CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

TEACHERS' RETIREMENT LAW | VOL I

January 1, 2013

CALSTRS

HOW WILL YOU SPEND YOUR FUTURE?

TEACHERS' RETIREMENT LAW

As of January 1, 2013

Volume 1

CALSTRS

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FOREWORD

The Legislature, at the special session of June 1944, revised the State Teachers' Retirement Act. Benefits and contributions were increased and the System was placed on a better financial basis. Amendments to the law were made in 1945, 1947, 1951, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1961, 1963, 1965 and annually starting in 1967. The 1959 session renumbered the sections of the code. The 1969 and 1994 sessions recodified the law. In 1995, the Legislature established the Cash Balance Benefit Program, which is contained in Part 14. In 1999, the Legislature added Part 13.5, which provides for a Health Benefits Program.

Volume 1 of this edition of the Teachers' Retirement Law contains all of the provisions set forth in Parts 13, 13.5 and 14 of Division 1 of the California Education Code along with the rules and regulations of the Teachers' Retirement Board, which are in the California Code of Regulations. Volume 2 of this edition contains various pertinent code sections from California statute and from the United States Code. The Teachers' Retirement Law is issued for the convenience of all persons interested in the California State Teachers' Retirement System who have a need to reference or work with the up-to-date provisions of the law. It is intended particularly to assist school administrators and public officials who have duties to perform in connection with the System. In the event that this publication conflicts with actual statute, the statute takes precedence.

TEACHERS' RETIREMENT BOARD

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HOW WILL YOU SPEND YOUR FUTURE?

VOLUME 1

TABLE OF CONTENTS

PART 13. STATE TEACHERS' RETIREMENT SYSTEM

CHAPTER 1. GENERAL PROVISIONS 1

§ 22000. Citation of part (Barnes Act; Teachers' Retirement Law) 1
§ 22001. Establishment of State Teachers' Retirement System 1
§ 22001.5. Findings as to Cash Balance Plan 1
§ 22002. Declaration of financing policies 2
§ 22003. Effect of revision of State Teachers' Retirement Law (Conflicts in law) 2
§ 22004. Controlling effect of memorandum of understanding 2
§ 22005. Tax exemption 3
§ 22006. Exemption from execution 3
§ 22007. Duration of obligation 3
§ 22007.5. Registered domestic partner 4
§ 22008. Limitation of actions (Adjustments of errors and omissions) 4
§ 22009. Severance for invalidity 5
§ 22010. Violations; Penalties; Restitution 5
§ 22011. Signature; Valid document 6

CHAPTER 2. DEFINITIONS 7

§ 22100. Definitions to govern construction of part 7
§ 22101. "Accumulated annuity deposit contributions" 7
§ 22101.5. "Accumulated Defined Benefit Supplement account balance" (First of two) 7
§ 22101.5. "Accumulated Defined Benefit Supplement account balance" (Second of two) 7
§ 22102. "Accumulated retirement contributions" 7
§ 22103. "Accumulated tax–sheltered annuity contributions" 8
§ 22104. "Actuarial equivalent" 8
§ 22104.5. "Actuary" 8
§ 22104.7. "Additional earnings credit" 8
§ 22104.9. "Annuitant Reserve" 9
§ 22105. "Annuity" 9
§ 22105.5. "Annuity beneficiary" 9
§ 22106. "Annuity deposit contributions" 9
§ 22106.1. "Base days" 10
§ 22106.2. "Base hours" 10
§ 22106.5. "Basis of employment"; "Full–time basis"; "Part–time basis" 10
§ 22107. "Beneficiary" 10
§ 22108. "Benefit or benefits" 11
§ 22109. "Board" 11
§ 22109.5. "Break in service" 11
§ 22110. "California service" 12
§ 22110.1. "Cash Balance Benefit Program" 12
§ 22110.2. "Credential," "credentials," and "certificate" 12
§ 22110.5. "Certificated" 12
§ 22111. "Child's portion" or "children's portion" 13
§ 22112.5. "Class of employees" 13
§ 22112.6. Days of service for classes of employees 13

§ 22113. "Comparable level position" ... 14
§ 22115. "Compensation earnable" ... 14
§ 22115.2. "Concurrent membership" (Other retirement systems, membership) ... 16
§ 22115.5. "Concurrent retirement" (Other retirement systems, retirement) ... 16
§ 22117. "Contribution rate for additional service credit" ... 17
§ 22118. "County"; "City and county" ... 17
§ 22119. "County superintendent" ... 17
§ 22119.2. "Creditable compensation" ... 18
§ 22119.3. "Creditable compensation" ... 19
§ 22119.5. "Creditable service" ... 20
§ 22120. "Credited interest" ... 21
§ 22121. "Credited service" ... 21
§ 22122. "Custodian" ... 21
§ 22122.4. "Death payment" ... 22
§ 22122.5. "Defined Benefit Program" ... 22
§ 22122.7. "Defined Benefit Supplement contributions" ... 22
§ 22123. "Dependent child" under disability allowance and family allowance programs ... 22
§ 22123.5. "Dependent child" under disability retirement and survivor benefit allowance programs ... 23
§ 22124. "Dependent parent" ... 24
§ 22126. "Disability" or "disabled" ... 24
§ 22127. "Disability allowance" ... 25
§ 22127.2. "Disability benefit" ... 26
§ 22128. "Early retirement" and "early retirement age" ... 26
§ 22129. "Educational institution" ... 26
§ 22130. "Effective date" ... 27
§ 22131. "Employer" or "employing agency" ... 27
§ 22132. "Employed"; "Employment" ... 28
§ 22133. "Family allowance" ... 28
§ 22133.5. "Final benefit" ... 28
§ 22134. "Final compensation" (Three-year) ... 28
§ 22134.5. Determination of final compensation (One-year) ... 30
§ 22135. "Final compensation" by classroom teacher ... 31
§ 22136. "Final compensation" when salary has been reduced ... 33
§ 22137. "Final compensation" of managerial or supervisory employee ... 34
§ 22138. "Final vesting" ... 34
§ 22138.5. "Full–time"; Minimum standard for kindergarten through grade 12; Minimum standard for community colleges (First of two; Inoperative July 1, 2013; Repealed January 1, 2014) ... 34
§ 22138.5. "Full-time"; Minimum standard for kindergarten through grade 12; Minimum standard for community colleges (Second of two; Operative July 1, 2013) ... 37
§ 22138.6. "Full–time equivalent" ... 38
§ 22139.5. "Gain and Loss Reserve" ... 38
§ 22140. "Improvement factor" (2% increase) ... 39
§ 22141. "Improvement factor" as increase of minimum unmodified allowance ... 39
§ 22142. "Indexed final compensation" ... 40
§ 22143. "Investment manager" and "investment adviser" ... 40
§ 22144. "Investment transactions" ... 41
§ 22144.5. "Liability gains and losses" ... 41

§ 22145. "Local system" ... 41
§ 22146. "Member"; Active member; Inactive member; Disabled member; Retired member ... 41
§ 22146.5. "Membership" ... 42
§ 22146.7. "Minimum interest rate" ... 42
§ 22147. "Month" ... 43
§ 22147.5. "Nonqualified service" ... 43
§ 22148. "Normal retirement" and "normal retirement age" ... 43
§ 22149. "Option beneficiary" ... 44
§ 22150. "Other public systems" ... 44
§ 22151. "Overtime" ... 45
§ 22152. "Parent" ... 45
§ 22154. "Pay period" ... 45
§ 22155. "Payroll" ... 46
§ 22155.5. "Plan" ... 46
§ 22156. "Plan vesting" ... 46
§ 22156.05. "Plan year" ... 47
§ 22156.1. "Present value" ... 47
§ 22156.2. "Present value factor" ... 47
§ 22156.5. "Prior year's compensation earnable" ... 47
§ 22157. "Projected final compensation" ... 47
§ 22158. "Projected service" ... 48
§ 22159. "Proof of death" ... 48
§ 22160. "Provisional vesting" ... 48
§ 22161. "Public school" ... 49
§ 22161.3. "Qualified military service" ... 49
§ 22161.5. "Refund" ... 49
§ 22162. "Regular interest" ... 50
§ 22162.5. "Regular meeting" ... 50
§ 22163. "Reinstatement" ... 50
§ 22164. "Replacement benefits program" ... 51
§ 22164.5. "Retired member activities" ... 51
§ 22165. "Retirement" ... 51
§ 22166. "Retirement allowance" ... 52
§ 22166.5. "Retirement benefit" ... 52
§ 22167. "Retirement fund" ... 52
§ 22168. "Return on investments" ... 52
§ 22169. "School year" ... 52
§ 22170. "Service" ... 53
§ 22170.5. "Sick leave days" and related phrases ... 53
§ 22171. "Spouse" and "Registered domestic partner" ... 53
§ 22172. "Survivor allowance" ... 54
§ 22173. "Survivor benefit allowance" ... 54
§ 22174. "System" ... 54
§ 22176. "Termination benefit" ... 55
§ 22177. "Unfunded actuarial obligation" ... 55

CHAPTER 3. RETIREMENT BOARD ... 56

§ 22200. Composition and appointment (Composition of the Board) ... 56
§ 22200.5. Election of members by board; Special election to fill vacancies ... 57

§ 22201. Powers of board; Meetings ... 57
§ 22201.2. Quorum ... 58
§ 22201.3. Secretary ... 58
§ 22202. Board's control of funds ... 58
§ 22203. Investment authority ... 58
§ 22203.5. Rollcall vote and public meeting on investment transaction ... 59
§ 22204. Oaths and affirmations ... 59
§ 22205. Board's authority to enter into agreements with retirement systems of other states ... 59
§ 22206. Audit power ... 59
§ 22207. Other acts ... 60
§ 22208. Power of board to delegate ... 60
§ 22209. Chief executive officer ... 61
§ 22210. Review by board of acts of committee or chief executive officer ... 61
§ 22212. Employees ... 61
§ 22212.5. Compensation for specified investment officers and portfolio managers; Principles; Civil service appointments; Limits on taking specified actions for two years after leaving such positions in certain circumstances ... 61
§ 22213. Regulation of employing agencies and other public authorities ... 62
§ 22214. Action to ensure rights to allowances ... 63
§ 22215. Fixing and modifying allowances ... 63
§ 22216. Credit of contribution; Rate of interest ... 63
§ 22217. Annual audit by accountant ... 64
§ 22218. Records and accounts ... 64
§ 22218.5. Report on return on investments and payroll subject to system [Repealed] ... 64
§ 22219. Hearings and procedure ... 64
§ 22220. Subpoena for witnesses ... 65
§ 22221. Adoption of recommendation of actuary of system to permit valuation of assets and liabilities ... 65
§ 22222. Adjustment of death benefits ... 65
§ 22223. Compensation; Travel expenses ... 66
§ 22224. Release time to serve on board, committee, subcommittee, or panel ... 66
§ 22225. Compensation of system members and replacement members ... 67
§ 22226. Requirement of study on provision of health insurance benefits; Appropriation for study ... 68
§ 22227. Board candidates to file campaign statements ... 68
§ 22228. Board must provide five-year strategic plan; Report plan to Legislature; Define "emerging investment manager"; Limitations (Repealed January 1, 2018) ... 68

CHAPTER 4. FIDUCIARY DUTIES ... 70

§ 22250. Fiduciary duties regarding interests of members and beneficiaries ... 70
§ 22251. Purposes for which assets may be held ... 70
§ 22252. Prohibited transactions ... 71
§ 22253. Conflicts of interest ... 72
§ 22254. Personal liability of board members and officers for breach of fiduciary duties ... 72
§ 22255. Scope of personal liability; Breach of fiduciary duties ... 73
§ 22256. Additional bases of liability for breach of fiduciary duties ... 73
§ 22257. Investment managers ... 73

§ 22258. Appropriations; Liability insurance for fiduciaries ... 74
§ 22259. Fidelity bond; Liability insurance for fiduciaries ... 74
§ 22260. Credit enhancement ... 74
§ 22261. Investment in surplus property ... 74

CHAPTER 5. ADMINISTRATION ... 75

§ 22300. Chief executive officer ... 75
§ 22301. Power of chief executive officer ... 75
§ 22302. Ombudsman ... 75
§ 22302.5. Contract with third party ... 76
§ 22303. Retirement counseling services; Employment of retired public employees; Receipt of documents ... 76
§ 22303.5. Midcareer retirement information program ... 77
§ 22304. Administrative costs ... 77
§ 22305. Effect of rules and regulations ... 78
§ 22306. Confidentiality ... 78
§ 22307. Authorization for transfer and disbursement of funds ... 79
§ 22307.5. Teachers' Retirement Program Development Fund created ... 80
§ 22307.6. Transfer of funds from Teachers' Retirement Program Development Fund into designated fund ... 80
§ 22308. Correction of errors or omissions ... 80
§ 22309. Individual account statements (Annual statement) ... 82
§ 22310. Unclaimed refund or benefit ... 82
§ 22311. Actuarial investigations ... 83
§ 22311.5. Actuary's services ... 83
§ 22311.7. Actuarial plan amendments ... 84
§ 22313. Retroactive adjustment of rates ... 84
§ 22314. Advisement of possible tax liabilities ... 84
§ 22317.5. Amount of compensation considered in computing benefits for members on or after July 1, 1996 ... 84
§ 22318. Payment of checks to disabled member or member retired for disability; Retroactive checks ... 85
§ 22319. Payment of checks to member retired for service; Retroactive checks ... 85
§ 22320. Payment of death benefits ... 86
§ 22321. Penalty for late payments (Interest penalty) ... 86
§ 22322. Report of late payments to board ... 86
§ 22323. Monthly report of outstanding death benefits ... 86
§ 22324. Annual report ... 87
§ 22327. Disclosure of earnings of recipient (Disability allowance and disability retirement) ... 88
§ 22328. Credits on cancellation of allowances accrued after July 1, 1972 ... 88
§ 22329. Toll–free telephone assistance ... 89
§ 22330. Analysis of asset and liability implications of bills affecting investment strategy, funding, or benefit structure; Appropriation ... 89
§ 22335. Disbursement of moneys in Teachers Tax–Sheltered Annuity Fund (Operative term contingent) ... 89

CHAPTER 6. INVESTMENTS ... 91

§ 22350. Legislative declaration; Investment expertise ... 91
§ 22351. Legislative intent; Expertise of investment advisers ... 91

§ 22352. Contract for investment services ... 91
§ 22353. Requirement of separate individual investment advisers ... 91
§ 22354. Duties of investment managers ... 92
§ 22355. Employment of investment personnel also serving as investment staff ... 92
§ 22356. Reduction of book value of securities ... 92
§ 22359. Custodian services ... 93
§ 22360. State Teachers' Retirement System Home Loan Program Act; Authority to enter correspondent agreements with private lending institutions to assist retirement fund to invest in residential mortgages ... 93
§ 22360.5. State Teachers' Retirement System Home Loan Program Act; Procedure for member to obtain 100 percent residential financing ... 95
§ 22361. Loans from retirement fund for repair or rebuilding of homes damaged by natural disaster ... 96
§ 22362. Investment guidelines ... 96
§ 22363. Closed session on vendor or contractor (Campaign contributions of gifts) ... 98
§ 22364. Communication with interested party ... 98

CHAPTER 7. SYSTEM HEADQUARTERS ... 99

§ 22375. Acquisition of real property to establish permanent facility ... 99
§ 22376. Excess building space ... 99
§ 22377. Contract for state agency assistance ... 99
§ 22378. Condemnation; Purchase of selected property ... 99
§ 22379. Award of contract to lowest responsible bidder ... 100
§ 22380. Building account; Insurance; Accounting procedures ... 100

CHAPTER 8. ESTABLISHMENT AND CONTROL OF FUNDS ... 101

§ 22400. Establishment of Teachers' Retirement Fund ... 101
§ 22401. Collection and deposit of return on investments and other receipts ... 101
§ 22402. Use of earned interest not credited ... 101
§ 22403. Findings as to Cash Balance transfer of funds ... 102
§ 22404. Benefit adjustments (Threshold for payments and collections) ... 102

CHAPTER 9. MEMBER AND EMPLOYER DUTIES ... 103

§ 22450. Information affecting status of member or beneficiary ... 103
§ 22451. Information required ... 103
§ 22451.5. Proof of date of birth ... 104
§ 22451.7. Withholding of benefit payments until receipt of proof of birth ... 104
§ 22453. Signature of spouse on application ... 104
§ 22454. Refusal of spouse to sign application ... 105
§ 22455. County superintendent required to furnish information ... 106
§ 22455.5. Requirement that public employers provide employees with coverage by social security or in qualified retirement plan (Right to elect Defined Benefit membership) ... 106
§ 22456. Information to be furnished by employer ... 107
§ 22457. Notice of employment, death, resignation, or discharge ... 107
§ 22458. Provision of documents regarding compensation ... 107
§ 22459. Withholding of salary on failure to file information or pay amount due ... 108
§ 22460. Notification to terminating employee of benefits ... 108

§ 22461. Obligation to advise reemployed retired member of earnings limitation and to report earnings ... 109

CHAPTER 10. MEMBERSHIP ... 110

§ 22500. Status of members (June 30, 1996) ... 110
§ 22501. Employees as members ... 110
§ 22502. Part–time employees ... 110
§ 22503. Substitute employees ... 111
§ 22504. Part–time employees on hourly or daily basis ... 111
§ 22508. Effect of change of employment (Right of election) ... 112
§ 22508.5. Election of retirement system ... 114
§ 22508.6. Subsequent employment of members (Right to elect Defined Benefit membership) ... 114
§ 22509. Notice of right to election of membership; Procedure for election ... 115
§ 22510. Election to transfer membership to Public Employees' Retirement System ... 116
§ 22511. Certain members who elect to remain in plan; Limitation on benefits ... 116
§ 22512. Effect of election of membership in Public Employees' Retirement System ... 116
§ 22513. Retention of survivor and disability benefits; Plan vesting ... 116
§ 22514. Qualification when plan vesting not achieved ... 117
§ 22515. Election to join plan by substitute teachers and part–time employees ... 117
§ 22516. Persons not excluded from membership ... 118

CHAPTER 11. EXCLUSIONS FROM MEMBERSHIP ... 119

§ 22601. Exchange or sojourn teachers ... 119
§ 22601.5. Exclusion of part–time employees from mandatory membership ... 119
§ 22602. Substitute teachers ... 119
§ 22604. Part–time employees working on hourly or daily basis ... 120

CHAPTER 12. COMMUNITY PROPERTY ... 122

§ 22650. Power of court; Rights of nonmember spouses ... 122
§ 22651. "Nonmember spouse" and "Nonmember registered domestic partner" for community property purposes ... 122
§ 22652. Judgment or court order (Court ordered deduction) ... 123
§ 22653. Entitlement of nonmember spouse ... 124
§ 22655. Determination of community property rights in retirement allowance of retired member ... 125
§ 22656. Joinder of plan as party to action and service of judgment or court order ... 127
§ 22657. Application of other provisions to nonmember spouse ... 127
§ 22658. Separate administration of accounts of nonmember spouse ... 128
§ 22659. Requisite information from nonmember spouse ... 129
§ 22660. Designation of beneficiaries ... 129
§ 22661. Refund of accumulated retirement contributions ... 130
§ 22662. Redeposit of accumulated retirement contributions previously refunded to member ... 131
§ 22663. Purchase of additional service credit by nonmember spouse ... 132
§ 22664. Right to service retirement allowance ... 134
§ 22665. Determination of eligibility of member for retirement or disability allowance (Service credit awarded to nonmember spouse) ... 136
§ 22666. Legislative intent (Terminable interest doctrine abolishment) ... 137

CHAPTER 13. SERVICE CREDIT 138

§ 22700. Provisions governing inclusion of time 138
§ 22701. Computation of service to be credited 138
§ 22703. Computation of service (Defined Benefit and Defined Benefit Supplement Program) 138
§ 22704. Computation of year–round or continuous school programs 139
§ 22705. Exclusion of service covered by other public retirement program 140
§ 22705.5. Exclusion of service covered under San Francisco City and County Retirement System 140
§ 22706. Exclusion of service while covered by retirement or disability 141
§ 22708. Credit for leave under personal leave program or due to mandatory furlough 141
§ 22709. Credit when member prevented from performing service 142
§ 22710. Credit for service performed on payment of prescribed contributions (Credit for job related injury or illness) 142
§ 22711. Service as elected officer of employee organization 143
§ 22712. Service as exchange teacher 143
§ 22712.5. Service performed that does not qualify (Community service teacher) 144
§ 22713. Regulations allowing reduction in workload to part time duties; Contributions; Termination of agreement 144
§ 22714. Credit for additional years to encourage retirement of certificated or academic employees (Retirement incentive; certificated or academic employees) 147
§ 22715. Credit for additional years to encourage retirement (Retirement incentive; state employees) 149
§ 22716. Effect of subsequent service on service credit granted under statute (Retirement incentive; CSU employees) 151
§ 22717. Computation of service credit for accumulated and unused leave 151
§ 22717.5. Crediting of service retirement 152
§ 22718. Billing of school employers for service credit awarded for sick leave (Excess sick leave) 153
§ 22719. Unused sick leave accrued after reinstatement 154
§ 22720. Exclusion from final compensation (Exclusion of sick leave service benefits from final compensation) 155
§ 22721. Payment for accumulated sick leave 155
§ 22724. Determination of excess sick leave days at time of retirement 156

CHAPTER 14. PERMISSIVE AND ADDITIONAL SERVICE CREDIT 157

§ 22800. Claims for creditable service; Corroboration; Affidavit 157
§ 22801. Purchase of additional service credits; Computation of contributions; Cancellation of purchase (Permissive service) 157
§ 22801.5. Election of coverage by Defined Benefit Program; Contributions (State educational employees; 7/1/91 through 9/11/00) 159
§ 22802. Purchase of service credit by member previously excluded from membership in plan (Consolidation of benefits) 159
§ 22803. Services for which member may elect to purchase credit 161
§ 22804. When war with foreign power exists 162
§ 22805. Credit for military or Red Cross services 163
§ 22806. Credit for military or Merchant Marine service 163
§ 22807. Credit for time served during extension of military service 164
§ 22808. Contributions exemption (Military service) 165

§ 22809. Credit for service performed in war relocation center 165
§ 22810. Election to receive credit for services performed prior to July 1, 1944 in certain locations other than California 166
§ 22811. Transfer of funds from eligible retirement plans into Teachers'Retirement Fund 166

CHAPTER 14.2. OUT-OF-STATE SERVICE CREDIT 168

§ 22820. Right to purchase out-of-state service credit; Procedure; Limits on use of service purchased 168
§ 22821. Submission of request to purchase (Out-of-state service credit) 169
§ 22822. Time for request of purchase 169
§ 22823. Time and manner of payment of contributions for out-of-state service credits 170
§ 22824. Conflict with Internal Revenue Code (Internal Revenue Code Section 415) 171
§ 22825. Operative date of chapter 171
§ 22826. Purchase of credit for nonqualified service; Payment of contributions 171
§ 22827. Purchase credit for out-of-state service 172
§ 22828. Time and manner of request to purchase out-of-state service credit 172
§ 22829. Time and manner of payment of contributions for out-of-state service credits requested pursuant to § 22827; Cancellation 172

CHAPTER 14.5. MILITARY SERVICE 174

§ 22850. Legislative intent; Definitions 174
§ 22851. Calculation of benefits for member returning to same employer; Payment of member contributions 174
§ 22852. Employer's liability for contributions 175
§ 22853. Computation of employee's compensation earnable 176
§ 22853.5. Computation of service credit of deceased member 177
§ 22854. Rights of reemployed member absent for more than five years 177
§ 22855. Factors triggering disqualification for benefits 178
§ 22856. Effect of adverse tax consequences 178

CHAPTER 15. EMPLOYEE CONTRIBUTIONS 179

§ 22900. Consent for deductions 179
§ 22901. Contributions to retirement fund 179
§ 22901.3. Normal rate of contribution for state employees 180
§ 22901.5. Crediting to account [Repealed] 180
§ 22902. Computation of members' accumulated contributions 180
§ 22903. Pick–up of employee contributions towards retirement 181
§ 22904. Pick–up of member contributions by state through salary reduction program 181
§ 22905. Contributions to be credited to Defined Benefit and Defined Benefit Supplement accounts; Pretax and posttax contributions (Operative date contingent) 182
§ 22906. Contributions for service for which no credit may be granted; Refund 183
§ 22907. Adjustments due to change in recorded birth date 183
§ 22908. Annuity deposit contributions for additional benefits 183
§ 22909. Payment of contributions by employer 184

CHAPTER 16. EMPLOYER AND STATE CONTRIBUTIONS 185

§ 22950. Monthly contributions 185

§ 22951. Contribution of percentage of members' monthly salary (Sick leave service credit) ... 186
§ 22951.5. Increase in contribution rate (Supplemental Benefit Maintenance Account) ... 186
§ 22954. Continuous appropriation ... 187
§ 22954.1. Quadrennial evaluation; Report to Legislature on system's ability to provide purchasing power protection; Appropriation (Inoperative July 1, 2036; Repealed January 1, 2037) (Supplemental Benefit Maintenance Account) ... 189
§ 22954.5. Additional appropriations for Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund ... 190
§ 22955. Transfer to retirement fund (Continuous appropriation) ... 191
§ 22955.5. "Creditable compensation" ... 192
§ 22956. Allocation of employer and state contributions ... 193

CHAPTER 17. EMPLOYER COLLECTION AND REPORTING PROCEDURES ... 194

§ 23000. Mandatory deductions and payments ... 194
§ 23001. Requisitions for contributions ... 194
§ 23002. When contributions are due and payable and delinquent ... 195
§ 23002.5. Contributions for year–round or continuous school programs ... 195
§ 23003. Assessment of penalties; Interest charges ... 195
§ 23004. Monthly reports ... 196
§ 23005. When monthly reports are due and delinquent ... 196
§ 23006. Assessment of penalties for late or unacceptable reports ... 196
§ 23007. Failure of county superintendent to make payment of assessments ... 197
§ 23008. Adjustment for incorrect contributions; Penalty ... 197
§ 23009. Adjustment with interest ... 198
§ 23010. Appeal of assessed penalties or interest ... 198

CHAPTER 18. REFUND OF CONTRIBUTIONS ... 199

§ 23100. Payment on certain terminations (Contributions to be refunded) ... 199
§ 23101. Forfeiture of rights to service credit benefit ... 199
§ 23102. Certification of termination of employment ... 200
§ 23103. Request for refund ... 200
§ 23104. Mailing and cancellation of warrant refunding contributions ... 200
§ 23106. Refund or crediting of service in another system ... 201
§ 23107. Refund of accumulated annuity deposits ... 202

CHAPTER 19. REDEPOSIT OF CONTRIBUTIONS ... 203

§ 23200. Redeposit of contributions ... 203
§ 23201. Receipt of other retirement allowance (Right to redeposit) ... 203
§ 23202. Time of election to redeposit; Consideration as election to repay; Cancellation when not received; Election after cancellation ... 204
§ 23203. Redeposit of refunded accumulated retirement contributions ... 205

