annuity deposit contributions standing
39 to the credit of the member's account at the time of
40 retirement.



1 (b) In computing the amounts described in
2 subdivision (a), the age of the member on the last day of
3 the month in which the retirement allowance begins to
4 accrue or the later date as provided in Section 24204 shall
5 be used.

6 SEC. 11. Section 24203.5 of the Education Code is
7 amended to read:

8 24203.5. (a) The percentage of final compensation
9 used to compute the allowance pursuant to Section
10 24202.5, 24203, or 24205 of a member retiring on or after
11 January 1, ~~1999~~ 2003, who has 30 or more years of credited
12 service, excluding service credited pursuant to Section
13 22714, 22715, or 22717, shall be increased by two-tenths of
14 1 percentage point, provided that the sum of the
15 percentage of final compensation used to compute the
16 allowance in Section 24202.5, 24203, or 24205, including
17 any adjustments for retiring before the normal
18 retirement age, and the additional percentage provided
19 by this section does not exceed ~~2.40~~ 2.50 percent. For
20 purposes of establishing eligibility for the increased
21 allowance pursuant to this section only, credited service
22 shall include credited service that a court has ordered be
23 awarded to a nonmember spouse pursuant to Section
24 22652. A nonmember spouse shall also be eligible for the
25 increased allowance pursuant to this section if the
26 member had 30 or more years of credited service on the
27 date the parties separated, as established in the judgment
28 or court order pursuant to Section 22652.

29 (b) Nonqualified service credit for which
30 contributions pursuant to Section 22826 were made in a
31 lump sum on or after January 1, 2000, or for which the first
32 installment was made on or after January 1, 2000, shall not
33 be included in determining the eligibility for an increased
34 allowance pursuant to this section.

35 (c) The amendments made to subdivision (a) in the
36 first year of the 1999–2000 Regular Session are declaratory
37 of existing law.

38 SEC. 12. Section 24411 of the Education Code is
39 amended to read:



1 24411. (a) (1) Annual cost-of-living adjustments for
2 retired members, disabled members, and beneficiaries in
3 excess of the 2-percent adjustment authorized by Section
4 22140 may be included as a General Fund appropriation
5 in the annual Budget Act. In the annual budget submitted
6 to the Legislature, the Governor shall include a budget
7 item equal to 5 percent of the average annualized
8 statewide increase in payroll for certificated personnel
9 over the three previous school years among school
10 districts, county offices of education, and community
11 college districts.

12 (2) The amount submitted in the annual Budget Act
13 pursuant to this section shall be considered as part of the
14 overall budget allocations to the public schools and
15 community colleges.

16 (b) The annual appropriation shall be made to the
17 system on July 1, and shall be placed in a segregated
18 account called the Retirees' Purchasing Power
19 Protection Account. The proceeds of that account are
20 continuously appropriated and shall be distributed
21 annually in quarterly payments commencing on
22 September 1 to retired members, disabled members, and
23 beneficiaries as follows:

24 (1) The proceeds shall be allocated among those
25 retired members, disabled members, and beneficiaries
26 whose allowances, after applying the 2-percent
27 adjustment authorized by Section 22140, have the lowest
28 purchasing power percentage, based on the amount that
29 would be paid had the original allowance been increased
30 by the increases in the index then being used by the
31 Department of Finance to measure changes in the cost of
32 living, increasing those allowances to a common
33 minimum purchasing power level. In any year in which
34 the purchasing power of the allowances of all retired
35 members, disabled members, and beneficiaries equals
36 not less than ~~75~~ 80 percent and additional funds remain
37 from the allocation authorized by this section, those funds
38 shall be allocated by the board to general accounts to
39 reduce the unfunded actuarial liability of the fund.



1 (2) The board may deduct from the annual
2 appropriation an amount necessary for administrative
3 expenses to implement this section.

4 (c) The board shall inform each recipient of benefits
5 under subdivision (b) that the increases are not
6 cumulative, are not part of the base allowance, and shall
7 be available only as appropriated annually in the Budget
8 Act.

9 (d) The adjustments authorized by this section shall
10 not be included in the base allowance for purposes of
11 calculating the 2-percent adjustment authorized by
12 Section 22140.