CHAPTER 20. BENEFICIARY DESIGNATION ... 206

§ 23300. Designation of beneficiary ... 206
§ 23301. Designation of other beneficiaries ... 206
§ 23302. Full discharge of liability ... 207
§ 23303. Payment of funeral expenses ... 207
§ 23304. Payment to estate in absence of beneficiary designation ... 208

CHAPTER 21. PRE-1972 BENEFITS 209

§ 23400. Reduction of disability retirement allowance (Earnings limitation) 209
§ 23401. Medical Examinations (Continuing qualification) 209
§ 23402. Continuation of certain death benefits 210
§ 23403. Continuation of certain survivor benefits 210
§ 23404. Credits on termination of retirement allowance 210

CHAPTER 21.5. ELECTION OF DISABILITY AND DEATH BENEFIT COVERAGE 212

§ 23700. Effective date of new survivor benefit and disability retirement programs; Purpose of chapter 212
§ 23701. Time for election of disability and death benefit programs 212
§ 23702. Eligibility to make irrevocable election 212
§ 23703. Requirements of election of coverage 213
§ 23704. Refusal of spouse to sign election document 214
§ 23705. Acknowledgment notice 214
§ 23706. Failure to file election 214

CHAPTER 22. ACTIVE DEATH BENEFITS: FAMILY ALLOWANCE 215

§ 23800. Application of chapter; “Members” 215
§ 23801. Payment of benefits 215
§ 23802. Components of payment (Refund upon death of member) 216
§ 23803. Time of payment (Exception to Probate Code) 217
§ 23804. Payment of family allowance; Conditions 217
§ 23805. Priority of payment of family allowance 218
§ 23805.5. Indicia of dependency for parents claiming benefits 220
§ 23806. Payment of family allowance to children 220
§ 23809. Reduction in family allowance for unmodified benefits payable from other systems 221
§ 23810. Termination of family allowance 221
§ 23811. Lump sum payment on termination of family allowance 221
§ 23812. Resumption of benefits for deceased member’s surviving spouse who had lost benefits due to remarriage 222

CHAPTER 23. ACTIVE DEATH BENEFITS: SURVIVOR BENEFITS 223

§ 23850. Application of chapter; “Member” 223
§ 23851. Payment on death to beneficiary 223
§ 23852. Election of surviving spouse; Dependent child; Beneficiary (Refund of benefits upon death of member) 224
§ 23853. Request for death payments and return of contributions (Exception to Probate Code) 225
§ 23854. Survivor benefit allowance (Payment conditions) 225
§ 23855. Computation of survivor benefit allowance 226
§ 23856. Eligible dependent children 227
§ 23858. Termination of allowance on death of beneficiary 228
§ 23859. Remaining balance paid to estate of spouse on termination of allowance 228

CHAPTER 24. RETIRED DEATH BENEFITS 229

§ 23880. Payment to beneficiary (Death benefit) 229

§ 23881. Payment to beneficiary or option beneficiary (Return of contributions and interest) ... 229
§ 23882. Request for death payments and return of contributions (Exception to Probate Code) ... 230

CHAPTER 25. DISABILITY ALLOWANCE ... 231

§ 24001. Application for disability allowance (Eligibility requirements) ... 231
§ 24001.5. Eligibility of officers of employee organizations ... 232
§ 24002. Time and conditions for application for disability allowance ... 233
§ 24003. Medical documentation of impairment; Examination; Request for reasonable accommodation; Administrative appeal ... 234
§ 24004. Limitation of disability allowance in certain areas (Limited-term disability benefit coverage A) ... 235
§ 24005. Effective date of disability allowance; Notification of last day of service ... 236
§ 24006. Amount of disability allowance ... 236
§ 24007. Calculation of allowance on credited service ... 237
§ 24009. Reduction when eligible dependent children become ineligible ... 237
§ 24010. Reduction for benefits paid or payable under other public systems ... 238
§ 24011. Treatment program for impairment amenable to treatment ... 238
§ 24012. Participation in rehabilitation program; Effect of willful failure to participate; Costs ... 239
§ 24013. Medical examinations (Continuing qualification) ... 239
§ 24014. Employment of disabled member to perform creditable service ... 240
§ 24015. Effect of employment on disability allowance (Earnings limitation) ... 240
§ 24016. Effect of excessive earnings on allowance ... 241
§ 24017. Effect of excessive earnings on allowance of person enrolled in approved rehabilitation program ... 241
§ 24018. Recurrence of original disability within six months of return ... 241

CHAPTER 26. DISABILITY RETIREMENT ... 243

§ 24100. Applicability of chapter ... 243
§ 24101. Application for disability retirement (Eligibility requirements) ... 243
§ 24101.5. Eligibility for disability while officer of organization ... 245
§ 24102. Time for application for disability retirement allowance (Conditions for application) ... 245
§ 24103. Medical documentation of impairment; Examination; Request for reasonable accommodation; Administrative appeal ... 246
§ 24104. Limitation of disability retirement period in certain cases (Limited-term disability benefit coverage B) ... 248
§ 24105. Effective date of disability retirement allowance; Notification of last day of service ... 249
§ 24106. Components of retirement allowance ... 249
§ 24107. Options modifying allowance ... 250
§ 24108. Reduction when eligible dependent children become ineligible ... 250
§ 24109. Reduction for workers' compensation benefits paid or payable ... 251
§ 24110. Program for impairment amenable to treatment ... 251
§ 24111. Participation in rehabilitation program; Effect of willful failure to participate; Costs ... 251
§ 24112. Medical examinations (Continuing qualification) ... 252
§ 24113. Employment of member retired for disability ... 253

§ 24114. Employment or self–employment of retired member; Earnings limitation 253
§ 24116. Service by certain retired teachers of California State University (Post-retirement earnings limitations) 254
§ 24117. Termination of disability retirement allowance 255
§ 24118. Credit to member's account on termination of disability retirement allowance 255
§ 24119. Recurrence of original disability within six months of return 256

CHAPTER 27. SERVICE RETIREMENT 257

§ 24201. Application for retirement; Conditions 257
§ 24201.5. Service retirement during an evaluation of a disability application 258
§ 24202. Application for service retirement allowance (Two percent at age 60) 260
§ 24202.5. Retirement allowance for service after specified date 261
§ 24202.6. Retirement allowance for member first hired after specified date; Annuity 262
§ 24202.7. Minimum retirement age for member first hired after specified date 262
§ 24202.8. Implementation of changes established in Sections 24202.6 and 24202.7 263
§ 24203. Retirement allowance; Early retirement versus normal retirement ("30 and out") 263
§ 24203.5. Percentage of final compensation to be increased ("Career factor") 263
§ 24203.6. Increase in monthly allowance ("Longevity bonus") 264
§ 24204. Service retirement allowance; Conditions (Benefit effective date) 266
§ 24205. Option to receive partial allowance upon early retirement and revert to full allowance for normal retirement age (Early Retirement Limited Term Reduction Program) 267
§ 24206. Minimum unmodified allowance 268
§ 24207. Minimum allowance for retired member terminating service retirement allowance and retiring under part 269
§ 24208. Termination of retirement allowance (Reinstatement) 269
§ 24209. Retirement for service following reinstatement 270
§ 24209.3. Service retirement benefits for member who perform creditable service for two or more years following reinstatement 271
§ 24210. Retirement following prior disability retirement that was terminated 273
§ 24211. Allowance of member granted disability allowance who returns to employment subject to coverage under program 274
§ 24212. Termination before retirement of allowance to member who does not return to employment 275
§ 24213. Termination of disability allowance on retirement (Disability allowance to service retirement) 276
§ 24214. Activities of retired member; Compensation; Limitations; Applicability of limitations; Documentation to substantiate exemption; Contents of documentation (First of two; Inoperative July 1, 2014; Repealed January 1, 2015) 277
§ 24214. Activities of retired member; Compensation; Limitations; Applicability of limitations; Employee of third party (Second of two; Operative July 1, 2014) 282
§ 24214.5. Postretirement compensation limitation; Exemption from limitation; Contents of resolution; Documentation; Reduction of retirement allowance 285
§ 24215. Service by certain retired teachers of California State University 286
§ 24216. Exemption from limits on compensation for retirees hired in connection with certain emergency situations [Repealed] 287
§ 24216.5. Exemption from limits on compensation for retirees needed for class size reduction program [Repealed] 287

§ 24216.6. Conditions for exemption of compensation of member retired for service from certain provisions of § 24214; Records [Repealed] ... 287
§ 24217. Annuity retirement allowance; Option (Savings clause) ... 288
§ 24218. Calculation of part–time service credit (7/1/1956 through 6/30/1968) ... 288
§ 24219. Local teachers' retirement system retirees; Permanent fund benefit computations ... 288
§ 24221. Election of lump-sum payment and actuarially reduced monthly allowance (Partial lump-sum) ... 288

CHAPTER 27.1. RETIREMENT OPTION PROGRAM ... 290

CHAPTER 27.5. REPLACEMENT BENEFITS PROGRAM ... 291

§ 24250. Legislative intent ... 291
§ 24255. Teachers' Replacement Benefits Program Fund; Deposits and disbursements of money ... 291
§ 24260. Establishment of program; Annual benefits (Replacement Benefits Program) ... 291
§ 24270. Reduced annual benefits ... 293
§ 24275. Benefits subject to limitation (Internal Revenue Code Section 415) ... 293

CHAPTER 28. OPTIONS ... 294

§ 24300. Election of options ... 294
§ 24300.1. Election of option beneficiary; Revocation or change; Death of option beneficiary before member; Community property interest; Plan amendment ... 296
§ 24300.2. Change of option; Window period; January 1, 2007 through June 30, 2007 ... 298
§ 24300.5. Death of option beneficiary ... 299
§ 24300.6. Unmarried retirees (Election of an option; New spouse) ... 300
§ 24301. Election of actuarially modified disability retirement allowance; Death prior to election ... 301
§ 24302. Effect on reinstatement of option elected at time of retirement ... 301
§ 24303. Effect on reinstatement on specified options elected ... 302
§ 24304. Elected option voided on reinstatement to membership; Further election ... 302
§ 24305. Cancellation of elected option in event of dissolution of marriage or order of separation ... 303
§ 24305.3. Joint and survivor annuity ... 304
§ 24305.5. Designation of spouse as new option beneficiary by retired member ... 305
§ 24306. Designation of new option beneficiary or different joint and survivor option when option beneficiary predeceases retired member ... 305
§ 24306.5. Election to change optional settlements ... 307
§ 24306.7. Election to change options for members retired under Option 4 or Option 5; Conditions; Effective date; Further modification of modified retirement allowance ... 307
§ 24307. Preretirement election of option; Death of member prior to retirement; Subsequent retirement for service without canceling elected option ... 308
§ 24307.5. Modification of allowance (Preretirement election of an option) ... 310
§ 24308. Effect of election on other benefits ... 310
§ 24309. Changes or cancellation of election ... 310
§ 24310. Right of reelection following cancellation ... 312
§ 24311. Change of preretirement option election ... 312
§ 24312. Change without reduction ... 312
§ 24312.1. Preretirement election under Section 24300.1; Conditions ... 313

§ 24313. Retirement allowance without modification for option 313

CHAPTER 29. BENEFIT MAINTENANCE 315

§ 24400. Legislative intent (Report on erosion of purchasing power) 315
§ 24401. Exclusion 315
§ 24402. Application of benefit improvement factor 315
§ 24403. Increase procedure (Pre-7/1/72 allowances) 316
§ 24404. Increase of certain benefits 316
§ 24405. Scheduled increases 317
§ 24406. Prescribed amounts for member with less than specified years of credited service (Ad hoc increase; Less than 20 years service) 317
§ 24407. Monthly allowances to retirants, disabilitants, and beneficiaries (Purchasing power ad hoc increase) 317
§ 24408. Minimum unmodified allowance of retired person after increase 318
§ 24409. Minimum unmodified allowance; Reduction 319
§ 24410. Base date for applicable postretirement increases 319
§ 24410.5. Annual allowance payable to retired member, option beneficiary, or surviving spouse 320
§ 24410.6. Allowance payable to retired member, option beneficiary, or surviving spouse (Minimum guarantee) 321
§ 24410.7. Monthly allowance increases 323
§ 24411. [Repealed] 323
§ 24412. Appropriation and distribution of revenues (School lands income) 324
§ 24413. Revenues from lands within Elk Hills Naval Petroleum Reserve 325
§ 24415. Supplemental Benefit Maintenance Account; Distribution and allocation of proceeds 325
§ 24415.5. Adjustment of purchasing power protection benefits payable to the Supplemental Benefit Maintenance Account 327
§ 24416. Board's authority upon certain findings (Supplemental Benefit Maintenance Account; Insufficient funding) 328
§ 24417. Distributions authorized (Auxiliary Supplemental Benefit Maintenance Account) 328

CHAPTER 30. SUBROGATION 330

§ 24500. Right of recovery from third person or entity on behalf of plan 330
§ 24501. Recovery by board under contract (Authorization to contract with State Fund or Attorney General for recovery from third persons) 330
§ 24502. Permissible actions by board or agents under contract 330
§ 24503. Authority to compromise claims 331
§ 24504. Application of amount recovered 331
§ 24505. Limitation of actions; Time of fixing liability 331

CHAPTER 31. PROCEDURES CONCERNING PAYMENT 332

§ 24600. Accrual and termination dates of allowances and payments; Compliance with federal law in making distributions 332
§ 24601. Authorization for payment of estimated allowances 334
§ 24602. Special account and procedures for emergency payments 334
§ 24603. Adjustment of incorrect estimated allowances 335
§ 24604. Monthly disbursements; Copy of benefit payment information; Discharge 335

§ 24605. Issuance of duplicate warrant on proof of loss ... 336
§ 24606. Unclaimed warrants ... 337
§ 24607. Warrant paid for month in which retired or disabled member dies ... 337
§ 24608. Authorized deductions from allowances ... 338
§ 24609. Payment of accrued retirement allowance ... 338
§ 24610. Payment of accrued allowance on death of disabled member ... 339
§ 24611. Applicable provisions in simultaneous death and similar situations ... 339
§ 24612. Payment to person entitled to custody of minor ... 339
§ 24613. Discharge and release from liability ... 340
§ 24614. Continued payments to persons who retired prior to discontinuance of retirement plan of certain district ... 340
§ 24615. Collection of contributions that are due from retired member, disabled member or person who has died ... 341
§ 24616. Authority to collect overpayments from any subsequent benefit ... 342
§ 24616.5. Report of erroneous information by employer ... 342
§ 24617. Collection of overpayments ... 342
§ 24618. Overpayments or underpayments; Debiting or crediting appropriate reserve in retirement fund (Write-off) ... 343
§ 24619. Report on underpayments or overpayments ... 343
§ 24620. Continuance of special reserve resulting from discontinuance of district retirement plan ... 344

CHAPTER 32. SAN FRANCISCO LOCAL SYSTEM ... 346

§ 24700. Membership in plan; Exclusion from federal coverage ... 346
§ 24701. Other concurrent certificated service ... 346
§ 24702. Persons on retirement roll on June 30, 1972; Retired death benefit ... 346
§ 24703. Classified or other noncertificated service ... 347
§ 24704. Concurrent retirement benefits ... 347
§ 24705. Concurrent retirement and credit for services performed in other states, etc. ... 348
§ 24706. Subvention payments ... 348

CHAPTER 33. LOS ANGELES UNIFIED SCHOOL DISTRICT PLAN ... 349

§ 24750. Members who took refund and who have permanent fund contributions ... 349
§ 24751. Members who took refund but did not redeposit (Local service credit) ... 349

CHAPTER 34. ADMINISTRATION OF THE DISTRICT RETIREMENT SALARY PLAN ... 351

§§ 24800 – 24813 apply only to the Los Angeles Unified School District. ... 351

CHAPTER 35. JOINT DISTRICT SALARY RETIREMENT PLAN ... 352

§§ 24900 – 24944 apply only to the Los Angeles Unified School District. ... 352

CHAPTER 36. ANNUITY CONTRACT AND CUSTODIAL ACCOUNTS ... 353

§ 24950. Requirement that account be offered; Investment options; Contributions ... 353
§ 24950.5. System may administer Roth IRA for purpose of accepting a rollover as specified ... 354
§ 24951. Election to terminate offering of annuity contract and custodial account ... 354
§ 24952. Provision for recovery of costs and expenses of administration ... 354

§ 24953. Contract for services regarding annuity contract and custodial account 355

CHAPTER 37. DEFERRED COMPENSATION PLANS 357

§ 24975. Development of deferred compensation plans 357
§ 24976. Teachers' Deferred Compensation Fund 358
§ 24977. Contract for services regarding deferred compensation plan 359

CHAPTER 38. DEFINED BENEFIT SUPPLEMENT PROGRAM 362

§ 25000. Establishment of program 362
§ 25000.5. Amendment of plan (Compliance with federal and state tax codes) 362
§ 25000.7. Vested rights; Rollovers 362
§ 25000.9. "Nonmember spouse" and "Nonmember registered domestic partner" for Defined Benefit Supplement Program purposes 363
§ 25001. Segregated account; Excess earnings (Gain and loss reserve) 363
§ 25002. Annuitant Reserve 364
§ 25003. Transfers of funds 364
§ 25004. Member accounts 364
§ 25005. Interest rates 365
§ 25006. Additional earnings credit 365
§ 25007. Additional annuity credit 365
§ 25008. Member's right to balance of credits; Distributions 366
§ 25008.5. Distribution of balance of credits from Defined Benefit Supplement account 366
§ 25009. Retirement benefits 366
§ 25010. Eligibility requirements 367
§ 25011. Elections as to receipt of benefits 367
§ 25011.1. Election to receive the retirement benefit as an annuity payable in monthly installments 369
§ 25011.5. Change of annuities 371
§ 25012. Determination of annuity 372
§ 25013. Balance of credits to be transferred 372
§ 25014. Reinstatement; Termination of annuity 372
§ 25015. Joint and survivor annuity 373
§ 25016. Disability benefits 374
§ 25017. Date of receipt of disability benefits; Application form 374
§ 25018. Form of disability benefit; Elections 374
§ 25018.1. Election to receive the disability benefit as an annuity payable in monthly installments 376
§ 25018.2. Change of annuities 378
§ 25018.5. Recurrence of original disability within six months of return to work 379
§ 25019. Termination of allowance 379
§ 25020. Member's death (Final benefit) 380
§ 25021. Elections as to final benefit payment 380
§ 25022. Death of member during receipt of specified annuities 381
§ 25022.5. Death of nonmember spouse during receipt of specified annuities 381
§ 25023. Payments following death under specified annuities 381
§ 25024. Application for termination benefits; Termination of application 382
§ 25024.5. Elapsed time since previous termination benefit 383
§ 25025. Elapse of specified time (Payment of termination benefit) 383

CHAPTER 39. SCHOOL EMPLOYER RETIREMENT INVESTMENT PRODUCT VENDOR REGISTRATION PROCESS AND INFORMATION BANK..... 384

§ 25100. Vendor registration process to make information about § 403(b) tax–deferred retirement investment products available..... 384
§ 25101. Registration of 403(b) products and prospective vendors..... 385
§ 25102. Annual registration; Renewal..... 386
§ 25103. Removal from registry 386
§ 25104. Impartial investment information bank on web site..... 387
§ 25105. Notice of information bank to members..... 387
§ 25106. Design of web site and preface to vendor information 387
§ 25107. Vendor fees 387
§ 25108. Cost of establishing and maintaining registration and information bank; Administrative fees 388
§ 25109. Liability of board and system..... 388
§ 25110. Completion date 388
§ 25111. Employee awareness of and access to system..... 389
§ 25112. Consideration from vendor for promotion of products is prohibited 389
§ 25113. Unregistered 403(b) products..... 389
§ 25114. Continuation of contributions to unregistered product..... 389
§ 25115. Applicability (Insurance Code Section 770.3) 390

PART 13.5. HEALTH CARE BENEFITS PROGRAM

CHAPTER 1. GENERAL PROVISIONS 391

§ 25900. Costs of programs; Authorization by Legislature 391

CHAPTER 2. DEFINITIONS 392

§ 25901. Governing definitions..... 392
§ 25910. "Beneficiary" or "beneficiaries" 392
§ 25915. "Dependent child" or "dependent children"; "Offspring"; "Financially dependent"..... 392
§ 25920. "Dependent parent" or "dependent parents" 392
§ 25921. "Employer" 393
§ 25923. "Fund" 393
§ 25925. "Member"..... 393
§ 25926. "School year" 393

CHAPTER 3. ESTABLISHMENT AND CONTROL OF FUND..... 394

§ 25930. Establishment of fund; Deposits; Appropriation of proceeds (Teachers' Health Benefits Fund) 394
§ 25931. Control of fund by board..... 394
§ 25932. Collection and deposits of return on investments 394
§ 25933. "Plan"; Actuarial investigation and data 394

CHAPTER 4. MEDICARE PREMIUM PAYMENT PROGRAM 396

§ 25940. Payment of Medicare Part A premiums for retired or disabled members; Eligibility; Amounts; Part B surcharges..... 396
§ 25950. Report on drug program 397

§ 25955. Recovery of amount overpaid 398

PART 14. STATE TEACHERS' RETIREMENT SYSTEM CASH BENEFIT PROGRAM

CHAPTER 1. GENERAL PROVISIONS 399

§ 26000. Creation of Cash Balance Plan 399
§ 26000.5. Agreement with retirement system 399
§ 26000.6. Election to provide Cash Balance benefits 400
§ 26001. Compliance with federal and state tax provisions 400
§ 26002. Administration of plan 400
§ 26002.5. Reference to "spouse" and "registered domestic partner" for Cash Balance Plan purposes 400
§ 26003. Severability of provisions 401
§ 26004. Limitations on benefits; Distribution 401

CHAPTER 2. DEFINITIONS 403

§ 26100. Definitions to govern construction 403
§ 26101. "Actuarial equivalent" 403
§ 26102. "Actuary" 403
§ 26103. "Additional earnings credit" 403
§ 26104. "Administrative costs" 403
§ 26105. "Annuitant Reserve" 403
§ 26106. "Annuity" 404
§ 26107. "Basis of employment" 404
§ 26108. "Beneficiary" 404
§ 26109. "Board" 404
§ 26112. "Cash Balance Plan" 404
§ 26112.5. "Class of employees" 404
§ 26113. "Creditable Service" 405
§ 26114. "Death benefit" 405
§ 26115. "Defined Benefit Program" 406
§ 26116. "Disability benefit" 406
§ 26117. "Disability date" 406
§ 26118. "Employee" 406
§ 26119. "Employee account" 407
§ 26120. "Employee contribution rate" 407
§ 26121. "Employee contribution" 407
§ 26122. "Employer" 407
§ 26123. "Employer account" 407
§ 26124. "Employer contribution rate" 408
§ 26125. "Employer contribution" 408
§ 26126. "Employed"; "Employment" 408
§ 26127. "Full time equivalent" 408
§ 26128. "Fund" 408
§ 26129. "Gain and Loss Reserve" 409
§ 26130. "Investment earnings" 409
§ 26131. "Minimum interest rate" 409
§ 26132. "Participant" 409

§ 26133. "Pay period" ... 410
§ 26134. "Plan" ... 410
§ 26135. "Plan year" ... 410
§ 26136. "Retirement" ... 410
§ 26137. "Retirement benefit" ... 410
§ 26138. "Retirement date" ... 411
§ 26139. "Salary" ... 411
§ 26140. "Spouse" ... 412
§ 26142. "System" ... 413
§ 26143. "Termination benefit" ... 413
§ 26144. "Total and permanent disability" ... 413
§ 26144.5. "Trustee service" ... 413
§ 26145. "Unfunded actuarial obligation" ... 413

CHAPTER 3. PLAN ADMINISTRATION ... 414

§ 26200. Deposits into Teachers' Retirement ... 414
§ 26201. Collection and deposit of investment earnings ... 414
§ 26202. Establishment of Gain and Loss Reserve ... 414
§ 26203. Amortization of unfunded actuarial obligation ... 415
§ 26204. Establishment of Annuitant Reserve ... 415
§ 26205. Transfer between reserves ... 415
§ 26206. Administrative costs ... 415
§ 26207.5. Sources for funding ... 416
§ 26208. Records and accounts ... 416
§ 26209. Authorization of transfer and disbursement of funds ... 416
§ 26210. Control of investing fund ... 416
§ 26211. Duties of actuary ... 417
§ 26212. Database for actuarial investigation ... 417
§ 26213. Adoption of actuarial techniques ... 417
§ 26214. Annual statement to participants ... 418
§ 26215. Confidential records ... 418
§ 26216. Administration by third party ... 419

CHAPTER 4. EMPLOYER AND PARTICIPANT RESPONSIBILITIES ... 420

§ 26300. Available information ... 420
§ 26301. Reports by employers; Penalty ... 420
§ 26301.5. Employer's duty to deduct and remit contributions ... 421
§ 26302. Adjustments in contributions; Assessment of penalties for late or improper adjustments ... 421
§ 26303. Deadline to transmit contributions; Delinquency of payments ... 422
§ 26303.5. Appeal of assessed penalty or interest ... 422
§ 26304. Notice of changed status of employee ... 423
§ 26305. Documents from employer to be provided upon request ... 423
§ 26306. Information from participant or beneficiary ... 423

CHAPTER 5. ELIGIBILITY ... 424

§ 26400. Employees with less than 50 percent creditable service; Community college district temporary employees; Changes in employment; Election for social security coverage ... 424

§ 26401. Election to become participant for creditable service 426
§ 26403. Trustee service..... 427

CHAPTER 6. CONTRIBUTIONS 428

§ 26500. Requirement of consent to deductions 428
§ 26501. Amount of contribution..... 428
§ 26501.5. Effect of election 428
§ 26502. Employer to pay for contributions and make deductions from salaries (Employer pick-up of employee contributions) 428
§ 26503. Contribution by employer 428
§ 26503.5. Employer contributions..... 429
§ 26504. Collective bargaining agreement to pay different contribution rate..... 429
§ 26505. [Section repealed 2012]..... 430
§ 26506. Voluntary contributions, rollovers, or redeposits not permitted..... 430
§ 26507. Adjustment of employer contribution rate 430

CHAPTER 7. EMPLOYEE AND EMPLOYER ACCOUNTS 432

§ 26600. Contributions based on salary 432
§ 26601. Employee contributions and interest..... 432
§ 26602. Employer contributions and interest..... 432
§ 26603. Date to credit accounts 432
§ 26604. Minimum interest rate for accounts..... 432
§ 26605. Surplus of investment earnings; Additional earnings credit..... 433
§ 26606. Determination of additional earnings credit..... 433
§ 26607. Additional annuity credit..... 434

CHAPTER 8. RIGHTS TO BENEFITS..... 435

§ 26700. Vested right to benefit..... 435
§ 26701. Right to benefit not subject to execution or assignment..... 435
§ 26702. Limitations period to adjust errors or omissions..... 435
§ 26703. Spousal signature requirement 436
§ 26704. Refusal of spouse to sign..... 436