13 ~~(e) It is the ultimate intent and purpose of the~~
14 ~~Legislature in amending this section by Chapters 323 and~~
15 ~~780 of the Statutes of 1983, to achieve a common~~
16 ~~minimum purchasing power level equal to 75 percent of~~
17 ~~the purchasing power of the original allowance. It is the~~
18 ~~present intent of the Legislature that until adequate~~
19 ~~funds are available to fulfill the ultimate intent, those~~
20 ~~persons whose allowances have been most impacted by~~
21 ~~inflation shall be accorded first priority in receiving,~~
22 ~~pursuant to this section, supplemental cost of living~~
23 ~~adjustments from the Retirees' Purchasing Power~~
24 ~~Protection Account.~~

25 ~~(f) This section shall not be operative in any fiscal year~~
26 ~~during which, as determined by the board, distributions~~
27 ~~provided for by Section 24415 are being made.~~

28 SEC. 13. Section 24412 of the Education Code is
29 amended to read:

30 24412. (a) The annual revenues deposited to the
31 Teachers' Retirement Fund pursuant to Section 6217.5 of
32 the Public Resources Code are continuously appropriated
33 without regard to fiscal year for the purposes of this
34 section and shall be distributed annually in quarterly
35 supplemental payments commencing on September 1 of
36 each year to retired members, disabled members, and
37 beneficiaries. The amount available for distribution in
38 any year shall be the income for that year from the sale
39 or use of school lands and lieu lands, as estimated by the
40 State Lands Commission prior to the beginning of the



1 fiscal year, adjusted by the difference between the
2 estimated and actual income for the preceding fiscal year.
3 The board shall deduct from the revenues an amount
4 necessary for administrative expenses to implement this
5 section.

6 (b) The net revenues to be distributed shall be
7 allocated among those retired members, disabled
8 members, and beneficiaries whose allowances, after
9 sequentially applying the annual improvement factor as
10 defined in Section 22140 and the annual supplemental
11 payment as defined in Section 24411, if any, are below ~~75~~
12 80 percent of original purchasing power. The purchasing
13 power calculation for each individual allowance shall be
14 based on the change in the All Urban California
15 Consumer Price Index between June of the calendar year
16 of retirement and June of the fiscal year preceding the
17 fiscal year of the distribution. The allocation shall provide
18 a pro rata share of the amount needed to restore the
19 allowance payable, after sequential application of the
20 current year annual improvement factor and the
21 supplemental payment under Section 24411, to ~~75~~ 80
22 percent of original purchasing power.

23 (c) The allowance increase shall not be applicable to
24 annuities payable from the accumulated annuity deposit
25 contributions or the accumulated tax-sheltered annuity
26 contributions.

27 (d) In any year that the net revenues from school lands
28 and lieu lands is greater than that needed to adjust the
29 allowances of all retired members, disabled members,
30 and beneficiaries to ~~75~~ 80 percent of original purchasing
31 power, the net revenues in excess of that needed for
32 distribution shall be used by the board to reduce the
33 unfunded actuarial obligation of the fund, *if any*.

34 (e) The board shall inform each recipient of
35 supplemental payments under this section that the
36 increases are not cumulative and are not part of the base
37 allowance.

38 SEC. 14. Section 24415 of the Education Code is
39 amended to read:



1 24415. (a) The proceeds of the Supplemental Benefit
2 Maintenance Account shall be distributed annually in
3 quarterly supplemental payments commencing on
4 September 1, 1990, to retired members, disabled
5 members, and beneficiaries. The amount available for
6 distribution in any fiscal year shall not exceed the amount
7 necessary to restore purchasing power up to—~~75~~ 80
8 percent of the purchasing power of the initial monthly
9 allowance after the application of all allowance increases
10 authorized by this part, including those specified in
11 Section 24412.

12 (b) The net revenues to be distributed shall be
13 allocated among those retired members, disabled
14 members, and beneficiaries whose allowances, after
15 sequentially applying the annual improvement factor as
16 defined in Sections 22140 and 22141, and the annual
17 supplemental payment as defined in Section 24412, have
18 the lowest purchasing power percentage. The purchasing
19 power calculation for each individual shall be based on
20 the change in the All Urban California Consumer Price
21 Index between June of the calendar year of retirement
22 and June of the fiscal year preceding the fiscal year of
23 distribution. In any year in which the purchasing power
24 of the allowances of all retired members, disabled
25 members, and beneficiaries equals not less than—~~75~~ 80
26 percent and additional funds remain from the allocation
27 authorized by this section, those funds shall remain in the
28 Supplemental Benefit Maintenance Account for
29 allocation in future years.

30 (c) The allowance increase shall not be applicable to
31 annuities payable from the accumulated annuity deposit
32 contributions or the accumulated tax-sheltered annuity
33 contributions.

34 (d) The benefits provided by subdivision (b) are not
35 cumulative, not part of the base allowance, and will be
36 payable only to the extent that funds are available from
37 the Supplemental Benefit Maintenance Account. The
38 board shall inform each recipient of the contents of this
39 subdivision.