CHAPTER 9. RETIREMENT BENEFIT 437

§ 26800. Normal retirement age..... 437
§ 26801. Retirement date 437
§ 26802. Commencement of distribution of benefit..... 437
§ 26803. Termination of creditable service..... 437
§ 26804. Application for benefit 437
§ 26805. Amount of benefit 438
§ 26806. Form of benefit..... 438
§ 26807. Election to receive annuity..... 438
§ 26807.5. Election to receive the retirement benefit as an annuity payable in monthly installments 440
§ 26807.6. Change of annuities..... 441
§ 26808. Determination of amount of annuity 443
§ 26809. Transfer of credits upon election of annuity 443
§ 26810. Termination of annuity..... 443
§ 26811. Changed beneficiary..... 444

§ 26812. Activities of retired participant; Rate of pay; Reinstatement not required; Reduction of annuity ... 444
§ 26813. Activities of retired member; Limitations; Records ... 445

CHAPTER 10. DISABILITY BENEFIT ... 446

§ 26900. Application to receive disability benefit ... 446
§ 26901. Person to make application ... 446
§ 26902. Determination of disability ... 446
§ 26903. Termination of creditable service ... 446
§ 26904. Benefit amount ... 447
§ 26905. Normal distribution of disability benefit (Lump–sum payment) ... 447
§ 26906. Annuity ... 447
§ 26906.5. Payment of the disability benefit as an annuity; Election of option ... 449
§ 26906.6. Change of annuities ... 450
§ 26907. Annuity value ... 451
§ 26908. Annuitant Reserve ... 452
§ 26910. Changed beneficiary ... 452
§ 26911. Reemployment (Prior to age 60) ... 452

CHAPTER 11. DEATH BENEFIT ... 453

§ 27000. Proof of death ... 453
§ 27001. Time that benefit is to be paid (Exception to Probate Code) ... 453
§ 27002. Death of participant prior to commencement of annuity ... 453
§ 27003. Normal form of benefit ... 453
§ 27004. Election by certain beneficiaries to receive final benefit as annuity payable in monthly installments; Form of payment ... 454
§ 27005. Determination of amount of annuity ... 454
§ 27006. Transfer of credits upon election of annuity ... 454
§ 27007. Death of participant receiving annuity ... 455
§ 27008. Death of beneficiary receiving annuity ... 455

CHAPTER 12. BENEFICIARY ... 456

§ 27100. Designation of beneficiary ... 456
§ 27101. Lack of valid beneficiary designation ... 456
§ 27102. Simultaneous death provisions to govern distribution ... 456

CHAPTER 13. TERMINATION BENEFIT ... 457

§ 27200. Application for benefit ... 457
§ 27201. Termination of creditable service ... 457
§ 27202. Application for benefit ... 457
§ 27203. Restriction on application (Five-year rule) ... 458
§ 27204. Limitation on payment of benefit (Cancellation of benefit) ... 458
§ 27205. Cancellation of application ... 458
§ 27206. Partial distribution of benefit ... 458
§ 27207. Payment of lump–sum benefit to preclude further benefits ... 459

CHAPTER 14. DISTRIBUTION OF BENEFITS ... 460

§ 27300. Discharge of plan's obligations upon distribution of lump-sum benefit ... 460

§ 27301. Discharge of plan's obligations upon final payment of annuity 460
§ 27302. Forfeiture of benefit upon failure to locate participant or beneficiary; Reinstatement 460
§ 27303. Deduction of overpayment 461
§ 27303.5. Report of erroneous information by employer 461

CHAPTER 15. COMMUNITY PROPERTY 462

§ 27400. Purpose of chapter 462
§ 27401. "Nonparticipant spouse" and "Nonparticipant registered domestic partner" 462
§ 27402. Division of credits upon legal separation or divorce 463
§ 27403. Status of nonparticipant spouse (Exclusion from participation in the Cash Balance Benefit Program) 463
§ 27404. Rights of nonparticipant spouse in separate nominal account 463
§ 27405. Determination of community property rights in annuity upon separation or dissolution of marriage of participant 463
§ 27406. Right of nonparticipant spouse to lump–sum distribution 464
§ 27407. Required joinder of plan 465
§ 27408. Provisions applicable to nonparticipant spouse 465
§ 27409. Information required from nonparticipant spouse 465
§ 27410. Designation of beneficiary by nonparticipant spouse 466
§ 27411. Eligibility of nonparticipant spouse to elect annuity 466
§ 27412. Information on credits of contribution and earnings in judgment or court order 467
§ 27413. Legislative intent regarding terminable interest doctrine 467

CHAPTER 16. MILITARY SERVICES 468

§ 28000. Findings 468
§ 28001. Break in service 468
§ 28002. Employer contributions 469
§ 28003. Salary computation (Employee and employer contributions) 470
§ 28004. Excess of five years 470
§ 28005. Termination of rights (Denial of benefits) 470
§ 28006. Taxes 471

CHAPTER 17. DISCONTINUATION OF PLAN 472

§ 28100. Employer's right to discontinue plan; Notice 472
§ 28101. Accounts 472

CALIFORNIA CODE OF REGULATIONS
TITLE 5. EDUCATION
DIVISION 3. TEACHERS' RETIREMENT SYSTEM
CHAPTER 1. TEACHERS' RETIREMENT SYSTEM

ARTICLE 1. DEFINITIONS 473

§ 20500. Definitions 473

ARTICLE 2. RULES OF PROCEDURE 474

§ 20510. Meetings 474
§ 20511. Notice of Regular and Special Meetings 474
§ 20512. Emergency Meetings 474
§ 20512.5. Special Meetings 474
§ 20513. Quorum; Required Vote 474
§ 20514. Secretary; Duties 474

ARTICLE 3. GENERAL PROVISIONS OF ADMINISTRATION 475

§ 20520. Authority of Chief Executive Officer 475
§ 20521. Time Required for Credit 475
§ 20522. Funds Disbursed According to Claims 476
§ 20523. Proof of Death 476
§ 20524. Statement of Service and Claims 476
§ 20525. Statement of Account 476
§ 20526. Required Days of Service for Sick Leave Credit 476
§ 20527. Deductions; Local Retirement Systems 476
§ 20528. Deposit of Contributions 476
§ 20529. Remitting Contributions and Report 476
§ 20530. Termination of Employment 476
§ 20531. Application for Retirement 476
§ 20532. Repayment of Withdrawn Contributions 476
§ 20533. Option to Repay Withdrawn Contributions 476
§ 20534. Deposit of Retirement Annuity Fund Contributions 476
§ 20535. Election to Pay Contributions 476
§ 20536. Election to Redeposit 477
§ 20537. Part-Time Employee -Disability Retirement 477
§ 20538. Adjustment of Final Compensation 477
§ 20539. Full-Time Employment to Qualify for Reduced Workload 477
§ 20540. Definitions of "Full-Time Student" and "Educational Institution." 477
§ 20541. "Family or Disability Benefits." 477
§ 20542. Verification of Date of Birth 477
§ 20543. Permissive Payments to System to Obtain Additional Service Credit 477
§ 20543.5. Mandatory Payments to System by Member, Beneficiary or Retirant 477
§ 20544. Determination of Member's Final Compensation 477

ARTICLE 4. TAX SHELTERED ANNUITY CONTRIBUTIONS 477

§ 20547. Tax Sheltered Annuity 477
§ 20548. Tax Sheltered Annuity Contributions 477
§ 20549. Resolution 477
§ 20550. Amendment of Employment Contract 478
§ 20551. Limit on Tax Sheltered Contributions 478
§ 20552. Transmittal and Report of Tax Sheltered Annuity Contributions 478
§ 20553. Withdrawal 478
§ 20554. Tax Sheltered Annuity Program 478
§ 20554.1. Discontinuance of Former Tax Sheltered Annuity Program 478
§ 20555. Investment of Tax Sheltered Annuity Funds 478
§ 20556. Resolution by Contracting Employer 478
§ 20557. Transmittal and Report of Tax Sheltered Annuity Contributions 478

§ 20558. Withdrawal for Emergencies 479
§ 20558.1. Community Property Interest 479

ARTICLE 5. RETIRED MEMBERS EMPLOYED AS SUBSTITUTE TEACHERS 479

§ 20559. Monthly Reports by Governing Board 479
§ 20560. Amount of Contribution 479

ARTICLE 6. NOMINATION OF BENEFICIARIES 479

§ 20570. Nomination of Beneficiaries 479
§ 20571. Beneficiary Under Trust 479

ARTICLE 7. ELECTION OF OPTIONS 479

§ 20580. Optional Elections in Advance of Retirement 479
§ 20581. Early Retirement Limited Term Reduction Program 479

ARTICLE 8. RATES 479

§ 20600. Regular Interest Rate 479
§ 20601. Credited Interest Rate 479
§ 20602. When Interest Is Not Chargeable 480
§ 20603. Present Value Factor 480
§ 21000. Penalty Rate on Late Employer and Employee Contributions 480
§ 21001. Employer Contribution Rate for Reduced Workload Program 480
§ 21002. Actuarial Normal Cost Rate for Additional Service Credit 480

ARTICLE 10. DEPENDENTS 480

§ 21020. Dependent Husband 480
§ 21021. Dependent Parent 480
§ 21022. Step-Child—When Qualified for Benefit 480
§ 21023. Providing Information to the Teachers' Retirement Board 480

ARTICLE 11. STATE TEACHERS' RETIREMENT SYSTEM—CONFLICT OF INTEREST CODE 480

§ 22000. General Provisions 480

APPENDIX A 482

ARTICLE 12. UNUSED EXCESS SICK LEAVE 483

§ 23000. Definitions 483
§ 23001. Certification 484
§ 23002. Billing 484
§ 23003. Payment 484
§ 23004. Determination of Excess Sick Leave Days 484
§ 23005. Delegation of Authority of Board to Chief Executive Officer 484

ARTICLE 13. ELECTION OF MEMBERS TO THE TEACHERS' RETIREMENT BOARD 484

§ 24000. Board Member Elections 484
§ 24001. Notice of Election 484
§ 24002. Nomination of Candidates 485
§ 24003. Candidate Statements 486
§ 24004. Ballot Distribution 487
§ 24005. Ballot Counting 487
§ 24006. Notice of Election Results 488
§ 24007. Recount of an Election 488
§ 24008. Protest of an Election 489
§ 24009. Elections for Vacant Elected Seats 490

ARTICLE 14. INVESTMENT RELATIONSHIPS AND CAMPAIGN CONTRIBUTIONS 490

§ 24010. Prohibitions on Campaign Contributions 490
§ 24011. Disclosure and Recusal Requirement for Campaign Contributions 491
§ 24012. Remedies, Enforcement and Safe Harbors 492
§ 24013. Definitions 493

ARTICLE 15. SUPPLEMENTAL BENEFIT MAINTENANCE ACCOUNT 493

§ 26000. Supplemental Benefit Maintenance Account Purchasing Power Protection 493

ARTICLE 15.5. PENALTIES AND INTEREST FOR LATE REMITTANCES AND LATE AND UNACCEPTABLE REPORTING BY EMPLOYERS 494

§ 27000. Format for Monthly Reports 494
§ 27001. Acceptable Report—Defined Benefit Program 494
§ 27002. Acceptable Report—Cash Balance Benefit Program 495
§ 27003. Assessment of Penalties for Late Reports—Defined Benefit Program 495
§ 27004. Assessment of Penalties for Late Reports—Cash Balance Benefit Program 496
§ 27005. Late Contributions—Defined Benefit Program 498
§ 27006. Late Contributions—Cash Balance Benefit Program 498
§ 27007. Assessment of Penalties for Late Contributions—Defined Benefit Program 498
§ 27008. Assessment of Interest on Late Contributions—Cash Balance Benefit Program 500
§ 27009. Right to an Administrative Hearing 500

ARTICLE 16. MEMBER'S RIGHT TO INTERNAL INFORMAL APPEAL OF A DETERMINATION BY CALSTRS STAFF OF A RIGHT TO A BENEFIT OR OBLIGATION 501

§ 27100. Definitions 501
§ 27101. Administrative Remedy for Benefits & Services and Financial Services 501
§ 27102. Administrative Remedy for Audits 503
§ 27103. Administrative Hearing 503

INDEX **505**

CROSS-REFERENCE OF LEGISLATION ..... **I**

PART 13. STATE TEACHERS' RETIREMENT SYSTEM

CHAPTER 1. GENERAL PROVISIONS

§ 22000. Citation of part (Barnes Act; Teachers' Retirement Law)

This part may be known and cited as the E. Richard Barnes Act and together with Part 14 (commencing with Section 26000) shall be known as the Teachers' Retirement Law.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1999 ch 939 § 1 (SB 1074).

Former Sections: Former § 22000, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1999 Amendment: (1) Deleted "shall be known and may be cited as the State Teachers' Retirement Law and" after "This part"; and **(2)** added "and together with Part 14 (commencing with Section 26000) shall be known as the Teachers' Retirement Law".

§ 22001. Establishment of State Teachers' Retirement System

In order to provide a financially sound plan for the retirement, with adequate retirement allowances, of teachers in the public schools of this state, teachers in schools supported by this state, and other persons employed in connection with the schools, the State Teachers' Retirement System is established. The system is a unit of the State and Consumer Services Agency.

Added by Stats 1993 ch 893 § 2 (AB 1796). See this section as modified in Governor's Reorganization Plan No. 2 § 42 of 2012.

Editor's Notes—2012 Governor's Reorganization Plan No. 2 was submitted to the Legislature on May 3, 2012, and became effective July 3, 2012, pursuant to Gov C § 12080.5, and substantively operative July 1, 2013. The text as modified by § 42, reads: "In order to provide a financially sound plan for the retirement, with adequate retirement allowances, of teachers in the public schools of this state, teachers in schools supported by this state, and other persons employed in connection with the schools, the State Teachers' Retirement System is established. The system is a unit of the Government Operations Agency."

Former Sections: Former § 22001, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 520 § 1, and repealed Stats 1993 ch 893 § 1.

§ 22001.5. Findings as to Cash Balance Plan

The Legislature hereby finds and declares that on July 1, 1996, the State Teachers' Retirement System Cash Balance Plan was created and established to provide a retirement plan for persons employed to perform creditable service for less than 50 percent of the full–time equivalent for the position. The persons eligible for the Cash Balance Plan were excluded from mandatory membership in the State Teachers' Retirement System Defined Benefit Plan. Both plans are administered by the Teachers' Retirement Board. Prior to the creation and establishment of the Cash Balance Plan, the State Teachers' Retirement System Defined Benefit Plan had been identified simply as the State Teachers' Retirement System. As a result, the system was identified as both the administrative body and the retirement plan. The State Teachers' Retirement Law was amended to identify the retirement plan as the State Teachers' Retirement System Defined Benefit Plan in order to distinguish that plan from the Cash Balance Plan. Because both plans were intended to provide for the retirement of teachers and other persons employed in connection with public schools of this state and schools supported by this state, a merger of these two plans is now hereby made for the purpose of establishing a single retirement plan that shall be known and may be cited as the State Teachers' Retirement Plan consisting of the different benefit programs set forth in this part and Part 14 (commencing with Section 26000). This plan shall

be administered by the Teachers' Retirement Board as set forth in this part and Part 14 (commencing with Section 26000). This part, together with Part 14 (commencing with Section 26000) shall be known and may be cited as the Teachers' Retirement Law.

Added by Stats 1998 ch 1048 § 1 (SB 2085).

§ 22002. Declaration of financing policies

The Legislature recognizes that the assets of the State Teachers' Retirement Plan with respect to the Defined Benefit Program are insufficient to meet the obligations of that program already accrued or to accrue in the future with respect to service credited to members of that program prior to July 1, 1972. Therefore, the Legislature declares the following policies with respect to the financing of the Defined Benefit Program of the State Teachers' Retirement Plan:

(a) Members shall contribute a percentage of creditable compensation, unless otherwise specified in this part.

(b) Employers shall contribute a percentage of the total creditable compensation on which member contributions are based.

(c) The state shall contribute a sum certain for a given number of years for the purpose of payment of benefits under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 1 (SB 2041); Stats 1997 ch 482 § 1 (SB 471); Stats 1998 ch 965 § 1 (AB 2765).

Former Sections: Former § 22002, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted **(1)** subd (a) for former subd (a) which read: "(a) Members shall be required to contribute a percentage of salaries earned."; and **(2)** "Employers" for "The employing agencies" in subd (b).

1997 Amendment: Substituted **(1)** "creditable compensation" for "salaries earned" in subd (a); and **(2)** "the total creditable compensation" for "total salaries" in subd (b).

1998 Amendment: (1) Amended the introductory paragraph by **(a)** substituting "State Teachers' Retirement Plan" for "State Teachers' Retirement System" both times it appears; **(b)** adding "with respect to the Defined Benefit Program" in the first sentence; **(c)** substituting "program" for "system" both times is appears in the first sentence; **(d)** substituting "with" for "in" before "respect" both times it appears; and **(e)** adding "Defined Benefit Program of the" in the second sentence; and **(2)** added "under this part" at the end of subd (c).

§ 22003. Effect of revision of State Teachers' Retirement Law (Conflicts in law)

The revision of the State Teachers' Retirement Law, enacted at the 1971 and 1972 Regular Sessions of the Legislature, shall not be construed to affect benefits of persons retired prior to July 1, 1972, or their beneficiaries, except as specifically provided.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22003, similar to present § 22304, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22009, as enacted Stats 1976 ch 1010 § 2.

§ 22004. Controlling effect of memorandum of understanding

If the provisions of this part are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative ac-

tion, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22004, similar to the present § 22005, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22013, as added Stats 1979 ch 1072 § 1.

§ 22005. Tax exemption

The right of a person to a pension, retirement allowance, return of contributions, any optional benefit, or any other right accrued or accruing to any person under this part is exempt from taxation, including any inheritance tax, whether state, county, municipal, or district.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22005, similar to present Ed C § 22006, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1980 ch 173 § 3, effective June 13, 1980, Stats 1981 ch 528 § 2, effective September 16, 1981, Stats 1982 ch 497 § 86, operative July 1, 1983, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22004, as enacted 1976 ch 1010 § 2.

§ 22006. Exemption from execution

The right of a person to an annuity or a retirement allowance, to the return of contributions, the annuity, or retirement allowance itself, any optional benefit, any other right or benefit accrued or accruing to any person under this part, and the moneys in the fund created under this part are not subject to execution or any other process whatsoever, except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and are unassignable except as specifically provided in this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 2 (SB 2041).

Former Sections: Former § 22006, similar to present Ed C § 22007, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 659 § 1, Stats 1982 ch 5 § 1, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22005, as enacted Stats 1976 ch 1010 § 2, amended Stats 1980 ch 173 § 3, Stats 1981 ch 528 § 2, Stats 1982 ch 497 § 86.

Amendments

1996 Amendment: Substituted "or a retirement allowance, to the return of contributions, the annuity" for ", a retirement salary, or a retirement allowance, to the return of contributions, the annuity, retirement salary" after "person to an annuity".

§ 22007. Duration of obligation

The obligations of any member, or the member's beneficiaries, to this system and the Defined Benefit Program continue throughout membership, and thereafter until all of the obligations of this system and the Defined Benefit Program to or in respect to the member or the member's beneficiaries have been discharged.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 3 (SB 2041); Stats 1999 ch 939 § 2 (SB 1074).

Former Sections: Former § 22007, similar to present Ed C § 22008, was added Stats 1982 ch 5 § 3, amended Stats 1988 ch 739 § 1, Stats 1989 ch 118 § 1, and repealed Stats 1993 ch 893 § 1.

Former § 22007, similar to the present Ed C § 22008, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 659 § 2, and repealed Stats 1982 ch 5 § 3.

Historical Derivation: Former Ed C § 22006, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 659 § 1, Stats 1982 ch 5 § 1.

Amendments

1996 Amendment: (1) Deleted "of this system" after "of any member"; and **(2)** added "and the plan" after "this system" wherever it appears.

1999 Amendment: Substituted "Defined Benefit Program" for "plan" both times it appears.

§ 22007.5. Registered domestic partner

Except as excluded by subdivision (d) of Sections 22661 and 23812, subdivision (c) of Section 24300.1, and subdivision (d) of Sections 25011.1, 25018.1, and 26807.5, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a "spouse," as defined in Section 22171.

Added by Stats 2004 ch 912 § 1 (AB 2233); Stats 2005 ch 418 § 2 (SB 973), effective January 1, 2006. Amended by Stats 2006 ch 655 § 1 (SB 1466), effective January 1, 2007.

Amendments

2005 Amendment: Deleted "any reference to a 'spouse' in this part includes" after "Sections 22661 and 23812,"; and substituted "Code, shall be treated in the same manner as a 'spouse,' as defined in Section 22171." for "Code."

2006 Amendment: (1) Added "subdivision (d) of" after "as excluded by"; **(2)** substituted "subdivision (c) of Section 24300.1, and subdivision (d) of Sections 25011.1, 25018.1, and 26807.5," for "any reference to a 'spouse' in this part includes" after "Sections 22661 and 23812,"; and **(3)** added ", shall be treated in the same manner as a 'spouse,' as defined in Section 22171" at the end.

§ 22008. Limitation of actions (Adjustments of errors and omissions)

For the purposes of payments into or out of the retirement fund for adjustments of errors or omissions with respect to the Defined Benefit Program or the Defined Benefit Supplement Program, the period of limitation of actions shall be applied, except as provided in Sections 23302 and 24613, as follows:

(a) No action may be commenced by or against the board, the system, or the plan more than three years after all obligations to or on behalf of the member, former member, beneficiary, or annuity beneficiary have been discharged.

(b) If the system makes an error that results in incorrect payment to a member, former member, beneficiary, or annuity beneficiary, the system's right to commence recovery shall expire three years from the date the incorrect payment was made.

(c) If an incorrect payment is made due to lack of information or inaccurate information regarding the eligibility of a member, former member, beneficiary, or annuity beneficiary to receive benefits under the Defined Benefit Program or Defined Benefit Supplement Program, the period of limitation shall commence with the discovery of the incorrect payment.

(d) Notwithstanding any other provision of this section, if an incorrect payment has been made on the basis of fraud or intentional misrepresentation by a member, beneficiary, annuity beneficiary, or other party in relation to or on behalf of a member, beneficiary, or annuity beneficiary, the three–year period of limitation shall not be deemed to commence or to have commenced until the system discovers the incorrect payment.

(e) The collection of overpayments under subdivisions (b), (c), and (d) shall be made pursuant to Section 24617.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 1 (AB 3032); Stats 1999 ch 939 § 3 (SB 1074); Stats 2000 ch 74 § 1 (AB 1509).

Former Sections: Former § 22008, relating to exclusion of overtime from compensation, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1981 ch 124 § 1.

Historical Derivation: (a) Former Ed C § 22007, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 659 § 2.

(b) Former Ed C § 22007, as added Stats 1982 ch 5 § 3, amended Stats 1988 ch 739 § 1, Stats 1989 ch 118 § 1.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** substituting ", the system, or plan more than" for "or the system"; and **(b)** deleting "disabilitant, retirant," after "former member,"; **(2)** substituted subds (b) and (c) for former subds (b) and (c) which read:

"(b) In cases where the system makes an error resulting in incorrect payment to a member, disabilitant, retirant, beneficiary, child, or dependent parent, the system's right to commence recovery shall expire three years from the date of payment.

"(c) In cases where payment is erroneous due to lack of information or inaccurate information regarding the eligibility of a member, disabilitant, retirant, beneficiary, child, or dependent parent to receive benefits under this part, the period of limitation shall commerce with the discovery of the erroneous payment.";

and **(3)** amended subd (d) by **(a)** substituting "if an incorrect" for "where any erroneous"; **(b)** substituting "on" for "or" after "has been made"; **(c)** deleting "disabilitant, retirant," after "by a member," and after "behalf of a member,"; and **(d)** substituting "system discovers the incorrect payment" for "discovery of the error or omissions".

2000 Amendment: (1) Added "or the Defined Benefit Supplement Program" in the introductory clause; **(2)** substituted "beneficiary, or annuity" for "or" wherever it appears; **(3)** substituted "Defined Benefit Program or Defined Benefit Supplement Program" for "plan" in subd (c); and **(4)** added "annuity beneficiary," in subd (d).

§ 22009. Severance for invalidity

If any provision of this part or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this part that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22009, similar to present § 22003, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22011, as enacted Stats 1976 ch 1010 § 2.

§ 22010. Violations; Penalties; Restitution

(a) It is unlawful for a person to do any of the following:

(1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system.

(2) Present, or cause to be presented, any knowingly false material statement or material representation for the purpose of supporting or opposing an application for any benefit administered by this system.

(3) Knowingly accept or obtain payment from this system with knowledge that the recipient is not entitled to the payment under the provisions of this part or Part 14 (commencing with Section 2600) and with the intent to retain the payment for personal use or benefit.

(4) Knowingly aid, abet, solicit, or conspire with any person to do an act prohibited by this section.

(b) For purposes of this section, "statement" includes, but is not limited to, any oral or written application for benefits, report of family relationship, report of injury or physical or mental limitation, hospital records, test results, physician reports, or other medical records, employment records, duty statements, reports of compensation, or any other evidence material to the determination of a person's initial or continued eligibility for a benefit or the amount of a benefit administered by this system.

(c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine.

(d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system, or to any other person determined by the court, for the amount of the benefit unlawfully obtained, unless the court finds that restitution, or a portion of it, is not in the interests of justice. Any restitution order imposed pursuant to this section shall be satisfied before any criminal fine imposed under this section may be collected.

(e) The provisions provided by this section are cumulative and shall not be construed as restricting the application of any other law.

Added Stats 2008 ch 369 § 2 (AB 1844), effective January 1, 2009.

Former Sections: Former § 22010, relating to dependency of surviving spouse, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1981 ch 124 § 2.

§ 22011. Signature; Valid document

For an application or document requiring a signature, that signature shall be in a form prescribed by the system, including, but not limited to, on paper or made by electronic means. Notwithstanding any other law, an application or document made under this part that is signed and submitted by the person authorized to do so using technology and security measures prescribed by the system shall be deemed to be a signed and valid original document.

Added Stats 2009 ch 90 § 2 (AB 232), effective January 1, 2010.

Former Sections: Former § 22011 as enacted by Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed by Stats 1993 ch 893 § 1. See § 22009.

CHAPTER 2. DEFINITIONS

§ 22100. Definitions to govern construction of part

Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22100, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22100, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

§ 22101. "Accumulated annuity deposit contributions"

"Accumulated annuity deposit contributions" means the sum of all the annuity deposits standing to the credit of the member's account, together with credited interest.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22101, similar to the present section, was added Stats 1993 ch 893 § 2, and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22101, similar to present § 22102, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1986 ch 717 § 1, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22101, as added Stats 1993 ch 893 § 2.

(b) Former § 22102, as enacted Stats 1976 § 1010 § 2.

§ 22101.5. "Accumulated Defined Benefit Supplement account balance" (First of two)

"Accumulated Defined Benefit Supplement account balance" means an amount equal to the sum of member contributions, the member contributions picked up by an employer, employer contributions, and interest credited on those contributions pursuant to Section 25005, that are credited by the system to the member's Defined Benefit Supplement account.

Added by Stats 2000 ch 74 § 3 (AB 1509).

§ 22101.5. "Accumulated Defined Benefit Supplement account balance" (Second of two)

"Accumulated Defined Benefit Supplement account balance" means credits equal to the sum of member contributions, the member contributions picked up by an employer, employer contributions, interest credited pursuant to Section 25005 and additional earnings credited pursuant to Section 25006.

Added by Stats 2000 ch 1021 § 1 (AB 2700).

§ 22102. "Accumulated retirement contributions"

"Accumulated retirement contributions" means the sum of the member contributions, the member contributions picked up by an employer pursuant to Sections 22903 and 22904, and credited interest on those contributions. Accumulated retirement contributions shall not include accumulated annuity deposit contributions, accumulated tax–sheltered annuity contributions, accumulated Defined Benefit Supplement account balance, or additional earnings credit.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 2000 ch 74 § 2 (AB 1509), ch 1021 § 2 (AB 2700).

Former Sections: Former § 22102, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22102, similar to present § 22101, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22101, enacted Stats 1976 ch 1010 § 2, amended Stats 1986 ch 717 § 1.

(b) Former § 22102, as added Stats 1993 ch 893 § 2.

Amendments

2000 Amendment: Substituted the section for the former section which read: " 'Accumulated retirement contributions' means the sum of all member contributions and all member contributions paid by the employer pursuant to Sections 22903 and 22904 with credited interest and does not include accumulated annuity deposit contributions and accumulated tax–sheltered annuity contributions."

§ 22103. "Accumulated tax–sheltered annuity contributions"

"Accumulated tax–sheltered annuity contributions" means the tax–sheltered contributions made by a member and standing to the credit of the member's account, together with credited interest.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22103, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22103, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

§ 22104. "Actuarial equivalent"

"Actuarial equivalent" means an allowance of equal value when computed upon the basis of such tables and interest rates that are adopted by the board.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22104, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22104, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1982 ch 5 § 4, and repealed Stats 1993 ch 893 § 1.

§ 22104.5. "Actuary"

"Actuary" means a person professionally trained in the technical and mathematical aspects of insurance, pensions, and related fields who has been appointed by the board for the purpose of actuarial services required under this part.

Added by Stats 1999 ch 939 § 4 (SB 1074).

§ 22104.7. "Additional earnings credit"

"Additional earnings credit" means an amount derived from investment income for the plan year as determined by the board by plan amendment and added to members' Defined Benefit Supplement accounts in addition to the amount credited at the minimum interest rate for that plan year.

Added by Stats 2000 ch 74 § 4 (AB 1509).

§ 22104.9. "Annuitant Reserve"

"Annuitant Reserve" means a segregated account within the retirement fund established and maintained for expenditure on annuities payable under the Defined Benefit Supplement Program.

Added by Stats 2000 ch 74 § 5 (AB 1509).

§ 22105. "Annuity"

(a) "Annuity," with respect to the Defined Benefit Program, means payments for life derived from the "accumulated annuity deposit contributions" of a member.

(b) "Annuity," with respect to the Defined Benefit Supplement Program, means an alternative payment arrangement wherein a benefit based on the balance of credits in a member's Defined Benefit Supplement account is paid monthly rather than in a lump–sum.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 2000 ch 74 § 6 (AB 1509).

Former Sections: Former § 22105, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22105, relating to annual salary, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1981 ch 124 § 3.

Historical Derivation: (a) Former § 22105, as added Stats 1993 ch 893 § 2.

(b) Former § 22106, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 870 § 1.

Amendments

2000 Amendment: (1) Designated the former section to be subd (a); **(2)** amended subd (a) by adding **(a)** the comma after "Annuity"; and **(b)** "with respect to the Defined Benefit Program,"; and **(3)** added subd (b).

§ 22105.5. "Annuity beneficiary"

"Annuity beneficiary" means the person or persons designated by a member pursuant to Section 25011, 25011.1, 25018, or 25018.1 to receive an annuity under the Defined Benefit Supplement Program upon the member's death.

Added by Stats 2000 ch 74 § 7 (AB 1509). Amended by Stats 2006 ch 655 § 2 (SB 1466), effective January 1, 2007.

Amendments

2006 Amendment: Substituted "Section, 25011.1, 25018, or 25018.1" for "or" after "pursuant to Section 25011".

§ 22106. "Annuity deposit contributions"

"Annuity deposit contributions" means additional contributions made by a member prior to July 1, 1972, above those required for credited service for the purpose of providing additional retirement income.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 2000 ch 1025 § 1 (AB 816).

Former Sections: Former § 22106, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22106, similar to present § 22105, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 870 § 1, operative July 1, 1979, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22106, as added Stats 1993 ch 893 § 2.

(b) Former § 22107, as enacted Stats 1976 ch 1010 § 2.

Amendments

2000 Amendment: Added "prior to July 1, 1972,".

§ 22106.1. "Base days"

"Base days" means the number of days of creditable service required to earn one year of service credit.

Added by Stats 1999 ch 939 § 5 (SB 1074).

§ 22106.2. "Base hours"

"Base hours" means the number of hours of creditable service required to earn one year of service credit.

Added by Stats 1999 ch 939 § 6 (SB 1074).

§ 22106.5. "Basis of employment"; "Full–time basis"; "Part–time basis"

"Basis of employment" means the standard of time over which the employer expects service to be performed by an employee in the position during the school year.

(a) "Full–time basis" means a basis of employment that is full time.

(b) "Part–time basis" means a basis of employment that is less than full time.

Added by Stats 1995 ch 390 § 1 (AB 1122), operative July 1, 1996.

§ 22107. "Beneficiary"

(a) "Beneficiary," with respect to the Defined Benefit Program, means any person or entity receiving or entitled to receive an allowance or lump–sum payment under the Defined Benefit Program because of the disability or death of a member.

(b) "Beneficiary," with respect to the Defined Benefit Supplement Program, means any person or entity receiving or entitled to receive a final benefit under the Defined Benefit Supplement Program upon the death of a member.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 4 (SB 2041); Stats 2000 ch 74 § 8 (AB 1509).

Former Sections: Former § 22107, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22107, similar to present Ed C § 22106, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22107, as added Stats 1993 ch 893 § 2.

(b) Former Ed C § 22108, enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 4.

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Beneficiary' means any person or entity receiving or entitled to receive allowances and payments pursuant to this part because of the death of a member, disabilitant, or retirant."

2000 Amendment: Substituted the section for the former section which read: " 'Beneficiary' means any person or entity receiving or entitled to receive an allowance and payment pursuant to this part because of the disability or death of a member."

§ 22108. "Benefit or benefits"

(a) "Benefit" or "benefits," with respect to the Defined Benefit Program, means any monthly payment due a retired member, disabled member, or beneficiary, and includes lump–sum payments due on account of death.

(b) "Benefit" and "benefits," with respect to the Defined Benefit Supplement Program, means an amount equal to the balance of credits in a member's Defined Benefit Supplement account.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 5 (SB 2041); Stats 2000 ch 74 § 9 (AB 1509).

Former Sections: Former § 22108, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22108, similar to present Ed C § 22107, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 4, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22108, as added Stats 1993 ch 893 § 2.

(b) Former Ed C § 22109, enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Added " 'Benefit' or" at the beginning; and **(2)** substituted "retired member, disabled member, or" for "retirant, disabilitant, or other".

2000 Amendment: (1) Designated the former section to be subd (a); **(2)** amended subd (a) by adding **(a)** the comma after "benefits"; and **(b)** "with respect to the Defined Benefit Program,"; and **(3)** added subd (b).

§ 22109. "Board"

"Board" means the Teachers' Retirement Board.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22109, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22109, similar to present § 22108, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22109, as added Stats 1993 ch 893 § 2.

(b) Former § 22110, enacted Stats 1976 ch 1010 § 2.

§ 22109.5. "Break in service"

"Break in service," for purposes of determining a member's final compensation, means:

(a) With respect to service of a member employed as a full–time employee and service performed by a member employed as a part–time employee, any period of time covering a pay period during which a member is on an unpaid leave of absence or a pay period in which a member has not performed any creditable service.

(b) For a member who has been employed in a substitute position:

(1) And has a change in assignment during a school year to a full–time or part–time position, a break in service is determined on the same basis as for the full–time or part–time employment during the same school year.

(2) For less than 50 percent of their teaching career for which service is credited, a break in service is determined on the same basis as full–time employment.

(3) For more than 50 percent of their teaching career for which service is credited, a break in service is any period of time within a school year for which compensation is not paid and service is not credited.

(c) If a member commenced performing service at the beginning of a school term, July and August of the school year are not a break in service; however, if the member commenced performing service after the school term begins, the previous July and August are a break in service.

(d) Earnable salaries for a full pay period, but not beyond the effective date of retirement, shall be used in determining final compensation when the member performed service within that pay period.

Added by Stats 1999 ch 939 § 7 (SB 1074). Amended by Stats 2003 ch 859 § 1 (SB 627).

Amendments

2003 Amendment: Substituted "leave of absence" for "leave or absence" in subd (a).

§ 22110. "California service"

"California service" means service performed in California for which credit may be given.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22110, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22110, similar to present § 22109, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22110, as added Stats 1993 ch 893 § 2.

(b) Former § 22111, enacted Stats 1976 ch 1010 § 2.

§ 22110.1. "Cash Balance Benefit Program"

"Cash Balance Benefit Program "means the benefit program of the State Teachers' Retirement Plan as set forth in Part 14 (commencing with Section 26000).

Added by Stats 1996 ch 634 § 6 (SB 2041). Amended by Stats 1998 ch 1048 § 2 (SB 2085).

Amendments

1998 Amendment: Substituted **(1)** "Cash Balance Benefit Program" for "Cash Balance Plan"; and **(2)** "benefit program of the State Teachers' Retirement Plan" for "State Teachers' Retirement System Cash Balance Plan".

§ 22110.2. "Credential," "credentials," and "certificate"

"Credential," "credentials," and "certificate" mean any life diploma, credential, certificate, or other document provided for, by, and issued pursuant to the laws of the state that authorize service in the public school system of this state.

Added by Stats 1996 ch 634 § 6.5 (SB 2041).

§ 22110.5. "Certificated"

"Certificated" means the holding by a person of a credential that is required by the laws of the state to be held as a condition to valid employment in the position in which the person is employed.

Added by Stats 1996 ch 634 § 7 (SB 2041).

§ 22111. "Child's portion" or "children's portion"

"Child's portion" or "children's portion" means the amount of a disability allowance, disability retirement allowance, family allowance, or survivor benefit allowance payable for a dependent child or dependent children.

Added by Stats 1996 ch 1165 § 3 (AB 3032).

Former Sections: Former § 22111, relating to age and circumstances of "child" or "children" under disability and family allowance programs, was added Stats 1994 ch 933 § 3, effective September 27, 1994, and repealed Stats 1996 ch 1165 § 2.

Former § 22111, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22111, similar to present § 22110, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22111, as added Stats 1994 ch 933 § 3.

(b) Former § 22111, as added Stats 1993 ch 893 § 2.

(c) Former § 22112, enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 93, Stats 1986 ch 717 § 2.

§ 22112.5. "Class of employees"

(a) "Class of employees" means a number of employees considered as a group because they are employed to perform similar duties, are employed in the same type of program, or share other similarities related to the nature of the work being performed.

(b) A class of employees may be comprised of one person if no other person employed by the employer performs similar duties, is employed in the same type of program, or shares other similarities related to the nature of the work being performed and that same class is in common use among other employers.

(c) The board shall have the right to override the determination by an employer as to whether or not a group or an individual constitutes a "class of employees" within the meaning of this section.

(d) The amendments to this section during the 1995–96 Regular Session of the Legislature shall be deemed to have become operative on July 1, 1996.

Added by Stats 1995 ch 390 § 2 (AB 1122), operative July 1, 1996. Amended by Stats 1996 ch 1165 § 5 (AB 3032), operative July 1, 1996.

Former Sections: Former § 22112.5, relating to age and characteristics of "child" or "children" under disability retirement or survivor benefit programs, was added Stats 1992 ch 1166 § 15, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Class of employees' means a number of employees considered as a group because they are employed to perform similar duties, are employed in the same type of program, or share other similarities related to the nature of the work being performed. In no event shall one employee be considered a class or group."

§ 22112.6. Days of service for classes of employees

Notwithstanding Section 22112.5, any county office of education that, prior to January 1, 1997, operated a special education program for up to 225 days, and changes that program to a regular school year of not less than 180 school days with an extended year of not more than 45 days effective July 1, 1998, may consider days of service in defining not more than two classes of employees, subject to the following:

(a) Members employed in the 225–day program prior to October 1, 1997, may remain in a class of employees for whom full–time service is 216 days per year.

(b) Any of those members may elect to belong to a second class of employees for whom full–time service is fewer than 216 days per year, but not less than the minimum standard specified in paragraph (1) of subdivision (b) of Section 22138.5, if both of the following conditions exist:

(1) The election is made on or before June 30, 1998, and is effective July 1, 1998.

(2) The election is nonrevocable.

(c) All certificated employees hired on or after October 1, 1997, shall belong to the class of employees specified in subdivision (b).

(d) This section shall not apply to certificated employees whose base year is determined pursuant to subparagraph (A) or (B) of paragraph (2) of subdivision (b) of Section 22138.5.

Added by Stats 1997 ch 572 § 1 (AB 686).

§ 22113. "Comparable level position"

"Comparable level position" means any job in which the member can earn 66⅔ percent or more of indexed final compensation.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22113, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22113, similar to present § 22115, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 430 § 1, Stats 1987 ch 76 § 1, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22113, as added Stats 1993 ch 893 § 2.

(b) Former § 22112.8, as added Stats 1992 ch 1167 § 3.

§ 22115. "Compensation earnable"

(a) "Compensation earnable" means the creditable compensation a person could earn in a school year for creditable service performed on a full-time basis, excluding service for which contributions are credited by the system to the Defined Benefit Supplement Program.

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

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

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

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

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

(A) Establish and implement factors and assumptions necessary to calculate and compare the benefits payable under the definition of compensation earnable described in this subdivision. Those factors

and assumptions may be based on information reported by the employer, including, but not limited to, all of the following:

(i) Base hours.

(ii) Actual earnings.

(iii) Compensation earnable.

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

(i) Base hours.

(ii) Actual earnings.

(iii) Compensation earnable.

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

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

Added Stats 1994 ch 933 § 5 (AB 3171), effective September 27, 1994, operative until January 1, 1995, ch 933 § 5.5 (AB 3171), effective September 27, 1994, operative January 1, 1995. Amended Stats 1995 ch 390 § 3 (AB 1122), operative July 1, 1996; Stats 1996 ch 634 § 8 (SB 2041); Stats 1997 ch 482 § 2 (SB 471); Stats 2000 ch 1021 § 3 (AB 2700), operative date contingent; Stats 2004 ch 442 § 1 (AB 1586); Stats 2005 ch 22 § 32 (SB 1108), effective January 1, 2006; Stats 2006 ch 654 § 1 (SB 1465), effective January 1, 2007; Stats 2009 ch 304 § 1 (SB 634), effective January 1, 2010.

Former Sections: Former § 22115, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 193 § 1, and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22115, similar to present Ed C § 22118, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22113, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 430 § 1, Stats 1987 ch 76 § 1.

(b) Former Ed C § 22115, as added Stats 1993 ch 893 § 2, amended Stats 1994 ch 193 § 1.

Amendments

1995 Amendment: Substituted the section for the former section which read: "(a) 'Compensation earnable' by a member means the compensation as determined by the board that would have been earned by the member if he or she were engaged in his or her duties on a full–time basis."(b) For part–time service, 'compensation earnable' means the compensation that would be earnable if the employment were on a full–time basis and the member worked full time."

1996 Amendment: Added "if that person" after "full–time basis and" in subd (a).

1997 Amendment: Added **(1)** "creditable" after "annual" in subd (a), and in subd (c) after "dividing the"; and **(2)** "in a school year" after "would earn" in subd (a).

2000 Amendment: Substituted the section for the former section which read: "(a) 'Compensation earnable' means the annual creditable compensation that a person would earn in a school year if he or she were employed on a full–time basis and if that person worked full time in that position."(b) The board may determine compensation earnable for persons employed on a part–time basis."(c) For purposes of determining final compensation for persons employed on a part–time basis, compensation earnable shall be determined by dividing the creditable compensation earned by the service credit."

2004 Amendment: (1) Substituted "0.900" for ".900" twice in subd (d); **(2)** added present subd (e); and **(3)** redesignated former subd (e) as present subd (f).

2005 Amendment: Substituted "quotient" for "product" in subd (c).

2006 Amendment: (1) Substituted present subd (e) for the former which read: "(e) For purposes of determining compensation earnable for a member employed by a community college prior to July 1, 1996, full time shall be defined pursuant to Section 22138.5 and pursuant to Section 20521 of Title 5 of the California Code of Regulations, as those provisions read on June 30, 1996, if application of that definition will increase the compensation earnable or otherwise enhance the benefits of the member."; and **(2)** deleted former subd (f), which read: "(f) The amendments to this section made during the second year of the 1999-2000 Regular Session shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001-02 fiscal year is equal to or greater than 3.5 percent. Otherwise the amendments to this section made during the second year of the 1999-2000 Regular Session shall become operative on July 1, 2003."

2009 Amendment: (1) Substituted "If service" for "When service" in subd (c); **(2)** substituted "If a member" for "When a member" in the first and third sentences of subd (d); and **(3)** added "for the class of employees," in subd (e)(3).

§ 22115.2. "Concurrent membership" (Other retirement systems, membership)

"Concurrent membership" means membership in the Defined Benefit Program by an individual who is credited with service that is not used as a basis for benefits under any other public retirement system and is also a member of the California Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco Employees' Retirement System. A member with concurrent membership shall have the right to the following:

(a) Have final compensation determined pursuant to subdivision (c) of Section 22134 or subdivision (c) of Section 22134.5.

(b) Redeposit accumulated retirement contributions pursuant to Section 23201.

(c) Apply for retirement pursuant to paragraph (2) of subdivision (a) of Section 24201.

Added by Stats 1999 ch 939 § 8 (SB 1074). Amended by Stats 2005 ch 351 § 1 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 3 (SB 1466), effective January 1, 2007.

Amendments

2005 Amendment: Deleted "City and County" before "Employees' " in the introductory paragraph.

2006 Amendment: Added "or subdivision (c) of Section 22134.5" after "subdivision (c) of Section 22134" in subd (a).

§ 22115.5. "Concurrent retirement" (Other retirement systems, retirement)

(a) "Concurrent retirement" entitles a member of the Defined Benefit Program to retire for service from the State Teachers' Retirement System and from at least one of the retirement systems with which the member has concurrent membership, as defined in Section 22115.2, on the same date or on different dates provided that the member does not perform creditable service subject to coverage under the other system or the Defined Benefit Program between the two retirement dates.

(b) A retired member who is subsequently employed in a position subject to membership in a public retirement system, specified in Section 22115.2, shall not be eligible for concurrent retirement.

Added by Stats 1999 ch 939 § 9 (SB 1074).

§ 22117. "Contribution rate for additional service credit"

"Contribution rate for additional service credit" means the contribution rate adopted by the board as a plan amendment with respect to the Defined Benefit Program for the purchase of service credit. This rate shall be based upon the most recent valuation of the plan with respect to the Defined Benefit Program and increased to include any subsequently required contribution rates designated for funding subsequent allowance increases.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 9 (SB 2041); Stats 1998 ch 965 § 2 (AB 2765).

Former Sections: Former § 22117, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22117, similar to present Ed C § 22121, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 6, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22114.5, as added Stats 1982 ch 279 § 1.

(b) Former Ed C § 22117, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted "for the purchase of" for "to purchase" after "adopted by the board" in the first sentence.

1998 Amendment: (1) Added "as a plan amendment with respect to the Defined Benefit Program" in the first sentence; and **(2)** substituted "plan with respect to the Defined Benefit Program" for "system" in the second sentence.

§ 22118. "County"; "City and county"

"County" includes "city and county."

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22118, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22118, relating to death payment, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 7, and repealed Stats 1992 ch 1166 § 2, effective September 29, 1992.

Historical Derivation: (a) Former § 22115, enacted Stats 1976 ch 1010 § 2.

(b) Former § 22118, as added Stats 1993 ch 893 § 2.

§ 22119. "County superintendent"

"County superintendent" means the county superintendent of schools.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22119, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22119, similar to present § 22124, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22116, enacted Stats 1976 ch 1010 § 2.

(b) Former § 22119, as added Stats 1993 ch 893 § 2.

§ 22119.2. "Creditable compensation"

(a) "Creditable compensation" means remuneration that is payable in cash by an employer to all persons in the same class of employees and is paid to an employee for performing creditable service. Creditable compensation shall include:

(1) Salary paid in accordance with a salary schedule or employment agreement.

(2) Remuneration that is paid in addition to salary, provided it is payable to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(3) Remuneration that is paid for the use of sick leave, vacation, and other employer-approved leave, except as provided in paragraph (4) of subdivision (c).

(4) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(5) Amounts that are deducted from a member's compensation, including, but not limited to, salary deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

(6) Any other payments the board determines to be "creditable compensation."

(b) Any creditable compensation determined by the board to have been paid for the principal purpose of enhancing a member's benefits under the plan shall not be credited under the Defined Benefit Program. Contributions on that compensation shall be credited to the Defined Benefit Supplement Program. A presumption by the board that creditable compensation was paid for the principal purpose of enhancing the member's benefits under the plan may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the board that creditable compensation was paid for the principal purpose of enhancing the member's benefits under the plan may be reversed.

(c) "Creditable compensation" does not mean and shall not include:

(1) Remuneration that is not payable in cash or is not payable to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5.

(3) Remuneration that is paid in addition to salary if it is not payable to all persons in the same class of employees in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed pursuant to paragraph (2) of subdivision (a).

(4) Remuneration that is paid for unused accumulated leave.

(5) Annuity contracts, tax-deferred retirement plans, or insurance programs and contributions to plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code when the cost is covered by an employer and is not deducted from the member's salary.

(6) Fringe benefits provided by an employer.

(7) Job-related expenses paid or reimbursed by an employer.

(8) Severance pay or compensatory damages or money paid to a member in excess of salary as a compromise settlement.

(9) Any other payments the board determines not to be "creditable compensation."

(d) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a) or (c) may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(e) For purposes of this section, remuneration shall be considered payable if it would be paid to any person who meets the qualifications or requirements specified in a collective bargaining agreement or an employment agreement as a condition of receiving the remuneration.

(f) This definition of "creditable compensation" reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member's career, consistent treatment of compensation among an entire class

of employees, preventing adverse selection, and excluding from compensation earnable remuneration that is paid for the principal purpose of enhancing a member's benefits under the plan. The board shall determine the appropriate crediting of contributions between the Defined Benefit Program and the Defined Benefit Supplement Program according to these principles, to the extent not otherwise specified pursuant to this part.

(g) The section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

Added Stats 2000 ch 1021 § 5 (AB 2700), operative date contingent. Amended Stats 2010 ch 207 § 1 (AB 2260), effective January 1, 2011; Stats 2012 ch 864 § 1 (AB 2663), effective January 1, 2013.

Former Sections: There was another section of this number, similar to the present section, which was added Stats 1996 ch 1165 § 7, operative July 1, 1996, amended Stats 1997 ch 482 § 3, Stats 1999 ch 939 § 10, Stats 2000 ch 1021 § 4, Stats 2001 ch 803 § 1, operative term contingent, and repealed, operative January 1, 2004, by its own terms.

Historical Derivation: Former Ed C § 22114, as added Stats 1994 ch 933 § 3.

Amendments:

2010 Amendment: Deleted "shall reimburse the plan for benefit overpayments that occur because of that inconsistent reporting and" after "subdivision (a) or (c)" in the first sentence of subd (d).

2012 Amendment: Substituted **(1)** "provided" for "providing" in subd (a)(2); and **(2)** "creditable compensation" for "salary or other remuneration" wherever it appears in subd (b).

Notes of Decisions

Decisions Under Former Ed C § 22114

In separate actions involving calculation of retirement allowances for two members of the State Teachers' Retirement System (STRS) who each held two full-time teaching positions simultaneously, the employees were not entitled to allowances under the State Teachers' Retirement Law (Ed. Code, § 22000 et seq.) based on both full-time jobs. The allowances had to be based on the aggregate of their salaries up to the equivalent of a single, full-time job carrying the highest compensation. The State Teachers' Retirement Law limits the total service credit a member may earn by using one full-time position as the yardstick. Excess earnings are "overtime" (Ed. Code, § 22151) and are not included in the definition of compensation (Ed. Code, § 22114, subd. (b)(2)). The logic of this construction is supported by the fact that contributions in excess of what is creditable to retirement must be reimbursed at retirement (Ed. Code, § 22906). Such an interpretation did not deny one employee due process and equal protection, notwithstanding that he worked for a school district that allowed fewer credited hours in a week and year than other districts. The same calculation was employed for all teachers in the same category. Basing benefits on the aggregate of the salaries up to the equivalent of a single, full-time job not only comports with the language of the State Teachers' Retirement Law, the application of that law by STRS, and Ed. Code, former § 23402 (a measure to make the retirement fund solvent), but achieves the ends to which the law is aimed—to provide a substantial or reasonable pension while assuring adequate funding. O'Connor v. State Teachers' Retirement System (1996, Cal App 2d Dist) 43 Cal App 4th 1610, 51 Cal Rptr 2d 540, 1996 Cal App LEXIS 273, review denied L. Edmund Kellogg v. State Teachers' Retirement Sys. (1996, Cal) 1996 Cal LEXIS 3711.

§ 22119.3. "Creditable compensation"

(a) "Creditable compensation" for members who are subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1 of the Government Code) shall not mean and shall not include any compensation that is excluded from the definition of pensionable compensation pursuant to Section 7522.34 of the Government Code.

(b) Creditable compensation credited to the Defined Benefit Plan shall be consistent with requirements for pensionable compensation pursuant to Section 7522.34 of the Government Code.

(c) Notwithstanding subdivision (a), member and employer contributions, exclusive of contributions pursuant to Section 22951, on creditable compensation for creditable service that exceeds one year in a school year shall be credited to the Defined Benefit Supplement Program.

Added Stats 2012 ch 296 § 1 (AB 340), effective January 1, 2013.

§ 22119.5. "Creditable service"

(a) "Creditable service" means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code or under the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges or under the provisions of an approved charter for the operation of a charter school for which the employer is eligible to receive state apportionment or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training:

(1) The work of teachers, instructors, district interns, and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupation programs, child care centers, and prekindergarten programs pursuant to Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of directors, coordinators, and assistant administrators who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.

(4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to school curriculum.

(5) The examination, selection, in–service training, or assignment of teachers, principals or other similar personnel involved in the instructional program.

(6) School activities related to, and an outgrowth of, the instructional and guidance program of the school when performed in addition to other activities described in this section.

(7) The work of nurses, physicians, speech therapists, psychologists, audiometrists, audiologists, and other school health professionals.

(8) Services as a school librarian.