1 (e) The adjustments authorized by this section are
2 vested only up to the amount payable as a result of the
3 annual appropriation made pursuant to Section 22954 and
4 shall not be included in the base allowance for purposes
5 of calculating the annual improvement defined by
6 Sections 22140 and 22141.

7 SEC. 15. Section 24416 of the Education Code is
8 amended to read:

9 24416. (a) Beginning in the 1997–98 fiscal year, if the
10 board determines by June 30 of the then current fiscal
11 year that the Supplemental Benefit Maintenance
12 Account will not have sufficient funds to provide
13 purchasing power of up to ~~75~~ 80 percent for the
14 subsequent fiscal year, the board, for that year, may do
15 either, or a combination of the following:

16 (1) Increase the employer contribution rate
17 commencing in the next fiscal year by an amount that
18 would provide sufficient funds for no more than the
19 estimated difference between the funds in the
20 Supplemental Benefit Maintenance Account and the
21 amount needed to pay the benefit level specified by the
22 board, provided the benefit level is no more than ~~75~~ 80
23 percent. Notwithstanding any other provision of this part,
24 the increase in the employer contribution rate shall only
25 become operative if the increase is approved or
26 authorized in the Budget Act.

27 (2) Reduce the supplemental benefit payment for the
28 subsequent fiscal year to the amount which can be funded
29 by the available funds in the Supplemental Benefit
30 Maintenance Account.

31 (b) If the board finds that there is no unfunded
32 obligation, as determined by the board's professional
33 consulting actuary and affirmed by the Director of
34 Finance, then in addition to the authority pursuant to
35 subdivision (a), the board may transfer to an auxiliary
36 Supplemental Benefit Maintenance Account, from any
37 funds that are in excess of the amount needed to fund
38 fully the benefits for which the Teachers' Retirement
39 Fund is liable, an amount that would provide sufficient
40 funds for no more than the estimated difference between



1 the funds in the Supplemental Benefit Maintenance
2 Account and the amount needed to pay the benefit level
3 specified by the board, provided the benefit level is no
4 more than ~~75~~ 80 percent.

5 (c) If the board increases the employer contribution
6 rate pursuant to paragraph (1) of subdivision (a), the
7 increase between the current fiscal year contribution rate
8 and the contribution rate in the next fiscal year, shall not
9 exceed one-quarter of 1 percent of the creditable
10 compensation upon which contributions are based.

11 SEC. 16. Section 24417 of the Education Code is
12 amended to read:

13 24417. (a) The proceeds of an auxiliary
14 Supplemental Benefit Maintenance Account shall be
15 distributed annually in quarterly supplemental
16 payments, commencing when funds in the Supplemental
17 Benefit Maintenance Account are insufficient to support
18 ~~75~~ 80 percent, to retired members, disabled members,
19 and beneficiaries. The amount available for distribution
20 in any fiscal year shall not exceed the amount necessary
21 to restore purchasing power up to ~~75~~ 80 percent of the
22 purchasing power of the initial monthly allowance after
23 the application of all allowance increases authorized by
24 this part, including those specified in Section 24412 and
25 Section 24415.

26 (b) The net revenues to be distributed shall be
27 allocated among those retired members, disabled
28 members, and beneficiaries whose allowances, after
29 sequentially applying the annual improvement factor as
30 defined in Sections 22140 and 22141, and the annual
31 supplemental payment as defined in Section 24412 and
32 Section 24415, have the lowest purchasing power
33 percentage. The purchasing power calculation for each
34 individual shall be based on the change in the All Urban
35 California Consumer Price Index between June of the
36 calendar year of benefit effective date and June of the
37 fiscal year preceding the fiscal year of distribution.

38 (c) The allowance increase shall not be applicable to
39 annuities payable from the accumulated annuity deposit



1 contributions or the accumulated tax-sheltered annuity
2 contributions.

3 (d) The benefits provided by subdivision (b) are not
4 cumulative, nor part of the base allowance, and will be
5 payable only to the extent that funds are available from
6 the Supplemental Benefit Maintenance Account and the
7 auxiliary Supplemental Benefit Maintenance Account.
8 The board shall inform each recipient of the contents of
9 this subdivision.

10 (e) The distributions authorized by this section are
11 vested only up to the amount payable as a result of the
12 annual appropriation made pursuant to Section 22954 and
13 shall not be included in the base allowance for purposes
14 of calculating the annual improvement defined by
15 Section 22140 and 22141.

16 SEC. 17. This act shall be operative January 1, 2003.