(9) The work of employees who are responsible for the supervision of persons or administration of the duties described in this section.

(b) "Creditable service" also means the work of superintendents of California public schools.

(c) The board shall have final authority for determining creditable service to cover any activities not already specified.

Added by Stats 1995 ch 394 § 1 (AB 948), effective August 11, 1995, ch 592 § 1 (AB 1298). Amended by Stats 1996 ch 608 § 1 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 2002 ch 375 § 1 (AB 2982).

Amendments

1996 Amendment: (1) Added "or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training" at the end of the introductory clause of subd (a); **(2)** substituted "school health professionals" for "supervised employees in the school health program" in subd (a)(7); **(3)** deleted "county and district superintendents and other" after "work of" in subd (a)(9); **(4)** added subd (b); **(5)** redesignated former subd (b) to be subd (c); and **(6)** added "already" in subd (c).

2002 Amendment: Deleted "within the hours considered normal on a full–time basis for full–time employees of the employer" at the end of subd (a)(6).

§ 22120. "Credited interest"

"Credited interest" means interest that is credited to active members' and inactive members', accumulated retirement contributions, and accumulated annuity deposit contributions at a rate set annually by the board as a plan amendment with respect to the Defined Benefit Program.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 10 (SB 2041); Stats 1998 ch 965 § 3 (AB 2765).

Former Sections: Former § 22120, similar to present Ed C § 22121, was added Stats 1993 ch 893 § 2, and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22120, relating to definition of disabilitant, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 10, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22141, as added Stats 1993 ch 893 § 2.

(b) Former Ed C § 22141.5, as added Stats 1977 ch 36 § 411, amended and renumbered by Stats 1977 ch 37 § 5.

(c) Former Ed C § 22146, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "means" for "is".

1998 Amendment: (1) Added "active" after "credited to"; **(2)** substituted "and inactive members', accumulated retirement contributions, and accumulated annuity deposit contributions" for "accounts"; and **(3)** added "as a plan amendment with respect to the Defined Benefit Program".

§ 22121. "Credited service"

(a) "Credited service" means service for which the required contributions have been paid.

(b) "Credited service" for the limited purpose of determining eligibility for benefits pursuant to Section 22134.5, 24203.5, or 24203.6 also includes up to two-tenths of one year of service granted pursuant to Section 22717.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1998 ch 965 § 4 (AB 2765); Stats 2004 ch 911 § 1 (SB 102); Stats 2006 ch 538 § 97 (SB 1852), effective January 1, 2007.

Former Sections: Former § 22121, similar to present Ed C § 22122, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22121, similar to present Ed C § 22127, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 11, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22117, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 6.

(b) Former Ed C § 22120, as added Stats 1993 ch 893 § 2.

Amendments

1998 Amendment: Deleted "and shall be used in determining a member's eligibility for any allowance provided by this part" at the end.

2004 Amendment: (1) Designated the former section to be subd (a); and **(2)** added subd (b).

2006 Amendment: Substituted "eligibility" for "eligibilty" after "purpose of determining" in subd (b).

§ 22122. "Custodian"

"Custodian" as used in Section 22359, means any bank or trust company that serves as custodian for safekeeping, delivery, securities valuation, investment performance reporting, and other services in connection with investment of the fund.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 11 (SB 2041).

Former Sections: Former § 22122, similar to present Ed C § 22123, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22122, similar to present Ed C § 22126, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 95, effective April 29, 1977, operative April 30, 1977, Stats 1978 ch 502 § 1, Stats 1980 ch 757 § 1, Stats 1992 ch 1167 § 4, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22117.5, as added Stats 1987 ch 330 § 3 as Ed C § 22132.7, renumbered by Stats 1988 ch 382 § 2.

(b) Former Ed C § 22121, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted "means" for "is" after "Section 22359,".

§ 22122.4. "Death payment"

"Death payment" means the amount payable upon the death of a member pursuant to Section 23801, 23851, or 23880.

Added by Stats 1996 ch 634 § 12 (SB 2041).

§ 22122.5. "Defined Benefit Program"

"Defined Benefit Program "means the Defined Benefit Program provided in the State Teachers' Retirement Plan as set forth in this part.

Added by Stats 1996 ch 634 § 13 (SB 2041). Amended by Stats 1998 ch 1048 § 3 (SB 2085).

Amendments

1998 Amendment: Substituted **(1)** "Program" for "Plan" the first time it appears; and **(2)** "Defined Benefit Program provided in the State Teachers' Retirement Plan" for "State Teachers' Retirement System Defined Benefit Plan".

§ 22122.7. "Defined Benefit Supplement contributions"

"Defined Benefit Supplement contributions" means member contributions and employer contributions that are credited by the system to the member's Defined Benefit Supplement account pursuant to Section 25004.

Added by Stats 2000 ch 74 § 10 (AB 1509).

§ 22123. "Dependent child" under disability allowance and family allowance programs

(a) "Dependent child" or "dependent children" under the disability allowance and family allowance programs means a member's unmarried offspring or stepchild who is under 22 years of age and who is financially dependent upon the member on the effective date of the member's disability allowance or the date of the member's death.

(b) "Offspring" shall include the member's child who is born within the 10-month period commencing on the earlier of the member's disability allowance effective date or the date of the member's death.

(c) "Offspring" shall include a child adopted by the member.

(d) "Dependent child" shall not include the member's offspring or stepchild who is adopted by a person other than the member's spouse.

(e) "Dependent child" under the family allowance program shall not include:

(1) The member's offspring or stepchild who was financially dependent on the member on the date of the member's death if a disability allowance was payable to the member prior to his or her death and the disability allowance did not include an amount payable for that offspring or stepchild.

(2) A stepchild or adopted child acquired subsequent to the death of the member.

(f) "Financially dependent" for purposes of this section means that at least one-half of the child's support was being provided by the member on the member's disability allowance effective date or the date of the member's death. The system may require that income tax records or other data be submitted to substantiate the child's financial dependence. In the absence of substantiating documentation, the system may determine that the child was not dependent on the effective date of the member's disability allowance or the date of the member's death.

(g) "Member" as used in this section shall have the same meaning specified in Section 23800.

Added by Stats 1996 ch 1165 § 9 (AB 3032). Amended by Stats 2001 ch 802 § 1 (SB 499); Stats 2006 ch 655 § 4 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22123, defining "dependent child", was added Stats 1994 ch 933 § 3, effective September 27, 1994, and repealed Stats 1996 ch 1165 § 8.

Former § 22123, similar to present § 22124, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22123, similar to present § 22130, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22118.5, as added Stats 1992 ch 1167 § 3.

(b) Former § 22122, as added Stats 1993 ch 893 § 2.

(c) Former Ed C § 22123, as added Stats 1994 ch 933 § 3.

(d) Former Ed C § 23806, as enacted Stats 1976 ch 1010 § 2.

(e) Former Ed C § 23808, as added Stats 1993 ch 893 § 2.

Amendments

2001 Amendment: Deleted former subd (h) which read: "(h) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date."

2006 Amendment: Substituted "under" for "not older than" after "stepchild who is" in subd (a).

§ 22123.5. "Dependent child" under disability retirement and survivor benefit allowance programs

(a) "Dependent child" or "dependent children" under the disability retirement and survivor benefit allowance programs means a member's offspring or stepchild who is under 21 years of age and who is financially dependent upon the member on the effective date of the member's disability retirement or the date of the member's death.

(b) "Offspring" shall include the member's child who is born within the 10-month period commencing on the earlier of the member's disability retirement effective date or the date of the member's death.

(c) "Offspring" shall include a child adopted by the member.

(d) "Dependent child" shall not include the member's offspring or stepchild who is adopted by a person other than the member's spouse.

(e) "Dependent child" under the survivor benefit allowance program shall not include a stepchild or adopted child acquired subsequent to the death of the member.

(f) "Financially dependent" for purposes of this section means that at least one-half of the child's support was being provided by the member on the member's disability retirement effective date or the date of the member's death. The system may require that income tax records or other data be submitted to substantiate the child's financial dependence. In the absence of substantiating documentation, the system may determine that the child was not dependent on the effective date of the member's disability retirement or the date of the member's death.

(g) "Member" as used in this section shall have the same meaning specified in Section 23850.

Added by Stats 1996 ch 1165 § 10 (AB 3032). Amended by Stats 2006 ch 655 § 5 (SB 1466), effective January 1, 2007.

Amendments

2006 Amendment: Substituted "under" for "not older than" after "stepchild who is" in subd (a).

§ 22124. "Dependent parent"

"Dependent parent" means a natural parent of a member, or a parent who adopted the member prior to the earlier of the occurrence of the member's marriage or his or her attaining 18 years of age, and who was receiving one–half or more of his or her support from the member at the time of the member's death.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 14 (SB 2041).

Former Sections: Former § 22124, similar to present Ed C § 22125, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22124, similar to present Ed C § 22131, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22119, enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22123, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Added "or more" after "receiving one–half".

§ 22126. "Disability" or "disabled"

"Disability" or "disabled" means any medically determinable physical or mental impairment that is permanent or that can be expected to last continuously for at least 12 months, measured from the onset of the disability, but no earlier than the day following the last day of actual performance of service that prevents a member from performing the member's usual duties for the member's employer, the member's usual duties for the member's employer with reasonable modifications, or the duties of a comparable level position for which the member is qualified or can become qualified within a reasonable period of time by education, training, or experience. Any impairment from a willful self-inflicted injury shall not constitute a disability.

Added Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended Stats 1996 ch 634 § 16 (SB 2041); Stats 2010 ch 207 § 2 (AB 2260), effective January 1, 2011.

Former Sections: Former § 22126, similar to present Ed C § 22127, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22126, similar to present Ed C § 22133, was enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 12, Stats 1992 ch 1166 § 3, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22122, enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 95, Stats 1978 ch 502 § 1, Stats 1980 ch 757 § 1, Stats 1992 ch 1167 § 4.

(b) Former Ed C § 22125, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted "service" for "on–the–job performance" after "following the last day of" in the first sentence.

2010 Amendment: Added "actual performance of" in the first sentence.

Notes of Decisions

Decisions Under Current Law

1. Generally

Where a representative of the California State Teachers' Retirement Board (CalSTRS) misled a teacher about the eligibility requirements for disability retirement benefits, the teacher's 2005 application for disability benefits, arising from a 1998 attack by students, should have been remanded to CalSTRS to decide whether to exercise its power to relieve the teacher from the consequences of the late-filed application, including her inability to prove that she was disabled within the meaning of Ed C § 22126. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

Decisions Under Former Ed C § 22122

An elementary school teacher who suffered from severe asthma and chronic bronchitis was disabled within the meaning of Ed. Code, § 22122 (State Teachers' Retirement Law), which provides that "disability" or "disabled" means any medically determinable physical or mental impairment which is permanent and prevents a member from performing his usual duties for his employer, where the teacher's usual and customary duties exposed her to the rampant infectious agents harbored by small children. Although the teacher was physically capable to perform her duties, it would have been medically unwise and would have exposed her to a serious health risk. Wolfman v. Board of Trustees (1983, Cal App 4th Dist) 148 Cal App 3d 787, 196 Cal Rptr 395, 1983 Cal App LEXIS 2353.

Under Ed. Code, § 22122, providing an individual is considered "disabled" if he or she suffers from a physical or mental impairment, the term "impairment" is no different from the term "incapacity" as used in Gov. Code, § 21022, which has been defined as a substantial inability of the applicant to perform his or her usual duties. Swehla v. Teachers' Retirement Bd. (1987, Cal App 5th Dist) 192 Cal App 3d 1088, 237 Cal Rptr 789, 1987 Cal App LEXIS 1839.

On a petition for writ of mandate by a permanently injured physical education teacher, to compel the Teachers' Retirement Board to grant her a disability allowance, the trial court properly ordered the board to either grant disability benefits or require the teacher to participate in a rehabilitation program to enable her to perform teaching duties, under former Ed C § 23905, allowing for rehabilitation of disabled teachers, where the teacher was disabled within the meaning of Ed C § 22122, allowing a disability allowance for permanently disabled teachers. Abshear v. Teachers' Retirement Board (1991, Cal App 2d Dist) 231 Cal App 3d 1629, 282 Cal Rptr 833, 1991 Cal App LEXIS 769.

§ 22127. "Disability allowance"

"Disability allowance" means the amount payable to a disabled member on a monthly basis.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 17 (SB 2041).

Former Sections: Former § 22127, similar to present Ed C § 22128, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22127, similar to present Ed C § 22134, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 96, effective April 29, 1977, operative April 30, 1977, Stats 1979 ch 430 § 3, Stats 1982 ch 782 § 1, Stats 1992 ch 1166 § 4, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22121, enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 11.

(b) Former Ed C § 22126, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: "'Disability allowance' means monthly amounts payable to a disabilitant."

Notes of Decisions

Teacher retirement unmodified allowance of former Ed C § 24000, and average monthly compensation under Ed C § 22127, and the fixed allowance for the combined lives of the retiree and his beneficiary under former Ed C § 24200(a), violated Title VII of the Civil Rights Act of 1964 on the basis of sex. Under the plan men could not be paid lower monthly benefits simply because men as a class lived shorter lives than women. Probe v. State Teachers' Retirement System (1986, 9th Cir Cal) 780 F2d 776, 1986 US App LEXIS 21239, cert den (1986) 476 US 1170, 90 L Ed 2, 106 S Ct 2891, 1986 US LEXIS 1638.

§ 22127.2. "Disability benefit"

"Disability benefit" means the amount payable under the Defined Benefit Supplement Program based on the balance of credits in a member's Defined Benefit Supplement account to either a disabled member pursuant to Section 24005 or to a member who retired for disability pursuant to Section 24105.

Added by Stats 2000 ch 74 § 11 (AB 1509).

§ 22128. "Early retirement" and "early retirement age"

"Early retirement" and "early retirement age" mean the age of 55 years, which is the age upon attainment of which the member becomes eligible under the Defined Benefit Program for a service retirement allowance with reduction because of age and without special qualifications.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 18 (SB 2041); Stats 1999 ch 939 § 11 (SB 1074); Stats 2000 ch 1025 § 2 (AB 816).

Former Sections: Former § 22128, similar to present Ed C § 22129, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22128, relating to definition of full time student, was added Stats 1977 ch 199 § 2 and repealed Stats 1993 ch 893 § 1.

Former § 22128, relating to definition of full time student, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1977 ch 199 § 1.

Historical Derivation: (a) Former Ed C § 22127, as added Stats 1993 ch 893 § 2.

(b) Former Ed C § 22134.6, as added Stats 1987 ch 330 § 5.

Amendments

1996 Amendment: Substituted "mean age 55 years which" for "means 55 years and".

2000 Amendment: Added "under the Defined Benefit Program".

§ 22129. "Educational institution"

"Educational institution" means any accredited public or private institution whose primary purpose is to provide classroom teaching and includes a high school, trade or vocational school or college, community college, or other college or university.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 19 (SB 2041).

Former Sections: Former § 22129, similar to present Ed C § 22136, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, repealed and added Stats 1993 ch 893 §§ 1, 2 (ch 860 prevails), amended Stats 1993 ch 860 § 1, and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Historical Derivation: (a) Former Ed C § 22128, as added Stats 1993 ch 893 § 2.

(b) Former Ed C § 22130, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "means" for "is" after " 'Educational institution' ".

§ 22130. "Effective date"

"Effective date" means the date upon which the benefit becomes payable.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 20 (SB 2041).

Former Sections: Former § 22130, similar to present Ed C § 22131, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22130, similar to present Ed C § 22129, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22123, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Effective date' means the date stated in the application upon and continuously after which, should death occur, the member is considered a retirant or disabilitant."

§ 22131. "Employer" or "employing agency"

"Employer" or "employing agency" means the state or any agency or political subdivision thereof for which creditable service subject to coverage by the plan is performed.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 21 (SB 2041).

Former Sections: Former § 22131, similar to present Ed C § 22132, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22131, similar to present Ed C § 22140, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22124, enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22130, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted "for which creditable service subject to coverage by the plan is performed" for "by whom a member is paid".

§ 22132. "Employed"; "Employment"

"Employed" or "employment" means employment to perform creditable service subject to coverage under the Defined Benefit Program or the Defined Benefit Supplement Program, except as otherwise specifically provided under this part.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 21.5 (SB 2041); Stats 1998 ch 965 § 5 (AB 2765); Stats 2000 ch 74 § 12 (AB 1509).

Former Sections: Former § 22132, similar to present Ed C § 22134, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22132, similar to present Ed C § 22145, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22125, enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22131, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Employment' means employment in a position requiring membership in the system."

2000 Amendment: Substituted "under the Defined Benefit Program or the Defined Benefit Supplement Program" for "by the State Teachers' Retirement Defined Benefit Program".

§ 22133. "Family allowance"

"Family allowance" means amounts payable to eligible survivors provided pursuant to Chapter 22 (commencing with Section 23800) after June 30, 1972.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22133, similar to present § 22134, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22133, similar to present § 22146, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22126, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 12, Stats 1992 ch 1166 § 3.

(b) Former § 22132, as added Stats 1993 ch 893 § 2.

§ 22133.5. "Final benefit"

"Final benefit" means the amount payable to a beneficiary under the Defined Benefit Supplement Program upon the death of the member.

Added by Stats 2000 ch 74 § 13 (AB 1509).

§ 22134. "Final compensation" (Three-year)

(a) "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive school years while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in any other retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of any other system, provided that both of the following exist:

(1) Service under any other system was not performed during the same pay period with service under the Defined Benefit Program.

(2) Retirement under the Defined Benefit Program is concurrent with the member's retirement under any other system.

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

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

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

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

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 1165 § 11 (AB 3032); Stats 1997 ch 482 § 4 (SB 471); Stats 1998 ch 1077 § 1 (SB 610); Stats 1999 ch 939 § 12 (SB 1074); Stats 2004 ch 912 § 2 (AB 2233); Stats 2005 ch 351 § 2 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 6 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22134, similar to present Ed C § 22142, was added Stats 1993 ch 893 § 2, and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22134, similar to present Ed C § 22147, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22127, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 96, Stats 1979 ch 430 § 3, Stats 1982 ch 782 § 1, Stats 1992 ch 1166 § 4.

(b) Former Ed C § 22133, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: (1) Substituted "plan" for "system" wherever it appears; **(2)** substituted "while an active member of the plan" for "during his or her membership in the system" in subd (a); **(3)** deleted "the" before "purposes of this section" in subd (b); and **(4)** substituted "children's portions of" for "the children's increment of the".

1997 Amendment: (1) Added "school" after "consecutive" in subd (a); and **(2)** substituted "compensation earnable" for "earnable salaries" in subd (f).

1998 Amendment: (1) Substituted "Defined Benefit Program" for "plan" both times it appears in the first sentence of subd (a); and **(2)** added "county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code," in the introductory clause of subd (c).

1999 Amendment: (1) Substituted "has concurrent membership in another retirement system pursuant to Section 22115.2" for "is also a member of the Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco City and County Employees' Retirement System" in subd (c); **(2)** deleted "of" after "district or" in subd (c)(1); **(3)** substituted "the Defined Benefit Program" for "this plan" in subds (c)(2) and (c)(3); **(4)** amended subd (d) by substituting **(a)** "was" for "is" after "California service"; and **(b)** "Section 23805" for "Section 23804" at the end; and **(5)** substituted "bears" for "has" in the second sentence of subd (f).

2004 Amendment: Substituted "during the same pay period" for "concurrently" in subd (c)(2).

2005 Amendment: Deleted the last sentence of subd (a) which read: "The last three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.".

2006 Amendment: (1) Amended the introductory clause of subd (c) by substituting **(a)** "any other" for "another" after "concurrent membership in"; and **(b)** "any other system, provided that both" for "the other system, provided that all"; **(2)** deleted former subd (c)(1) which read: "(1) The member was in state service or in the employment of a local school district or a county superintendent of schools."; **(3)** redesignated former subds (c)(2) and (c)(3) to be subds (c)(1) and (c)(2); and **(4)** substituted "any" for "the" after "Service under" in subd (c)(1), and after "member's retirement under" in subd (c)(2).

§ 22134.5. Determination of final compensation (One-year)

(a) Notwithstanding Section 22134, "final compensation" means the highest average annual compensation earnable by a member during any period of 12 consecutive months while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of 12 consecutive months, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who has concurrent membership in any other retirement system pursuant to Section 22115.2 shall take into consideration the compensation earnable while a member of any other system, provided that both of the following exist:

(1) Service under any other system was not performed during the same pay period with service under the Defined Benefit Program.

(2) Retirement under the Defined Benefit Program is concurrent with the member's retirement under any other system.

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

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

(f) This section shall apply to the following:

(1) A member who has 25 or more years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22714.5.

(C) Section 22715.

(D) Section 22717, except as provided in subdivision (b) of Section 22121.

(E) Section 22826.

(2) A nonmember spouse, if the member had 25 or more years of credited service, as calculated in paragraph (1), on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

Added by Stats 2000 ch 1028 § 1 (AB 821). Amended by Stats 2003 ch 313 § 3 (AB 1207); Stats 2004 ch 911 § 2 (SB 102) (ch 911 prevails), ch 912 § 3 (AB 2233); Stats 2005 ch 351 § 3 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 7 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22135.5, similar to present Ed C § 22148, was added Stats 1977 ch 659 § 3, amended Stats 1987 ch 330 § 4, and repealed Stats 1993 ch 893 § 1.

Amendments

2003 Amendment: Added "22714.5," in both sentences of subd (g).

2004 Amendment: (1) Substituted "during the same pay period" for "concurrently" in (c)(2); **(2)** deleted former subd (d) which read: "The compensation earnable for the first position in which California service was credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Section 23805."; **(3)** redesigned former subds (d) through (f) as subd (c) through (g); **(4)** substituted "shall apply to the following:" for "shall only apply to:"; **(5)** added the subdivision designations (f)(1), (f)(1)(A) through (f)(1)(E); **(6)** added the designation of subdivision (f)(2); and **(7)** amended (f)(2) by **(a)** deleting "Section 22714, 22714.5, 22715, 22717, or 22826, but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. This section also shall apply to"; **(b)** adding "25 or more"; **(c)** deleting "at least 25" before "years"; and **(d)** substituting "as calculated in paragraph (1)," for "excluding service credited pursuant to Section 22714, 22714.5, 22715, 22717, or 22826,".

2005 Amendment: Deleted the last sentence of subd (a) which read: "The last consecutive 12-month period of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.".

2006 Amendment: (1) Amended the introductory clause of subd (c) by substituting **(a)** "any other" for "another" after "concurrent membership in"; and **(b)** "any other system, provided that both" for "the other system, provided that all"; **(2)** deleted former subd (c)(1) which read: "(1) The member was in state service or in the employment of a local school district or a county superintendent of schools."; **(3)** redesignated former subds (c)(2) and (c)(3) to be subds (c)(1) and (c)(2); and **(4)** substituted "any" for "the" after "Service under" in subd (c)(1), and after "member's retirement under" in subd (c)(2).

§ 22135. "Final compensation" by classroom teacher

(a) Notwithstanding subdivisions (a) and (b) of Section 22134, "final compensation" means the highest average annual compensation earnable by an active member who is a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the plan's Defined Benefit Program.

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

(c) As used in this section, "classroom teacher" means any of the following:

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

(2) Other certificated personnel who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, 60 percent or more of their contract time each year providing direct services to pupils, including, but not limited to, librarians, counselors, nurses, speech therapists, resource specialists, audiologists, audiometrists, hygienists, optometrists, psychologists, driver safety instructors, and personnel on special assignment to perform school attendance and adjustment services.

(d) As used in this section, "classroom teacher" does not include any of the following:

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

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

(3) Certificated employees who serve as advisers, coordinators, consultants, or developers or planners of curricula, instructional materials, or programs, who spend, during the last 10 years of their em-

ployment with the same employer that immediately precedes their retirement, less than 60 percent of their contract time in direct instruction.

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

(5) Classified employees.

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

(f) The written agreement shall include a mechanism to pay for all increases in allowances provided for by this section through employer contributions or employee contributions or both, which shall be collected and retained by the employer in a trust fund to be used solely and exclusively to pay the system for all increases in allowances provided by this section and related administrative costs; and a mechanism for disposition of the employee's contributions if employment is terminated before retirement, and for the establishment of a trust fund board. The trust fund board shall administer the trust fund and shall be composed of an equal number of members representing classroom teachers chosen by the bargaining agent and the employer. If the employer agrees to pay the total cost of increases in allowances, the establishment of a trust fund and a trust fund board shall be optional to the employer. The employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund the amount determined by the Teachers' Retirement Board to be the actuarial equivalent of the difference between the allowance the member or beneficiary receives pursuant to this section and the allowance the member or beneficiary would have received if the member's final compensation had been computed under Section 22134 and the proportionate share of the cost to the plan's Defined Benefit Program, as determined by the Teachers' Retirement Board, of administering this section. The payment shall include the cost of all increases in allowances provided for by this section for all years of service credited to the member as of the benefit effective date. Interest shall be charged at the regular interest rate for any payment not received within 30 days of receipt of the invoice. Payments not received within 30 days after receipt of the invoice may be collected pursuant to Section 23007.

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

(h) An employer that agrees to become subject to this section, shall, on a form and within the timeframes prescribed by the system, certify the applicability of this section to a member pursuant to the criteria set forth in this section when a retirement, disability, or family allowance becomes payable.

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

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 383 § 1 (AB 3221); Stats 1999 ch 939 § 13 (SB 1074); Stats 2004 ch 912 § 4 (AB 2233); Stats 2005 ch 351 § 4 (AB 224), effective January 1, 2006.

Former Sections: Former § 22135, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22135, similar to present § 22151, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22127.1, as added Stats 1989 ch 1184 § 1, amended Stats 1990 ch 83 § 1, and amended Stats 1991 ch 543 § 3.

(b) Former § 22135, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: (1) Substituted "an active" for "a" after "compensation earnable by" in subd (a); **(2)** substituted "plan" for "system" after "membership in the" in subd (a) and after "cost to the" in the fourth sentence of subd (f); **(3)** added "collectively" in the last sentence of subd (b)(1); **(4)** amended subd (f) by **(a)** deleting "benefits and" before "allowances" in the first and fifth sentences; **(b)** substituting "allowances" for "benefits and "allowance" in the first sentence; **(c)** substituting "increass in allowances" for "the benefit improvement" in the third sentence; **(d)** substituting "retirement fund" for "system" in the fourth sentence; **(e)** deleting "equal to" after "Board to be" in the fourth sentence; and **(f)** deleting "the" after "30 days of" in the 6th sentence; **(5)** amended subd (g) by substituting **(a)** "a member" for "in" after "employers, who is"; **(b)** "Section 22508" for "Section 22509"; **(c)** "60 days" for "90 days"; and **(d)** "plan" for "system" in the last sentence; **(6)** substituted "applicability of this section to a member pursuant to the criteria set forth in this section when a retirement, disability, or family allowance becomes payable" for "eligibility of an employee, upon retirement or eligibility for a disability or family allowance, pursuant to the criteria set forth in this section" in subd (h); and **(7)** substituted "retirement fund" for "system" after "shall reimburse the" in subd (i).

1999 Amendment: (1) Substituted "plan's Defined Benefit Program" for "plan" at the end of the first sentence of subd (a), in the fourth sentence of subd (f), and at the end of the first sentence of subd (g); **(2)** amended the second sentence of subd (c)(1) by **(a)** deleting the comma after "illness"; and **(b)** substituting "service" for "employment" at the end; **(3)** substituted "; and" for the comma after "administrative costs" in the first sentence of subd (f); **(4)** substituted "the Defined Benefit Program" for "this plan" in the second sentence of subd (g); and **(5)** substituted "payments" for "payments" in the third sentence of subd (i).

2004 Amendment: Substituted "highest average annual compensation" for "highest annual compensation" in the first sentence of subd (a).

2005 Amendment: Deleted the last sentence of subd (a) which read: "The last 12 consecutive months of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.".

§ 22136. "Final compensation" when salary has been reduced

(a) "Final compensation" with respect to a member whose salary while an active member was reduced because of a reduction in school funds means the highest average annual compensation earnable by the member during any three years while employed to perform creditable service subject to coverage by the Defined Benefit Program if the member elects to be subject to this section.

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

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 22 (SB 2041); Stats 1999 ch 939 § 14 (SB 1074).

Former Sections: Former § 22136, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22136, similar to present Ed C § 22150, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 502 § 2, Stats 1981 ch 124 § 14, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22129, as enacted Stats 1976 ch 1010 § 2, repealed and added Stats 1993 ch 893 §§ 1, 2, amended Stats 1993 ch 860 § 1.

(b) Former Ed C § 22136, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Amended subd (a) by substituting **(1)** "while an active member was" for "has been" after "member whose salary"; and **(2)** "while employed to perform creditable service subject to coverage by the plan" for "during his or her membership in the system" after "any three years".

1999 Amendment: Substituted "Defined Benefit Program" for "plan" in subd (a).

§ 22137. "Final compensation" of managerial or supervisory employee

With respect to a state employee member who dies or retires on or after July 1, 1991, and who was a managerial or supervisory employee, as defined by subdivisions (e) and (g) of Section 3513 of the Government Code, whose monthly salary range was administratively reduced by 5 percent because of the salary range reductions administratively imposed upon managers and supervisors during the 1991–92 fiscal year, "final compensation" means the highest annual compensation the state employee member would have earned had his or her salary range not been reduced by the 5–percent reduction. This section shall only apply if the period during which the state member's salary was reduced would have otherwise been included in determining his or her final compensation for retirement purposes. The costs, if any, that may result from the use of the higher final compensation shall be paid for by the employer at the time of retirement in a manner prescribed by the system.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22137, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22137, similar to present § 22152, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22127.3, as added Stats 1992 ch 1372 § 6.

§ 22138. "Final vesting"

"Final vesting" means the right of a member or a beneficiary to receive a monthly retirement allowance, disability allowance, a family benefit, or survivor benefits when the member has completed the minimum number of years of credited service, has attained the minimum specified age, has formally terminated his or her active service, has made application for retirement, or has been formally retired in accordance with Section 24201, after which the kind and amount of the retirement allowance is fixed and cannot thereafter be changed except as provided in this part.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22138, relating to definition of "full–time student", was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22138, relating to definition of "part–time basis with respect to service", was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22159, enacted Stats 1976 ch 1010 § 2.

(b) Former § 22172, as added Stats 1993 ch 893 § 2.

§ 22138.5. "Full–time"; Minimum standard for kindergarten through grade 12; Minimum standard for community colleges (First of two; Inoperative July 1, 2013; Repealed January 1, 2014)

(a) "Full time" means the days or hours of creditable service the employer requires to be performed by a class of employees in a school year in order to earn the compensation earnable as defined in Section 22115 and specified under the terms of a collective bargaining agreement or employment agreement. For the purpose of crediting service under this part, "full time" may not be less than the minimum standard specified in this section. Each collective bargaining agreement or employment agreement that applies to a member subject to the minimum standard specified in paragraph (5) of subdivision (c) shall specify the number of hours of creditable service that equal "full time" pursuant to this section, and shall make specific reference to this section.

(b) The minimum standard for full time in prekindergarten through grade 12 is as follows:

(1) One hundred seventy-five days per year or 1,050 hours per year, except as provided in paragraphs (2) and (3).

(2)(A) One hundred ninety days per year or 1,520 hours per year for all principals and program managers, including advisers, coordinators, consultants, and developers or planners of curricula, instructional materials, or programs, and for administrators, except as provided in subparagraph (B).

(B) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a county office of education.

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

(4) Notwithstanding any other provision of this subdivision, if a school district, county office of education, or charter school reduces the number of days of instruction pursuant to Section 46201.4 for the 2012–13 or 2013–14 fiscal years, the minimum standard for full time specified in paragraph (1) shall be reduced to the number of days of instruction provided by that school district, county office of education, or charter school and the number of hours of instruction equal to the number of days of instruction times six. The minimum standard for full time specified in paragraphs (2) and (3) for that school district, county office of education, or charter school shall be reduced by the same percentage of days and hours the standard specified in paragraph (1) was reduced pursuant to this paragraph.

(c) The minimum standard for full time in community colleges is as follows:

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

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

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

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

(5) Five hundred twenty-five instructional hours per school year for all instructors employed on a part-time basis, except instructors specified in paragraph (6). If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(6) Eight hundred seventy-five instructional hours per school year for all instructors employed in adult education programs. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(d) The board has final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified in this section.

(e) This section shall become inoperative on July 1, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

Added by Stats 1995 ch 390 § 6 (AB 1122), operative July 1, 1996. Amended by Stats 1996 ch 634 § 23 (SB 2041); Stats 1998 ch 678 § 1 (AB 1166); Stats 1999 ch 939 § 15 (SB 1074); Stats 2000 ch 1025 § 3 (AB 816); Stats 2002 ch 375 § 2 (AB 2982); Stats 2003 ch 62 § 37 (SB 600) (ch 62 prevails), ch 859 § 2 (SB 627); Stats 2007 ch 323 § 1 (AB 757), effective January 1, 2008; Stats 2012 ch 38 § 39 (SB 1016), effective June 27, 2012, ch 829 § 1 (SB 114), effective January 1, 2013, inoperative July 1, 2013, repealed January 1, 2014.

Editor's Notes—This section, as amended by Stats 2012 ch 38 § 39, effective June 27, 2012, until January 1, 2013, read: "(a) 'Full time' means the days or hours of creditable service the employer requires to be performed

by a class of employees in a school year in order to earn the compensation earnable as defined in Section 22115 and specified under the terms of a collective bargaining agreement or employment agreement. For the purpose of crediting service under this part, 'full time' may not be less than the minimum standard specified in this section. Each collective bargaining agreement or employment agreement that applies to a member subject to the minimum standard specified in paragraph (5) of subdivision (c) shall specify the number of hours of creditable service that equal 'full time' pursuant to this section, and shall make specific reference to this section.

"(b) The minimum standard for full time in prekindergarten through grade 12 is as follows:

"(1) One hundred seventy-five days per year or 1,050 hours per year, except as provided in paragraphs (2) and (3).

"(2)(A) One hundred ninety days per year or 1,520 hours per year for all principals and program managers, including advisers, coordinators, consultants, and developers or planners of curricula, instructional materials, or programs, and for administrators, except as provided in subparagraph (B).

"(B) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a county office of education.

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

"(4) Notwithstanding any other provision of this subdivision, if a school district, county office of education, or charter school reduces the number of days of instruction pursuant to Section 46201.4 for the 2012-13 or 2013-14 fiscal years, the minimum standard for full time specified in paragraph (1) shall be reduced to the number of days of instruction provided by that school district, county office of education, or charter school and the number of hours of instruction equal to the number of days of instruction times six. The minimum standard for full time specified in paragraphs (2) and (3) for that school district, county office of education, or charter school shall be reduced by the same percentage of days and hours the standard specified in paragraph (1) was reduced pursuant to this paragraph.

"(c) The minimum standard for full time in community colleges is as follows:

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

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

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

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

"(5) Five hundred twenty-five instructional hours per school year for all instructors employed on a part-time basis, except instructors specified in paragraph (6). If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

"(6) Eight hundred seventy-five instructional hours per school year for all instructors employed in adult education programs. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

"(d) The board has final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified in this section."

Former Sections: Former § 22138.5, relating to as not less than the minimum school day for each day the schools of the district are maintained during the school year, was added Stats 1994 ch 193 § 2 as Ed C § 22137.5, renumbered by Stats 1994 ch 933 § 6.5, effective September 27, 1994, operative January 1, 1995, and repealed Stats 1995 ch 390 § 5, operative July 1, 1996.

Amendments

1996 Amendment: Substituted "principals and program managers, including advisers, coordinators, consultants, and developers or planners of curricula, instructional materials, or programs" for "program managers and principals" in subd (b)(2)(A).

1998 Amendment: (1) Substituted "paragraphs (2) and (3)" for "paragraph (2)" in subd (b)(1); **(2)** added "employer's governing" in subds (b)(2)(B) and (c)(3); **(3)** added subd (b)(3); **(4)** amended subd (c)(1) by substituting **(a)** the first sentence for the former first sentence which read: "Thirty teaching units per year of not less

than 35 weeks in duration for annual or hourly employment; or 175 days per year for daily employment."; and **(b)** "for a particular class of employees" for "in a particular classification, even if that time is not included in the expression of teaching units" in the second sentence; and **(5)** added subds (c)(4)–(c)(6).

2000 Amendment: (1) added "school" after "hours per" in the first sentence of subd (c)(5) and (c)(6); **(2)** added ", except instructors specified in paragraph (6)" at the end of the first sentence of subd (c)(5); and **(3)** substituted "instructors employed in adult education programs" for "adult education instructors" in the first sentence of subd (c)(6).

2002 Amendment: Added the last sentence of subd (a).

2003 Amendment: (1) Substituted "may not be less than the minimum standard" for "shall not be less than the minimum standards" in the second sentence of subd (a); **(2)** substituted "is as follows" for "shall be" in subds (b) and (c); **(3)** substituted "Full time includes" for "Full time shall include" in the second sentence of subd (c)(1); **(4)** substituted "the minimum standard" for "then the minimum standard established herein" in the second sentence of subds (c)(5) and (c)(6); and **(5)** amended subd (d) by substituting **(a)** "The board has" for "The board shall have"; and **(b)** "in this section" for "herein".

2007 Amendment: Substituted "prekindergarten" for "kindergarten" in the introductory clause of subd (b).

2012 Amendment (ch 38): Added **(1)** subd (b)(4); and **(2)** "of Division 7 of Title 3" in the second sentence of subds (c)(5) and (c)(6).

2012 Amendment (ch 829): Added subd (e).

§ 22138.5. "Full-time"; Minimum standard for kindergarten through grade 12; Minimum standard for community colleges (Second of two; Operative July 1, 2013)

(a) (1) "Full time" means the days or hours of creditable service the employer requires to be performed by a class of employees in a school year in order to earn the compensation earnable as defined in Section 22115 and specified under the terms of a collective bargaining agreement or employment agreement. For the purpose of crediting service under this part, "full time" may not be less than the minimum standard specified in this section. Each collective bargaining agreement or employment agreement that applies to a member subject to the minimum standard specified in either paragraph (5) or (6) of subdivision (c) shall specify the number of hours of creditable service that equal "full time" pursuant to this section for each class of employee subject to either paragraph, shall make specific reference to this section, and the district shall submit a copy of the agreement to the system.

(2) The copies of each agreement shall be submitted electronically in a format determined by the system that ensures the security of the transmitted member data.

(3) The copies shall be electronically submitted annually to the system on or before July 1, or on or before the effective date of the agreement, whichever is later.

(b) The minimum standard for full time in prekindergarten through grade 12 is as follows:

(1) One hundred seventy-five days per year or 1,050 hours per year, except as provided in paragraphs (2) and (3).

(2) (A) One hundred ninety days per year or 1,520 hours per year for all principals and program managers, including advisers, coordinators, consultants, and developers or planners of curricula, instructional materials, or programs, and for administrators, except as provided in subparagraph (B).

(B) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a county office of education.

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

(4) Notwithstanding any other provision of this subdivision, if a school district, county office of education, or charter school reduces the number of days of instruction pursuant to Section 46201.4 for the 2012–13 or 2013–14 fiscal years, the minimum standard for full time specified in paragraph (1) shall be reduced to the number of days of instruction provided by that school district, county office of education, or charter school and the number of hours of instruction equal to the number of days of instruction times six. The minimum standard for full time specified in paragraphs (2) and (3) for that school district, county office of education, or charter school shall be reduced by the same percentage of days and hours the standard specified in paragraph (1) was reduced pursuant to this paragraph.

(c) The minimum standard for full time in community colleges is as follows:

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

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

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

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

(5) Five hundred twenty-five instructional hours per school year for all instructors employed on a part-time basis, except instructors specified in paragraph (6). If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(6) Eight hundred seventy-five instructional hours per school year for all instructors employed in adult education programs. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(d) The board has final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified in this section.

(e) This section shall become operative on July 1, 2013.

Added Stats 2012 ch 829 § 2 (SB 114), effective January 1, 2013, operative July 1, 2013.

§ 22138.6. "Full–time equivalent"

"Full–time equivalent" means the days or hours of creditable service that a person who is employed on a part–time basis would be required to perform in a school year if he or she were employed full time in that part–time position.

Added by Stats 1995 ch 390 § 7 (AB 1122), operative July 1, 1996. Amended by Stats 1998 ch 965 § 6 (AB 2765); Stats 2001 ch 803 § 3 (SB 501).

Amendments

1998 Amendment: Substituted **(1)** "days or hours of creditable service" for "time"; and **(2)** "perform" for "serve" after "required to".

2001 Amendment: Added "part–time" before "position" at the end.

§ 22139.5. "Gain and Loss Reserve"

"Gain and Loss Reserve" means a segregated account within the retirement fund that is established and maintained to do either of the following:

(a) Credit interest to members' Defined Benefit Supplement accounts at the minimum interest rate for plan years in which the board determines that the obligation cannot be met from the plan's investment earnings with respect to the Defined Benefit Supplement Program.

(b) Provide additions to the Annuitant Reserve to meet the plan's obligation for annuities payable under the Defined Benefit Supplement Program.

Added by Stats 2000 ch 74 § 14 (AB 1509).

§ 22140. "Improvement factor" (2% increase)

(a) "Improvement factor," with respect to the Defined Benefit Program, means an increase of 2 percent in monthly allowances. The improvement factor shall be added to a monthly allowance each year on September 1, commencing on September 1 following the first anniversary of the effective date of retirement, or the date on which the monthly allowance commenced to accrue to any beneficiary, or other periods specifically stated in this part.

(b) The improvement factor may not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax–sheltered annuity contributions. The Legislature reserves the right to adjust the amount of the improvement factor up or down as economic conditions dictate. Any adjustment of the improvement factor may not reduce the monthly retirement allowance or annuity below that which would be payable to the recipient under this part had this section not been enacted.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 23.5 (SB 2041); Stats 2000 ch 74 § 15 (AB 1509); Stats 2002 ch 375 § 3 (AB 2982).

Former Sections: Former § 22140, similar to present Ed C § 22141, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22140, similar to present Ed C § 22155, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22131, enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22139, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Amended the first sentence by substituting **(1)** "date of retirement, or the date on which the" for "retirement date, or the date on which"; and **(2)** "retired member" for "retirant" after "other than a".

2000 Amendment: (1) Substituted subd (a) for the former first sentence which read: " 'Improvement factor' means an increase of 2 percent in benefits for each year commencing on September 1, following the first anniversary of the effective date of retirement, or the date on which the monthly benefits commenced to accrue to any beneficiary other than a retired member or other periods specifically stated in this part."; **(2)** added subd (b); **(3)** designated the former second, third, and fourth sentences to be subd (c); and **(4)** amended subd (c) by **(a)** adding "improvement" in the first sentence; and **(b)** substituting "annuity" for "benefit" after "allowance or" in the last sentence.

2002 Amendment: (1) Deleted former subd (b) which read: "(b) 'Improvement factor,' with respect to the Defined Benefit Supplement Program, means an increase of 2 percent in monthly annuities. The improvement factor shall be added to a monthly annuity each year on September 1, commencing on the September 1 following the first anniversary of the date the annuity first became payable."; **(2)** redesignated former subd (c) to be subd (b); and **(3)** amended subd (b) by substituting **(a)** "may" for "shall" after "The improvement factor" in the first sentence; and **(b)** "Any adjustment of the improvement factor may not" for "No adjustment of the improvement factor shall" in the last sentence.

§ 22141. "Improvement factor" as increase of minimum unmodified allowance

Notwithstanding Section 22140, "improvement factor" means an increase of 2 percent in benefits provided under Sections 24408 and 24409 for each year commencing on September 1, 1981, and under Section 24410.5 for each year commencing September 1, 2001, and under Sections 24410.6 and 24110.7 for each year commencing September 1, 2002. The factor shall not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax–sheltered annuity contributions. The Legislature reserves the right to adjust the amount of the improvement factor up or down as the economic conditions dictate. No adjustments of the improvement factor shall reduce the monthly retirement allowance or benefit below that which would be payable to the recipient under this part had this section not been enacted.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 2000 ch 1025 § 4 (AB 816), ch 1026 § 1 (SB 1505), ch 1027 § 1 (AB 429).

Former Sections: Former § 22141, similar to present § 22120, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22141, similar to present § 22157, was added Stats 1977 ch 36 § 411, effective April 29, 1977, operative April 30, 1977, as § 22141.5, amended and renumbered by Stats 1977 ch 37 § 5, effective April 29, 1977, operative April 30, 1977, Stats 1981 ch 124 § 15, and repealed Stats 1993 ch 893 § 1.

Former § 22141, similar to present § 22157, was added Stats 1977 ch 36 § 410.5, effective April 29, 1977, operative April 30, 1977, and repealed Stats 1977 ch 37 § 4, effective April 29, 1977, operative April 30, 1977.

Former § 22141, similar to present § 22157, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1977 ch 36, effective April 29, 1977, operative April 30, 1977.

Historical Derivation: (a) Former § 22131.1, as added Stats 1982 ch 1314 § 1.

(b) Former § 22140, as added Stats 1993 ch 893 § 2.

Amendments

2000 Amendment: Added ", and under Section 24410.5 for each year commencing September 1, 2001, and under Sections 24410.6 and 24110.7 for each year commencing September 1, 2002" at the end of the first sentence.

§ 22142. "Indexed final compensation"

"Indexed final compensation" means final compensation upon which a disability allowance or disability retirement allowance was based, adjusted annually from the school year in which an allowance begins to accrue by the rate of change in the average compensation earnable as determined by the board.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22142, similar to present § 22162, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22142, similar to present § 22157, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 97, effective April 29, 1977, operative April 30, 1977, Stats 1981 ch 124 § 16, Stats 1992 ch 1167 § 4.5, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22131.5, as added Stats 1982 ch 1314 § 1, amended Stats 1992 ch 1166 § 4.5.

(b) Former § 22134, as added Stats 1993 ch 893 § 2.

§ 22143. "Investment manager" and "investment adviser"

"Investment manager" and "investment adviser" mean any person, firm, or custodian referred to in Section 22359, either appointed by or under contract with the board to engage in investment transactions or to manage or advise in the management of the assets of the Teachers' Retirement Fund with respect to the Defined Benefit Program under this part and the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 24 (SB 2041); Stats 1998 ch 965 § 6.5 (AB 2765).

Former Sections: Former § 22143, similar to present Ed C § 22159, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, repealed and added Stats 1993 ch 893 §§ 1, 2 (ch 920 prevails), amended Stats 1993 ch 920 § 1, and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Historical Derivation: Former Ed C § 22131.7, as added Stats 1987 ch 330 § 1.

Amendments

1996 Amendment: Added "and the Cash Balance Fund under Part 14 (commencing with Section 26000)".

1998 Amendment: (1) Added "with respect to the Defined Benefit Program under this part"; and **(2)** substituted "Cash Balance Benefit Program" for "Cash Balance Fund".

§ 22144. "Investment transactions"

"Investment transactions" means investment services of an asset management or investment advisory nature and may include advisory services, research material, trading assistance, trading expenses, discretionary management of funds of the plan upon approval by the board, acquisition of equipment to be used as part of the investment function, services that provide a recommended course of action or personal expertise, investment–related legal expenses, investment–related contracting expenses, or custodian services referred to in Section 22359.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 25 (SB 2041).

Former Sections: Former § 22144, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22144, similar to present Ed C § 22161, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22131.8, as added Stats 1987 ch 330 § 2.

Amendments

1996 Amendment: Substituted "plan" for "system" after "of funds of the".

§ 22144.5. "Liability gains and losses"

"Liability gains and losses" means the difference between actual noninvestment related experience and the experience expected based upon a set of noninvestment related actuarial assumptions during the period between two actuarial valuation dates, as determined in accordance with assumptions adopted by the board pursuant to Section 22311.5.

Added by Stats 2000 ch 1021 § 6 (AB 2700).

§ 22145. "Local system"

"Local system" means any retirement system, exclusive of this system, in which public school teachers are members, operated by a city, county, or other political subdivision of the state.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22145, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22145, similar to present § 22162, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1982 ch 279 § 2, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22132, enacted Stats 1976 ch 1010 § 2.

(b) Former § 22145, as added Stats 1993 ch 893 § 2.

§ 22146. "Member"; Active member; Inactive member; Disabled member; Retired member

"Member" means any person, unless excluded under other provisions of this part, who has performed creditable service as defined in Section 22119.5 and has earned creditable compensation for

that service and has not received a refund for that service and, as a result, is subject to the Defined Benefit Program. A member's rights and obligations under this part with respect to the Defined Benefit Program shall be determined by the applicability of subdivision (a), (b), (c), or (d), and subject to any applicable exceptions under other provisions of this part.

(a) An active member is a member who is not retired or disabled and who earns creditable compensation during the school year.

(b) An inactive member is a member who is not retired or disabled and who has not earned creditable compensation during the current or preceding school year.

(c) A disabled member is a member to whom a disability allowance is payable under Chapter 25 (commencing with Section 24001).

(d) A retired member is a member who has terminated employment and has retired for service under the provisions of Chapter 27 (commencing with Section 24201), or has retired for disability under the provisions of Chapter 26 (commencing with Section 24100) or retired for service or disability under the provisions of Chapter 21 (commencing with Section 23400), and to whom a retirement allowance is therefore payable.

Added by Stats 1995 ch 592 § 3 (AB 1298). Amended by Stats 1996 ch 634 § 26 (SB 2041); 1998 ch 965 § 7 (AB 2765); Stats 2000 ch 1025 § 5 (AB 816); Stats 2003 ch 859 § 3 (SB 627).

Former Sections: Former § 22146, similar to the present section, was added Stats 1994 ch 933 § 3, effective September 27, 1994, and repealed Stats 1995 ch 592 § 2.

Former § 22146, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22146, similar to present Ed C § 22120, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22133, enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Amended the first paragraph by deleting **(a)** subdivision designation (a); **(b)** "for an employer" after "Section 22119.5" in the first sentence; and **(c)** "to the member during a school year" after "subdivision (a), (b), (c), or (d)" in the second sentence; **(2)** redesignated former subds (b)–(e) to be subds (a)–(d); and **(3)** added "is not retired or disabled and who" in subds (a) and (b).

2000 Amendment: Amended subd (b) by **(1)** deleting ", by the pay period ending June 30," after "and who"; and **(2)** adding "immediately prior to and the school year during which the member retires for service".

2003 Amendment: Substituted "current or preceding school year" for "school year immediately prior to and the school year during which the member retires for service" in subd (b).

§ 22146.5. "Membership"

"Membership" means membership in the Defined Benefit Program, except as otherwise specifically provided in this part.

Added by Stats 1996 ch 634 § 27 (SB 2041). Amended by Stats 1998 ch 965 § 8 (AB 2765).

Amendments

1998 Amendment: Substituted "Defined Benefit Program" for "Defined Benefit Plan".

§ 22146.7. "Minimum interest rate"

"Minimum interest rate" means the annual interest rate determined by the board by plan amendment at which interest shall be credited to Defined Benefit Supplement accounts for a plan year.

Added by Stats 2000 ch 74 § 16 (AB 1509), ch 1021 § 7 (AB 2700).

§ 22147. "Month"

(a) "Month" means 20 working days or four weeks of five working days each, including legal holidays, with respect to the computation and crediting of service.

(b) "Month," for all other purposes, means a period commencing on any day of a calendar month and extending through the day preceding the corresponding day of the succeeding calendar month, if there is any such corresponding day, and if not, through the last day of the succeeding calendar month.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1998 ch 965 § 9 (AB 2765).

Former Sections: Former § 22147, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22147, similar to present § 22168, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 17, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22134, enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Added "working" both times it appears in subd (a).

§ 22147.5. "Nonqualified service"

"Nonqualified service" means any time during which a member did not perform creditable service subject to coverage by the plan. Nonqualified service shall not include time for which the member is eligible to purchase credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), or Chapter 14.5 (commencing with Section 22850).

Added by Stats 1998 ch 1076 § 3 (SB 2126). Amended by Stats 1999 ch 939 § 16 (SB 1074); Stats 2000 ch 1025 § 6 (AB 816).

Amendments

2000 Amendment: Substituted the section for the former section which read: " 'Nonqualified service' means time during which creditable service subject to coverage by the Defined Benefit Program is not performed, excluding time a member is eligible to purchase as permissive or additional service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), and Chapter 14.5 (commencing with Section 22850)."

§ 22148. "Normal retirement" and "normal retirement age"

"Normal retirement" and "normal retirement age" mean the age of 60 years, which is the age upon attainment of which the member becomes eligible under the Defined Benefit Program for a service retirement allowance without reduction because of age and without special qualifications.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 28 (SB 2041); Stats 1999 ch 939 § 17 (SB 1074); Stats 2000 ch 1025 § 7 (AB 816).

Former Sections: Former § 22148, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22148, similar to present Ed C § 22165, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 659 § 3.5, Stats 1978 ch 502 § 3, Stats 1981 ch 124 § 18, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22134.5, as added Stats 1977 ch 659 § 3, amended Stats 1987 ch 330 § 4.

Amendments

1996 Amendment: Substituted "which is" for "and are" after "60 years".
2000 Amendment: Added "under the Defined Benefit Program".

§ 22149. "Option beneficiary"

"Option beneficiary" means the person designated by a member to receive a retirement allowance under the Defined Benefit Program upon the member's death.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 29 (SB 2041); Stats 2000 ch 1025 § 8 (AB 816).

Former Sections: Former § 22149, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Former § 22149, similar to present Ed C § 22164, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22134.7, as added Stats 1981 ch 124 § 13.

Amendments

1996 Amendment: Deleted "retirant's or a" after "allowance upon a".
2000 Amendment: Substituted the section for the former section which read: " 'Option beneficiary' means a person designated to receive an actuarially reduced retirement allowance upon a member's death."

§ 22150. "Other public systems"

"Other public systems" means any of the following:
(a) Old age, survivors, disability, and health insurance program, other than the lump–sum death payment, provided by the Social Security Act (42 U.S.C.A. Sec. 300 and following).
(b) The federal civil service retirement program.
(c) Federal military disability.
(d) Railroad retirement.
(e) A workers' compensation program.
(f) Federal railroad retirement.
(g) Any other public retirement system, including, but not limited to, any disability programs financed from public funds.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22150, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Former § 22150, similar to the present § 22166, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 19, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: (a) Former § 22136, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 502 § 2, Stats 1981 ch 124 § 14.
(b) Former § 22150, as added Stats 1993 ch 893 § 2.

Notes of Decisions

Decisions Under Former § 22136

In an action by a private insurance company which had issued a group disability policy to a school district against the State Teachers' Retirement System, seeking reimbursement from the system to the extent of permissible integration or offset of its benefits with those of defendant, the trial court erred in determining that the group disability policy issued to the school district by plaintiff was not a disability program financed from the public

funds within the meaning of Ed. Code, §§ 24102 and 22136, providing that the State Teachers' Retirement System benefits shall be reduced by an amount equal to the unmodified benefits payable under other disability programs financed from public funds. The record indicated the funds to pay the premiums under the policy offered by plaintiff were appropriated by the school district as an additional benefit provided to its employees in lieu of a salary increase, and that no deductions from the employees' pay checks were made to cover the cost of the premiums. Also, the premium payments were not included in the computations of the gross salaries of the covered employees, and no federal or state income taxes were paid by the employees on the premium payments. Industrial Indem. Co. v. Teachers' Retirement Board (1978, Cal App 1st Dist) 86 Cal App 3d 92, 150 Cal Rptr 47, 1978 Cal App LEXIS 2052.

§ 22151. "Overtime"

"Overtime" means the aggregate creditable service in excess of one year (1.000) of creditable service that is performed by a member in a school year.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1998 ch 965 § 10 (AB 2765); Stats 2000 ch 1025 § 9 (AB 816); Stats 2001 ch 803 § 4 (SB 501).

Former Sections: Former § 22151, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22151, similar to present § 22170, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1980 ch 244 § 1, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22135, enacted Stats 1976 ch 1010 § 2.

(b) Former § 22151, as added Stats 1993 ch 893 § 2.

Amendments

1998 Amendment: Substituted "Defined Benefit Program" for "system".

2000 Amendment: Substituted the section for the former section which read: " 'Overtime' means the aggregate service performed as a member of the Defined Benefit Program in excess of the hours of work considered normal for employees on a full–time basis."

2001 Amendment: Substituted "member" for "person".

§ 22152. "Parent"

"Parent" means a natural parent of a member or a parent who adopted the member prior to his or her attainment of 18 years of age or to the member's marriage, whichever occurs earlier.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22152, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22152, similar to present § 22171, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22137, as enacted Stats 1976 ch 1010 § 2.

(b) Former § 22152, as added Stats 1993 ch 893 § 2.

§ 22154. "Pay period"

"Pay period" means a payroll period of not less than four weeks or more than one calendar month.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1998 ch 965 § 11 (AB 2765).

Former Sections: Former § 22154, similar to the present section, was added Stats 1993 ch 893 § 2, and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22154, relating to tax–sheltered annuity contributions, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1978 ch 870 § 2, operative July 1, 1979.

Historical Derivation: (a) Former § 22139, enacted Stats 1976 ch 1010 § 2.

(b) Former § 22607, enacted Stats 1976 ch 1010 § 2.

§ 22155. "Payroll"

"Payroll" includes registers, warrants, and any other documents upon which the employer identifies persons to whom compensation is paid.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1997 ch 482 § 5 (SB 471).

Former Sections: Former § 22155, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22155, similar to present § 22172, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22140, enacted Stats 1976 ch 1010 § 2.

(b) Former § 22155, as added Stats 1993 ch 893 § 2.

Amendments

1997 Amendment: Substituted "the employer identifies persons to whom compensation is paid" for "all persons receiving salary payments are listed"

§ 22155.5. "Plan"

"Plan" means the State Teachers' Retirement Plan.

Added by Stats 1996 ch 634 § 18 (SB 2041). Amended by Stats 1998 ch 1048 § 4 (SB 2085).

Former Sections: Former § 22155.5, similar to present Ed C § 22173, was added Stats 1992 ch 1166 § 6, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

1998 Amendment: Substituted "State Teachers' Retirement Plan" for "State Teachers' Retirement System Defined Benefit Plan as set forth in this part".

§ 22156. "Plan vesting"

"Plan vesting," with respect to benefits payable under the Defined Benefit Program, means the member has met the credited service requirement for receipt of a benefit, and has a right to receive the benefit at a future date provided all other conditions required to receive the benefit are also met.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 32 (SB 2041); Stats 1998 ch 965 § 12 (AB 2765); Stats 2000 ch 1025 § 10 (AB 816).

Former Sections: Former § 22156, similar to present Ed C § 22157, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22156, similar to present Ed C § 22174, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22157, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22173, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Added "retirement" after "his or her accumulated".

2000 Amendment: Substituted the section for the former section which read: " 'Plan vesting' means the right of the member upon completion of the minimum number of required years of credited service provided in the Defined Benefit Program to entitle the member or his or her beneficiary to a monthly retirement allowance, disability allowance, survivor benefit allowance, family allowance, or death benefit at a future date, prior to the completion of which the member upon resignation from service is entitled only to a refund of his or her accumulated retirement contributions as provided in this part."

§ 22156.05. "Plan year"

"Plan year" means the period of time beginning on July 1 of one calendar year and ending on June 30 of the following calendar year. For purposes of the Defined Benefit Supplement Program, the board shall designate by plan amendment the initial plan year.

Added by Stats 2000 ch 74 § 17 (AB 1509).

§ 22156.1. "Present value"

"Present value," for purposes of Section 22718, means the amount of money needed on the effective date of retirement to reimburse the system for the actuarially determined cost of the portion of a member's retirement allowance attributable to unused excess sick leave days. The present value on the effective date of retirement shall equal the number of unused excess sick leave days divided by the number of base days, multiplied by the prior year's compensation earnable multiplied by the present value factor.

Added by Stats 1999 ch 939 § 18 (SB 1074). Amended by Stats 2000 ch 1025 § 11 (AB 816).

Amendments

2000 Amendment: Substituted "Section 22718" for "Section 22723" in the first sentence.

§ 22156.2. "Present value factor"

"Present value factor," for purposes of Section 22156.1, means an overall average rate based upon the demographics of members who recently retired under the Defined Benefit Program and regular interest that shall determine present value on the effective date of retirement.

Added by Stats 1999 ch 939 § 19 (SB 1074).

§ 22156.5. "Prior year's compensation earnable"

"Prior year's compensation earnable" means the compensation earnable for the most recent school year in which the member earned service credit that precedes the last school year in which the member earned service credit.

Added by Stats 1999 ch 939 § 20 (SB 1074).

§ 22157. "Projected final compensation"

"Projected final compensation" means the final compensation used in computing the disability or family allowance increased by 2 percent, compounded annually to the earlier of normal retirement age or the date the disability allowance is terminated.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22157, similar to present § 22158, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22157, similar to present § 22156, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22141, as enacted Stats 1976 ch 1010 § 2.

(b) Former § 22141, as added Stats 1977 ch 36 § 410.5.

(c) Former § 22141, as added Stats 1977 ch 36 § 411 as § 22141.5, amended and renumbered by Stats 1977 ch 37 § 5, amended Stats 1981 ch 124 § 15, Stats 1992 ch 1166 § 5, Stats 1992 ch 1167 § 4.4.

(d) Former § 22156, as added Stats 1993 ch 893 § 2.

§ 22158. "Projected service"

(a) "Projected service" means the sum of credited service plus the credited service that would have been earned for the school years during which a disability allowance was payable if the member had performed creditable service during that time.

(b) Projected service for a school year shall be determined on the basis of the highest credited service earned by the member during any one of the three school years immediately preceding the member's death or the date the disability allowance began to accrue.

(c) Projected service shall not include credited service for which contributions have been credited to the Defined Benefit Supplement Program.

Added by Stats 2000 ch 1021 § 9 (AB 2700).

Former Sections: Former § 22158, similar to the present section, was added Stats 1994 ch 933 § 3, effective September 27, 1994, amended Stats 1996 ch 634 § 33, and repealed Stats 2000 ch 1021 § 8.

Former § 22158, similar to present Ed C § 22159, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22158, similar to present Ed C § 22160, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22142, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 97, Stats 1981 ch 124 § 16, Stats 1992 ch 1167 § 4.5.

(b) Former Ed C § 22157, as added Stats 1993 ch 893 § 2.

§ 22159. "Proof of death"

"Proof of death" means providing to the system any evidence of death required by the system.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22159, similar to present § 22161, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Former § 22159, similar to present § 22138, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22143, as enacted Stats 1976 ch 1010 § 2.

(b) Former § 22143, as added Stats 1993 ch 893 § 2.

(c) Former § 22158, as added Stats 1993 ch 893 § 2.

§ 22160. "Provisional vesting"

"Provisional vesting" means the member has reached the minimum age requirement and has attained the credited service required under the Defined Benefit Program for eligibility to receive a retirement allowance, and the member is entitled to terminate employment and retire at any time to receive a retirement allowance.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 2000 ch 1025 § 12 (AB 816).

Historical Derivation: (a) Former § 22158, as enacted Stats 1976 ch 1010 § 2.
(b) Former § 22174, as added Stats 1993 ch 893 § 2.

Amendments

2000 Amendment: Substituted the section for the former section which read: " 'Provisional vesting' means the right of the member upon the completion of the minimum number of years of credited service and attainment of the minimum specified age after which the member may retire at any time and be entitled to receive a monthly retirement allowance."

§ 22161. "Public school"

"Public school" means any day or evening elementary school, any day or evening secondary school, community college, technical school, kindergarten school, and prekindergarten school established by the Legislature, or by municipal or district authority.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1998 ch 965 § 13 (AB 2765); Stats 1999 ch 939 § 21 (SB 1074).

Former Sections: Former § 22161, similar to present § 22164, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former § 22144, as enacted Stats 1976 ch 1010 § 2.
(b) Former § 22159, as added Stats 1993 ch 893 § 2.

Amendments

1998 Amendment: Substituted "school" for "schools" the second through sixth times it appears.
1999 Amendment: Substituted "any day or" for "and any day and" after "school,".

§ 22161.3. "Qualified military service"

Qualified military service is military service as defined in Section 414(u) of Title 26 of the United States Code.

Added Stats 2011 ch 703 § 1 (SB 349), effective January 1, 2012.

§ 22161.5. "Refund"

"Refund" means the lump–sum return of a member's accumulated retirement contributions under the Defined Benefit Program and does not include the balance of credits in the member's Defined Benefit Supplement account.

Added by Stats 1996 ch 634 § 34 (SB 2041). Amended by Stats 2000 ch 74 § 18 (AB 1509), ch 1021 § 10 (AB 2700).

Amendments

2000 Amendment: (1) Substituted "the lump–sum return of a" for "a lump–sum return of the"; and **(2)** added "under the Defined Benefit Program and does not include the balance of credits in the member's Defined Benefit Supplement account" at the end. (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

§ 22162. "Regular interest"

"Regular interest" means interest that is equal to the actuarially assumed rate of return on investments on assets of the Defined Benefit Program. The regular interest rate shall be adopted annually by the board as a plan amendment with respect to the Defined Benefit Program.

This section shall become operative on July 1, 2010.

Added Stats 2009 ch 249 § 2 (AB 654), effective January 1, 2010, operative July 1, 2010.

Former Sections: Former 22162, similar to the present section, was added Stats 2000 ch 74 § 20 (AB 1509), amended Stats 2009 ch 249 § 1 (AB 654), effective January 1, 2010, inoperative June 30, 2010, repealed January 1, 2011 by its own terms.

Former § 22162, similar to the present section, was added Stats 1994 ch 933 § 3, effective September 27, 1994, amended Stats 1998 ch 965 § 14, and repealed Stats 2000 ch 74 § 19.

Former § 22162, similar to present § 22165, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Historical Derivation: (a) Former § 22142, as added Stats 1993 ch 893 § 2.

(b) Former § 22145, as enacted Stats 1976 ch 1010 § 2, amended Stats 1982 ch 279 § 2.

§ 22162.5. "Regular meeting"

"Regular meeting" means a meeting of the board held in accordance with a schedule of meetings that states the dates and places of the meetings and that is adopted by the board.

Added by Stats 1996 ch 634 § 35 (SB 2041).

§ 22163. "Reinstatement"

"Reinstatement" means the change in status with respect to the Defined Benefit Program under this part from a disabled or retired member to an active or inactive member and termination of one of the following:

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

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

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

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

Added by Stats 1996 ch 634 § 37 (SB 2041). Amended by Stats 1998 ch 965 § 15 (AB 2765); Stats 1999 ch 939 § 22 (SB 1074); Stats 2000 ch 1025 § 13 (AB 816).

Former Sections: Former § 22163, similar to the present section, was added Stats 1994 ch 933 § 3, effective September 27, 1994, and repealed Stats 1996 ch 634 § 36.

Former § 22163, similar to present § 22166, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Historical Derivation: Former § 22145.5, as added Stats 1993 ch 861 § 1.

Former Ed C § 22163 as added Stats 1994 ch 933 § 3.

Amendments

1998 Amendment: Substituted **(1)** "terminating" for "termination"; and **(2)** "the changing of status from a retired member to an inactive member or an active member" for "establishing status as an inactive member if service is not subsequently performed or establishing status as an active member if service is subsequently performed".

1999 Amendment: Substituted the section for the former section which read: " 'Reinstatement' means the terminating of a service or disability retirement allowance and the changing of status from a retired member to an inactive member or an active member."

2000 Amendment: Added “, 24006,”.

§ 22164. “Replacement benefits program”

“Replacement benefits program” means the program established pursuant to Chapter 27.5 (commencing with Section 24250) in compliance with the provisions of Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415(m)) as applicable to a governmental plan, as defined in Section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 414(d)).

Added by Stats 1999 ch 465 § 1 (AB 819).

Former Sections: Former § 22164, relating to section defined retirant, was added Stats 1994 ch 933 § 3, effective September 27, 1994 and repealed Stats 1996 ch 634 § 38 (SB 2041).

Former § 22164, similar to present Ed C § 22167, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Historical Derivation: (a) Former § 22149, as enacted Stats 1976 ch 1010 § 2.

(b) Former § 22161, as added Stats 1993 ch 893 § 2.

§ 22164.5. “Retired member activities”

(a) “Retired member activities” means one or more activities identified in subdivision (a) or (b) of Section 22119.5 or subdivision (a) or (b) of Section 26113 within the California public school system and performed by a member retired for service under this part as one of the following:

(1) An employee of an employer.

(2) An employee of a third party, except as specified in subdivision (b).

(3) An independent contractor.

(b) The activities of an employee of a third party shall not be included in the definition of “retired member activities” if all of the following conditions apply:

(1) The employee performs a limited-term assignment.

(2) The third-party employer does not participate in a California public pension system.

(3) The activities performed by the individual are not normally performed by employees of an employer, as defined in Section 22131.

Added Stats 2012 ch 296 § 2 (AB 340), effective January 1, 2013.

§ 22165. “Retirement”

“Retirement” means termination of employment subject to coverage by the plan and a change in status from an inactive member, an active member, or a disabled member to a retired member.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 39 (SB 2041); Stats 1998 ch 965 § 16 (AB 2765); Stats 2000 ch 1025 § 14 (AB 816).

Former Sections: Former § 22165, similar to present Ed C § 22168, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Historical Derivation: (a) Former Ed C § 22148, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 659 § 3.5, Stats 1978 ch 502 § 3, Stats 1981 ch 124 § 18.

(b) Former Ed C § 22162, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: “ ’Retirement’ means withdrawal from membership with a retirement allowance.”

1998 Amendment: Substituted **(1)** “a change in status from” for “termination of status as”; and **(2)** “a retired member” for “receive a retirement allowance”.

2000 Amendment: (1) Added "termination of employment subject to coverage by the plan and"; **(2)** substituted the comma for "or" after "inactive member"; and **(3)** added ", or a disabled member".

§ 22166. "Retirement allowance"

"Retirement allowance" means the amount payable to a retired member or an option beneficiary on a monthly basis.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 40 (SB 2041).

Former Sections: Former § 22166, similar to present Ed C § 22169, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former Ed C § 22150, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 19.
(b) Former Ed C § 22163, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Retirement allowance' means the monthly amounts payable to a retirant or the option beneficiary."

§ 22166.5. "Retirement benefit"

"Retirement benefit" means the amount payable under the Defined Benefit Supplement Program, based on the balance of credits in the member's Defined Benefit Supplement account, to a member who has retired for service under the Defined Benefit Program.

Added by Stats 2000 ch 74 § 21 (AB 1509).

§ 22167. "Retirement fund"

"Retirement fund" means the Teachers' Retirement Fund.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22167, similar to present § 22170, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former § 22150.5, as added Stats 1981 ch 124 § 19.5.
(b) Former § 22164, as added Stats 1993 ch 893 § 2.

§ 22168. "Return on investments"

"Return on investments" means income received or receivable from the system's investments.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22168, similar to present § 22171, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former § 22147, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 17.

§ 22169. "School year"

"School year" means the fiscal year or the academic year.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22169, similar to present § 22172, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former § 22150.7, as added Stats 1993 ch 560 § 1.
(b) Former § 22166, as added Stats 1993 ch 893 § 2.

§ 22170. "Service"

"Service" means work performed for compensation in a position subject to coverage under the Defined Benefit Program, except as otherwise specifically provided in this part, providing the contributions on compensation for that work are not credited to the Defined Benefit Supplement Program.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1998 ch 965 § 17 (AB 2765); Stats 2000 ch 1021 § 11 (AB 2700).

Former Sections: Former § 22170, similar to present § 22173, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former § 22151, as enacted Stats 1976 ch 1010 § 2, amended Stats 1980 ch 244 § 1.
(b) Former § 22167, as added Stats 1993 ch 893 § 2.

Amendments

1998 Amendment: Substituted "subject to coverage under the Defined Benefit Program" for "position requiring membership in the system".
2000 Amendment: Added ", providing the contributions on compensation for that work are not credited to the Defined Benefit Supplement Program".

§ 22170.5. "Sick leave days" and related phrases

(a) "Sick leave days" means the number of days of accumulated and unused leave of absence for illness or injury.
(b) "Basic sick leave day" means the equivalent of one day's paid leave of absence per pay period due to illness or injury.
(c) "Excess sick leave days" means the day or total number of days, granted by an employer in a pay period as defined in Section 22154 after June 30, 1986, for paid leave of absence due to illness or injury, in excess of a basic sick leave day.

Added by Stats 1999 ch 939 § 23 (SB 1074).

§ 22171. "Spouse" and "Registered domestic partner"

(a) "Spouse" means a person who was continuously married to the member for the period beginning at least 12 months prior to the death of the member, unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member's unborn child.
(b) "Spouse" also means a person who was married to the member for less than 12 months, if the member's death was either accidental, or due to an illness, and the marriage took place prior to the occurrence of the injury or diagnosis of the illness that resulted in death.
(1) A member's death is defined as accidental only if he or she received bodily injuries through violent, external, or accidental means and died as a direct result of the bodily injuries and independent of all other causes.
(2) This subdivision does not apply if, at the time of the marriage, the member could not have reasonably been expected to live for 12 months.

(c) Except as excluded by Sections 22661 and 23812, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a spouse.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 41 (SB 2041); Stats 2003 ch 548 § 1 (AB 106); Stats 2004 ch 912 § 5 (AB 2233); Stats 2005 ch 418 §3 (SB 973), effective January 1, 2006.

Former Sections: Former § 22171, similar to present Ed C § 22174, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former Ed C § 22152, as enacted Stats 1976 ch 1010 § 2.
(b) Former Ed C § 22168, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: (1) Added "for a continuous period beginning"; and **(2)** substituted "member and his or her spouse within the 12–month period or unless" for "union within the 12–month period or".
2003 Amendment: (1) Designated the former section to be subd (a); **(2)** amended subd (a) by **(a)** adding "continuously"; and **(b)** substituting "the period beginning" for "a continuous period beginning"; and **(3)** added subd (b).
2004 Amendment: (1) Substituted "either accidental, or due to an illness, and the marriage took place" for "accidental, or for the period beginning" in subd (b); **(2)** deleted ", due to a known illness" at the end of subd (b)(2); and **(3)** added subd (c).
2005 Amendment: Amended subd (c) by **(1)** deleting " 'spouse' shall also include" after "Sections 22661 and 23812,"; and **(2)** adding ", shall be treated in the same manner as a spouse" at the end.

§ 22172. "Survivor allowance"

"Survivor allowance" means the allowance provided for in Section 23804 as it read under the law in effect on June 30, 1972.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22172, similar to present § 22138, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former § 22155, as enacted Stats 1976 ch 1010 § 2.
(b) Former § 22169, as added Stats 1993 ch 893 § 2.

§ 22173. "Survivor benefit allowance"

"Survivor benefit allowance" means the monthly allowance that a surviving spouse may elect to receive pursuant to Chapter 23 (commencing with Section 23850).

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22173, similar to present § 22156, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.
Historical Derivation: (a) Former § 22155.5, as added Stats 1992 ch 1166 § 6.
(b) Former § 22170, as added Stats 1993 ch 893 § 2.

§ 22174. "System"

"System" means the State Teachers' Retirement System.

Added by Stats 1994 ch 933 § 3 (AB 3171), effective September 27, 1994.

Former Sections: Former § 22174, similar to present § 22160, was added Stats 1993 ch 893 § 2 and repealed Stats 1994 ch 933 § 2, effective September 27, 1994.

Historical Derivation: (a) Former § 22156, as enacted Stats 1976 ch 1010 § 2.

(b) Former § 22171, as added Stats 1993 ch 893 § 2.

§ 22176. "Termination benefit"

"Termination benefit" means a benefit equal in amount to the balance of credits in the member's Defined Benefit Supplement account that is payable to the member in a lump–sum when the member has terminated all employment to perform creditable service subject to coverage by the plan.

Added by Stats 2000 ch 74 § 22 (AB 1509).

§ 22177. "Unfunded actuarial obligation"

(a) "Unfunded actuarial obligation," with respect to the Defined Benefit Program, means that portion of the actuarial present value of benefits that is not provided for by future, normal costs or covered by the actuarial value of assets attributable to the Defined Benefit Program, based on assumptions adopted by the board pursuant to Section 22311.5.

(b) "Unfunded actuarial obligation," with respect to the Defined Benefit Supplement Program, means that portion of the actuarial present value of benefits that is not provided for by future, normal costs or covered by the actuarial value of assets attributable to the Defined Benefit Supplement Program, based on assumptions adopted by the board pursuant to Section 22311.5.

Added by Stats 2000 ch 1021 § 12 (AB 2700).

CHAPTER 3. RETIREMENT BOARD

§ 22200. Composition and appointment (Composition of the Board)

(a) The plan and the system are administered by the Teachers' Retirement Board. On and after January 1, 2004, the members of the board are as follows:

(1) The Superintendent of Public Instruction.

(2) The Controller.

(3) The Treasurer.

(4) The Director of Finance.

(5) Three persons who are either members of the Defined Benefit Program or participants in the Cash Balance Benefit Program, as follows:

(A) One person who, at the time of election, is an active member of the Defined Benefit Program or an active participant of the Cash Balance Benefit Program employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education, in a position other than a school administrator that requires a services credential with a specialization in administrative services. This member shall be elected by the active members of the Defined Benefit Program and active participants of the Cash Balance Benefit Program who are employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or county office of education, pursuant to regulations adopted by the board, for a four-year term commencing on January 1, 2004.

(B) One person who, at the time of election, is an active member of the Defined Benefit Program or an active participant of the Cash Balance Benefit Program employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education. This member shall be elected by the active members of the Defined Benefit Program and active participants of the Cash Balance Benefit Program who are employed by a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education, pursuant to regulations adopted by the board, for a four-year term commencing on January 1, 2004.

(C) One person who, at the time of election, is a community college instructor and an active member of the Defined Benefit Program or an active participant of the Cash Balance Benefit Program employed by a community college district, who shall be elected by the active community college members of the Defined Benefit Program and the active community college participants of the Cash Balance Benefit Program, pursuant to regulations adopted by the board, for a four-year term commencing on January 1, 2004.

(6) Five persons appointed by the Governor for a term of four years, subject to confirmation by the Senate, as follows:

(A) One person who, at the time of appointment, is a member of the governing board of a school district or a community college district.

(B) One person who is either a retired member under this part or a retired participant under Part 14 (commencing with Section 26000).

(C) Three persons representing the public, whose terms shall be staggered by varying the first terms of these members, as follows:

(i) One person to a term expiring December 31, 2005.

(ii) One person to a term expiring December 31, 2006.

(iii) One person to a term expiring December 31, 2007.

(b) A person who is employed to perform creditable service by a community college district and either a school district that provides instruction for prekindergarten, kindergarten, or grades 1 to 12, inclusive, or a county office of education, may only be elected to the position on the board that corresponds to the position in which he or she accrued the most service credit during the prior school year.

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

Added by Stats 2002 ch 1049 § 2 (SB 1580), operative January 1, 2004. Amended by Stats 2004 ch 11 § 1 (AB 419), effective January 28, 2004; Stats 2005 ch 22 § 33 (SB 1108), effective January 1, 2006; Stats 2007 ch 323 § 2 (AB 757), effective January 1, 2008.

Former Sections: Former § 22200, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 7.5, effective September 27, 1994, Stats 1996 ch 634 § 42, Stats 1998 ch 1048 § 5, and repealed Stats 2002 ch 1049 § 1, operative January 1, 2004.

Former § 22200, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977 ch 26 § 1, Stats 1981 ch 124 § 20, ch 868, Stats 1st Ex Sess 1983–84 ch 5 § 1, Stats 1983 ch 588 § 1, Stats 1986 ch 56 § 1, Stats 1990 ch 1372 § 174, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22200, as added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 7.5, effective September 27, 1994, Stats 1996 ch 634 § 42, Stats 1998 ch 1048 § 5.

(b) Former Ed C § 22200, as enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, ch 26 § 1, Stats 1981 ch 124 § 20, ch 868, Stats 1st Ex Sess 1983–84 ch 5 § 1, Stats 1983 ch 588 § 1, Stats 1986 ch 56 § 1, Stats 1990 ch 1372 § 174.

Amendments

2004 Amendment: (1) Amended subd (a) by **(a)** adding "On and after January 1, 2004," at the beginning of the introductory clause; **(b)** adding "and active participants of the Cash Balance Benefit Program" following "Defined Benefit Program" in the second sentence of subd (a)(5)(B); **(c)** redesignating former subd (a)(6)(C) to be the introductory clause of subd (a)(6)(C) by substituting "members, as follows:" for "members."; and **(d)** adding subds (a)(6)(C)(i)–(a)(6)(C)(iii); **(2)** added subd (b); and **(3)** redesignated former subd (b) to be subd (c).

2005 Amendment: (1) Amended subd (a)(5) by **(a)** substituting "kindergarten and grades 1" for "grades K" wherever it appears in subds (a)(5)(A) and (a)(5)(B); and **(b)** "of" for "or" after "a county office" in the first sentence of subd (a)(5)(B); and **(2)** amended subd (b) by substituting **(a)** "and grades 1 to 12, inclusive," for "through grade 12"; and **(b)** substituting "he or she" for "they" after "position in which".

2007 Amendment: (1) Substituted "for prekindergarten, kindergarten, or grades 1 to 12" for "for kindergarten and grades 1 to 12" each time it appears in subds (a)(5)(A) and (a)(5)(B); and **(2)** amended subd (b) by **(a)** substituting "for prekindergarten, kindergarten, or grades 1 to 12" for "for kindergarten and grades 1 to 12"; and **(b)** adding the comma after "office of education".

§ 22200.5. Election of members by board; Special election to fill vacancies

(a) The board shall conduct the elections of members described in Section 22200 pursuant to regulations adopted by the board.

(b) The board shall hold special elections to fill vacancies that occur during the term of the elected members of the board. If, at the time a vacancy occurs, the unexpired term is less than two years, the new member elected to fill the vacancy shall hold office for a period equal to the remainder of the term of the vacated office plus four years.

(c) The regulations adopted by the board pursuant to this section and Section 22200 shall not be subject to Article 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The regulations adopted by the board shall provide that the elections be conducted in the most cost–effective manner deemed feasible. The board, where practicable, shall consolidate election mailings with other mailings and shall address any other feasible cost–saving measures.

Added by Stats 2002 ch 1049 § 3 (SB 1580).

§ 22201. Powers of board; Meetings

(a) The board shall set policy and shall have the sole power and authority to hear and determine all facts pertaining to application for benefits under the plan or any matters pertaining to administration of the plan and the system.

(b) The board shall meet at least once every calendar quarter at such times as it may determine. The meetings shall be presided over by the chairperson. In the event of the chairperson's absence from a meeting the vice chairperson shall act as presiding officer and perform all other duties of the chairperson.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 43 (SB 2041); Stats 1998 ch 965 § 19 (AB 2765).

Former Sections: Former § 22201, similar to present Ed C §§ 22209, 22300 was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22202, enacted 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "shall have" for "make rules and it has" after "set policy and"; and **(b)** "plan" for "system" after "benefits under the"; and **(2)** amended subd (b) by adding **(a)** "at such times as it may determine" at the end of the first sentence; and **(b)** the second and third sentences.
1998 Amendment: Added "plan and the" near the end of subd (a).

§ 22201.2. Quorum

A quorum of the board shall consist of the majority of the board members. In determining whether or not a quorum is present, vacant positions on the board shall not be considered. The concurrence of the majority of the board members present shall be necessary to the validity of any action taken by the board.

Added by Stats 1996 ch 634 § 44 (SB 2041).

§ 22201.3. Secretary

The chief executive officer of the system shall act as secretary of the board and shall have charge of all board correspondence and shall keep a record of board proceedings.

Added by Stats 1996 ch 634 § 45 (SB 2041).

§ 22202. Board's control of funds

The board has exclusive control of the administration of the funds. No transfers or disbursements of any amount from the funds shall be made except upon the authorization of the board for the purpose of carrying into effect the provisions of this part and Part 14 (commencing with Section 26000).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 1048 § 6 (SB 2085).

Former Sections: Former § 22202, similar to present § 22201, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22224, as enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Added "and Part 14 (commencing with Section 26000)".

§ 22203. Investment authority

The board has exclusive control of the investment of the Teachers' Retirement Fund. Except as otherwise restricted by the California Constitution and by law, the board may in its discretion invest the assets of the fund through the purchase, holding, or sale thereof of any investment, financial instru-

ment, or financial transaction when the investment, financial instrument, or financial transaction is prudent in the informed opinion of the board.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22203, similar to present § 22208, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22222, as enacted Stats 1976, ch 1010 § 2, amended Stats 1983 ch 1043 § 1.

§ 22203.5. Rollcall vote and public meeting on investment transaction

(a) All investment transaction decisions made during a closed session, pursuant to paragraph (16) of subdivision (c) of Section 11126 of the Government Code, shall be by rollcall vote entered into the minutes of that meeting.
(b) The board, within 12 months of the close of an investment transaction or the transfer of system assets for an investment transaction, whichever occurs first, shall disclose and report the investment at a public meeting.

Added by Stats 1998 ch 923 § 1 (SB 1753). Amended by Stats 2003 ch 859 § 4 (SB 627).

Amendments

2003 Amendment: Added the commas after "closed session" and "Government Code".

§ 22204. Oaths and affirmations

Each member of the board may administer oaths and affirmations to witnesses and others transacting the business of the system.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22204, similar to present § 22301, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22207, as enacted Stats 1976 ch 1010 § 2.

§ 22205. Board's authority to enter into agreements with retirement systems of other states

The board has the authority to negotiate, and enter into agreements with other states of the United States on the subject of the transfer of members' contributions and regular interest between the retirement systems of California and other states.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22205, similar to present § 22212, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22012, as enacted Stats 1976 ch 1010 § 2.

§ 22206. Audit power

(a) As often as the board determines necessary, it may audit or cause to be audited the records of any public agency.
(b) The board may excuse any audit finding provided all of the following conditions are met:
(1) The audit finding relates to a period of time prior to July 1, 2002.
(2) The audit finding identifies an issue that is not in compliance with the provisions of this part with respect to creditable service or creditable compensation.

(3) The noncompliance would not have existed if the service and compensation crediting changes that shall become operative on July 1, 2002, as a result of legislation enacted during the second year of the 1999–2000 Regular Session, had been operative during the period of time investigated in the audit.

(4) The audit finding was included in an audit report issued on or after January 1, 2001.

(5) Excusing the audit finding will not have an adverse effect on the integrity of the retirement fund.

(c) The board's authority pursuant to subdivision (b) shall extend to service and compensation issues identified through activities outside the audit function that address compliance with the provisions of this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 2000 ch 1021 § 13 (AB 2700).

Former Sections: Former § 22206, similar to present § 22307, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 21, Stats 1983 ch 603 § 1, effective August 31, 1983, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22208, as enacted Stats 1976 ch 1010 § 2.

Amendments

2000 Amendment: (1) Designated the former section to be subd (a); and **(2)** added subds (b) and (c).

§ 22207. Other acts

The board shall perform any other acts necessary for the administration of the system and the plan in carrying into effect the provisions of this part and Part 14 (commencing with Section 26000), which may include, but shall not be limited to, requesting the following information from a member, participant, or beneficiary:

(a) Financial statements, certified copies of state and federal income tax records, or evidence of financial status.

(b) Employment, legal, or medical documentation.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 46 (SB 2041); Stats 1998 ch 965 § 20 (AB 2765); Stats 2007 ch 323 § 3 (AB 757), effective January 1, 2008.

Former Sections: Former § 22207, similar to present Ed C § 22204, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22209, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Added "and the plan" after "of the system".

1998 Amendment: Added "and Part 14 (commencing with Section 26000)".

2007 Amendment: (1) Substituted ", which may include, but shall not be limited to, requesting the following information from a member, participant, or beneficiary:" for the period in the introductory clause; and **(2)** added subds (a) and (b).

§ 22208. Power of board to delegate

The board may appoint a committee of two or more of its members to perform any act within the power of the board itself to perform. The board may also delegate authority to the chief executive officer to perform any such act. Except where the board, in delegating that authority, provides that the committee or the chief executive officer may act finally, all acts of the committee or the chief executive officer shall be reported to the board at its next regular meeting and shall be subject to review, ratification, or reversal by the board.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22208, similar to present § 22206, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22203, as enacted Stats 1976 ch 1010 § 2.

§ 22209. Chief executive officer

The office of chief executive officer shall be filled by appointment by the board and the appointee shall serve at the pleasure of the board.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22209, similar to present § 22207, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22201, enacted Stats 1976 ch 1010 § 2.

§ 22210. Review by board of acts of committee or chief executive officer

(a) Reversal by the board of any act of the committee or the chief executive officer shall be effective on the date fixed by the board.
(b) Payment of benefits prior to the board's action of reversal may not be affected by such an action, except for the recovery of the amounts paid, from the beneficiary receiving the amounts, as the board may direct.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22210, similar to present § 22305, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22212, as enacted Stats 1976 ch 1010 § 2.

§ 22212. Employees

The board shall appoint such employees as are necessary to administer the plan and the system.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 21 (AB 2765).

Former Sections: Former § 22212, similar to present Ed C § 22210, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22205, as added enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Added "plan and the".

§ 22212.5. Compensation for specified investment officers and portfolio managers; Principles; Civil service appointments; Limits on taking specified actions for two years after leaving such positions in certain circumstances

(a) Except as otherwise provided in subdivision (d), this section shall apply to the following positions in the system: chief executive officer, system actuary, general counsel, chief investment officer, and other investment officers and portfolio managers whose positions are designated managerial pursuant to Section 18801.1 of the Government Code.
(b) Notwithstanding Sections 19816, 19825, 19826, 19829, and 19832 of the Government Code, the board shall fix the compensation for the positions specified in subdivision (a). In so doing, the board shall be guided by the principles contained in Sections 19826 and 19829 of the Government Code,

consistent with its fiduciary responsibility to its members to recruit and retain highly qualified and effective employees for these positions.

(c) When a position specified in subdivision (a) is filled through a general civil service appointment, it shall be filled from an eligible list based on an examination that was held on an open basis, and tenure in those positions shall be subject to the provisions of Article 2 (commencing with Section 19590) of Chapter 7 of Part 2 of Division 5 of Title 2 of the Government Code. In addition to the causes for action specified in that article, the board may take action under the article for causes related to its fiduciary responsibility to its members, including the employee's failure to meet specified performance objectives.

(d) An individual who held a position designated in subdivision (a), or was a member of the board, a chief of staff, a deputy chief executive officer, chief financial officer, or was in an equivalent senior management position, shall not, for a period of two years after leaving that position, for compensation, act as agent or attorney for, or otherwise represent, any other person, except the state, by making any formal or informal appearance before or by making any oral or written communication to the board, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

Added Stats 2003 ch 856 § 2 (SB 269). Amended Stats 2005 ch 351 § 5 (AB 224), effective January 1, 2006; Stats 2007 ch 333 § 1 (AB 1317), effective January 1, 2008; Stats 2009 ch 301 § 1 (AB 1584), effective October 11, 2009; Stats 2010 ch 207 § 3 (AB 2260), effective January 1, 2011.

Amendments

2005 Amendment: (1) Substituted "19826, 19829, and 19832" for "and 19826" in the first sentence of subd (b); and **(2)** substituted "board," for "Teachers' Retirement Board," in subd (d).

2007 Amendment: Added "general counsel," after "system actuary," in subd (a).

2009 Amendment: (1) Added "Except as otherwise provided in subdivision (d)," in subd (a); and **(2)** substituted ", or was a member of the board, a deputy executive officer, or an assistant executive officer, shall not" for "for less than five years may not" in subd (d).

2010 Amendment: Substituted "chief of staff, a deputy chief executive officer, chief financial officer, or was in an equivalent senior management position" for "deputy executive officer, or an assistant executive officer" in subd (d).

§ 22213. Regulation of employing agencies and other public authorities

The board shall regulate the duties of employers, employing agencies, and other public authorities, imposed upon them by this part, and shall require reports from employers, employing agencies, and other public authorities, as it deems advisable in connection with the performance of its duties.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 47 (SB 2041); Stats 2003 ch 859 § 5 (SB 627).

Former Sections: Former § 22213, similar to present Ed C § 22220, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22211, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Added "employers and" after "the duties of"; and **(2)** substituted "employers, employing agencies and other public" for "the employing agencies and" after "require reports from".

2003 Amendment: Substituted **(1)** "employers, employing agencies," for "employers and employing agencies" the first time it appears; and **(2)** "agencies, and other public authorities," for "agencies and other public authorities" the second time it appears.

§ 22214. Action to ensure rights to allowances

The board may take any action it deems necessary to ensure the continued right of members or beneficiaries to receive monthly payments.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 48 (SB 2041).

Former Sections: Former § 22214, similar to present Ed C § 22215, was enacted Stats 1976 ch
Historical Derivation: Former Ed C § 22216, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "members or beneficiaries" for "retirants, disabilitants, or beneficiaries of members or retirants,". 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

§ 22215. Fixing and modifying allowances

The board shall determine the service performed by members to be credited toward qualification for retirement, and shall fix and modify allowances provided under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 49 (SB 2041).

Former Sections: Former § 22215, similar to present Ed C § 22221, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22214, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "and modify allowances provided under this part" for "retirement allowances and modify the allowances".

§ 22216. Credit of contribution; Rate of interest

(a) The board shall annually adopt as a plan amendment with respect to the Defined Benefit Program the rate of credited interest to be credited to members' accumulated retirement contributions for service performed after June 30, 1935, and the accumulated annuity deposit contributions excluding all accumulated contributions while being paid as disability allowances, family allowances, and retirement allowances.
(b) The board shall credit interest to all other accumulated reserves at the actuarially assumed interest rate.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 22 (AB 2765).

Former Sections: Former § 22216, similar to present Ed C § 22214, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22302, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 870 § 5.

Amendments

1998 Amendment: Amended subd (a) by substituting **(1)** "annually adopt as a plan amendment with respect to the Defined Benefit Program" for "determine annually"; and **(2)** "disability allowances, family allowances, and retirement allowances" for "allowances under Sections 23804, 24006, and 24007".

§ 22217. Annual audit by accountant

(a) The board shall employ a certified public accountant or public accountant, who is not in public employment, to audit the financial statements of the system. The costs of the audit shall be paid from the income of the retirement fund. The audit shall be made annually and the audit report shall be incorporated into the annual report filed with the Governor and the Legislature pursuant to Section 22324.

(b) These audits shall not be duplicated by the Department of Finance or the State Auditor. The system shall be exempt from a pro rata general administrative charge for auditing.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 2003 ch 107 § 3 (AB 569); Stats 2006 ch 654 § 2 (SB 1465), effective January 1, 2007.

Former Sections: Former § 22217, similar to present § 22219, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22220, as enacted Stats 1976 ch 1010 § 2.

Amendments

2003 Amendment: Substituted "State Auditor" for "Auditor General" in the first sentence of subd (b).

2006 Amendment: Amended subd (a) by substituting "and the audit report shall be incorporated into the annual report filed with the Governor and the Legislature pursuant to Section 22324" for "commencing with the fiscal year ending June 30, 1974. The board shall file a copy of the audit report with the Governor, the Secretary of the Senate, and the Chief Clerk of the Assembly".

§ 22218. Records and accounts

The board shall establish and maintain records and accounts following recognized accounting principles and controls.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 50 (SB 2041).

Former Sections: Former § 22218, similar to present Ed C § 22324, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22219, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Deleted "an adequate system of" after "establish and maintain".

§ 22218.5. Report on return on investments and payroll subject to system [Repealed]

Added Stats 1994 ch 858 § 1 (SB 586). Amended Stats 1995 ch 91 § 26 (SB 975). Repealed Stats 2012 ch 728 § 29 (SB 71), effective January 1, 2013. The repealed section related to a report on the return on investments and actual payroll subject to the system for the prior fiscal year.

Former Sections: Former § 22218.5, relating to inclusion of summary of costs and savings in annual report, was added Stats 1982 ch 1314 § 1.5 and repealed Stats 1993 ch 893 § 1.

§ 22219. Hearings and procedure

(a) The board may in its discretion hold a hearing for the purpose of determining any question presented to it involving any right, benefit, or obligation of a person under this part.

(b) When a hearing is held, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, relating

to administrative adjudication, and the board shall have all of the powers granted in that chapter. However, the provisions of Section 11508 of the Government Code relating to the location of the hearing shall not apply, and the hearing shall be held at the time and place determined by the board.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22219, similar to present § 22218, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22217, as enacted Stats 1976 ch 1010 § 2.

§ 22220. Subpoena for witnesses

In addition to the authority granted pursuant to Section 11181 of the Government Code, the board may subpoena witnesses and compel their attendance to testify before it.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 51 (SB 2041); Stats 2012 ch 864 § 3 (AB 2663), effective January 1, 2013.

Former Sections: Former § 22220, similar to present Ed C § 22217, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22213, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "may" for "shall".
2012 Amendment: Added "In addition to the authority granted pursuant to Section 11181 of the Government Code,".

§ 22221. Adoption of recommendation of actuary of system to permit valuation of assets and liabilities

The board shall adopt, upon the recommendation of the actuary of the system, any mortality and other tables and interest rates necessary to do the following:
(a) Permit valuation of the assets and liabilities of the system.
(b) Make any determination or calculation necessary to carry out this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 9 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 52 (SB 2041).

Former Sections: Former § 22221, similar to present Ed C § 22306, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, repealed Stats 1993 ch 893 § 1 (ch 920 prevails), amended Stats 1993 ch 920 § 2, and repealed Stats 1994 ch 933 § 10.
Historical Derivation: Former Ed C § 22215, as enacted Stats 1976 ch 1010 § 2.

Amendments

1994 Amendment: Substituted "either" for "any" near the end of the introductory clause.
1996 Amendment: Deleted "either of" after "necessary to do" in the introductory clause.

§ 22222. Adjustment of death benefits

The board may adjust the amounts of the death payments based on changes in the All Urban California Consumer Price Index, and shall adopt as a plan amendment with respect to the Defined Benefit Program any adjusted amount, provided that the most recent actuarial valuation report indicates that the adjustment would not increase the normal cost.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 53 (SB 2041); Stats 1998 ch 965 § 23 (AB 2765).

Former Sections: Former § 22222, similar to present Ed C § 22203, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1983 ch 1043 § 1, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22256, as added Stats 1992 ch 1166 § 7.

Amendments

1996 Amendment: Substituted "payments" for "benefits" after "amounts of the death".
1998 Amendment: Added "and shall adopt as a plan amendment with respect to the Defined Benefit Program any adjusted amount,".

§ 22223. Compensation; Travel expenses

The members of the board who are not active members of the Defined Benefit Program or active participants of the Cash Balance Benefit Program and who are appointed by the Governor pursuant to Section 22200 shall receive one hundred dollars ($100) for every day of actual attendance at meetings of the board or any meeting of any committee of the board of which the person is a member, and that is conducted for the purpose of carrying out the powers and duties of the board, together with their necessary traveling expenses incurred in connection with performance of their official duties.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 53.5 (SB 2041); 1998 ch 965 § 24 (AB 2765); Stats 2005 ch 351 § 6 (AB 224), effective January 1, 2006.

Former Sections: Former § 22223, similar to present Ed C § 22362, was added Stats 1987 ch 416 § 1, amended Stats 1992 ch 540 § 2, effective August 20, 1992, and repealed Stats 1993 ch 893 § 1.
Former § 22223, relating to investment in bonds pursuant to the Improvement Bond Act of 1915, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1983 ch 1043 § 2, operative June 5, 1984.
Historical Derivation: Former Ed C § 22229, as added Stats 1977 ch 36 § 412, amended Stats 1982 ch 701 § 1.

Amendments

1996 Amendment: Substituted "Defined Benefit Plan or participants of the Cash Balance Plan" for "system".
1998 Amendment: Substituted **(1)** "Defined Benefit Program" for "Defined Benefit Plan"; and **(2)** "Cash Balance Benefit Program" for "Cash Balance Plan".
2005 Amendment: Added "active" before "members of the", and before "participants of the".

§ 22224. Release time to serve on board, committee, subcommittee, or panel

Members of the Defined Benefit Program and participants of the Cash Balance Benefit Program, who are either elected to the board or appointed to the board by the Governor pursuant to Section 22200, or who are appointed by the board to serve on a committee or subcommittee of the board or a panel of the system, shall be granted, by his or her employer, sufficient time away from regular duties, without loss of compensation or other benefits to which the person is entitled by reason of employment, to attend meetings of the board or any of its committees or subcommittees of which the person is a member, or to serve as a member of a panel of the system, and to attend to the duties expected to be performed by the person.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 54 (SB 2041); Stats 1998 ch 965 § 25 (AB 2765); Stats 2004 ch 11 § 2 (AB 419), effective January 28, 2004.

Former Sections: Former § 22224, similar to present Ed C § 22202, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22229.1, as added Stats 1979 ch 287 § 1.

Amendments

1996 Amendment: Substituted **(1)** "Defined Benefit Plan and participants of the Cash Balance Plan" for "system"; **(2)** "subcommittee of the board or a panel of the system, shall be granted, by his or her" for "or panel of the system, shall be granted, by that member's"; **(3)** "compensation or other benefits to which the person" for "income or other benefits to which the member"; and **(4)** "or any of its committees or subcommittees of which the person is a member, or to serve as a member of a panel of the system, and to attend to the duties expected to be performed by the person" for ", or any meetings of any committee or subcommittee of the board of which the member is a member, or to serve as a member of a panel of the system, and to attend to the duties imposed on the member".

1998 Amendment: Substituted **(1)** "Defined Benefit Program" for "Defined Benefit Plan"; and **(2)** "Cash Balance Benefit Program" for "Cash Balance Plan".

2004 Amendment: Added "elected to the board or".

§ 22225. Compensation of system members and replacement members

(a) The compensation of the members of the Defined Benefit Program and participants of the Cash Balance Benefit Program who are either elected to the board or appointed to the board by the Governor pursuant to Section 22200, or who are appointed by the board to a committee or subcommittee, or to a panel of the system, may not be reduced by his or her employer for any absence from service occasioned by attendance upon the business of the board, pursuant to Section 22224.

(b) Each employer that employs either a member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program elected or appointed pursuant to Section 22224 and that employs a person to replace the member or participant during attendance at meetings of the board, its committees or subcommittees, or when serving as a member of a panel of the system, or when carrying out other duties approved by the board, shall be reimbursed from the retirement fund for the cost incurred by employing a replacement.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 55 (SB 2041); Stats 1998 ch 965 § 26 (AB 2765); Stats 2004 ch 11 § 3 (AB 419), effective January 28, 2004.

Former Sections: Former § 22225, relating to membership in the national council on teacher retirement, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1977 ch 659 § 4.

Historical Derivation: Former Ed C § 22229.2, as added Stats ch 287 § 2, amended Stats 1985 ch 1532 § 1, Stats 1987 ch 1395 § 1.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "Defined Benefit Plan and participants of the Cash Balance Plan" for "system"; and **(b)** "his or her employer" for "the employing agency by which the members are regularly employed"; and **(2)** amended subd (b) by substituting **(a)** "employer that employs a member of the Defined Benefit Plan or a participant of the Cash Balance Plan" for "employing agency that employs a member"; and **(b)** "or participant during attendance at meetings of the board, its committees or subcommittees, or when serving as a member of a panel of the system" for "during attendance at meetings of the board, or meetings of committees or subcommittees of the board".

1998 Amendment: (1) Substituted "Defined Benefit Program" for "Defined Benefit Plan" in subds (a) and (b); **(2)** substituted "Cash Balance Benefit Program" for "Cash Balance Plan" in subds (a) and (b); and **(3)** added "either" after "that employs" near the beginning of subd (b).

2004 Amendment: (1) Amended subd (a) by substituting **(a)** "either elected to the board or appointed to the board by the Governor pursuant to Section 22200, or who are appointed by the board" for "appointed to the board, or by the board"; and **(b)** "may" for "shall" after "of the system,"; and **(2)** added "elected or" in subd (b).

§ 22226. Requirement of study on provision of health insurance benefits; Appropriation for study

(a) The board shall conduct a study on providing health insurance benefits, including vision and dental care benefits, for active, disabled, and retired members, beneficiaries, children, and dependent parents. The health insurance may include vision and dental care.

(b) The study shall include, but not be limited to, assessing the lack of access of health insurance benefits for retired teachers and shall evaluate the following:

(1) The demand for health insurance benefits.

(2) The integration of health insurance benefits and Medicare coverage.

(3) The manner in which health insurance benefits would be administered and provided.

(c) There is hereby appropriated from the Teachers' Retirement Fund to the State Teachers' Retirement Board the sum of two hundred thousand dollars ($200,000) conduct a study for the purposes identified in this section. If this study results in the implementation of health insurance benefits as described in subdivision (a), the State Teachers' Retirement Board shall reimburse the sum of two hundred thousand dollars ($200,000) to the Teachers' Retirement Fund from administrative fees charged to recipients of the health insurance benefits.

Added by Stats 1998 ch 968 § 1 (SB 1528).

Former Sections: Former § 22226, similar to present Ed C § 22311, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1987 ch 416 § 2, and repealed Stats 1993 ch 893 § 1.

§ 22227. Board candidates to file campaign statements

It is the intent of the Legislature that candidates for board seats described in paragraph (5) of subdivision (a) of Section 22200, including incumbent board members running for reelection, shall file campaign statements with the Secretary of State according to campaign reporting, contribution limits, and conflict of interest provisions of the Political Reform Act, adapted for the unique characteristics of elected member seats on state retirement system boards.

Added by Stats 2004 ch 11 § 4 (AB 419), effective January 28, 2004.

Former Sections: Former § 22227, similar to present Ed C § 22313, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1 (AB 1796).

§ 22228. Board must provide five-year strategic plan; Report plan to Legislature; Define "emerging investment manager"; Limitations (Repealed January 1, 2018)

(a) Commencing August 1, 2012, the board shall provide a five-year strategic plan for emerging investment manager participation across all asset classes.

(b) The board shall submit a report to the Legislature, commencing March 1, 2014, and each March 1 thereafter, regarding the progress of the strategic plan. The report shall be submitted in compliance with Section 9795 of the Government Code.

(c) The board shall define the term "emerging investment manager" for purposes of this section.

(d) Nothing in this section shall require the board to take action that is not consistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

Added Stats 2011 ch 701 § 1 (SB 294), effective January 1, 2012, repealed January 1, 2018.

Former Sections: Former section 22228 was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, repealed and added Stats 1993 ch 893 §§ 1, 2 (AB 1796), amended Stats 1993 ch 861 § 2 (AB 447), and repealed Stats 1994 ch 933 § 11 (AB 3171), effective September 27, 1994.

CHAPTER 4. FIDUCIARY DUTIES

§ 22250. Fiduciary duties regarding interests of members and beneficiaries

The board and its officers and employees of the system shall discharge their duties with respect to the system and the plan solely in the interest of the members and beneficiaries of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program as follows:

(a) For the exclusive purpose of the following:

(1) Providing benefits to members and beneficiaries of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program.

(2) Defraying reasonable expenses of administering the plan.

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(d) In accordance with the documents and instruments governing the plan and the system insofar as those documents and instruments are consistent with this part and Part 14 (commencing with Section 26000).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 56 (SB 2041); Stats 1998 ch 965 § 27 (AB 2765).

Former Sections: Former § 22250, similar to present Ed C § 23700, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22225.5, as added Stats 1982 ch 1200 § 2, amended Stats 1989 ch 542 § 2.

Amendments

1996 Amendment: (1) Amended the introductory clause by **(a)** adding "of the system" after "officers and employees"; **(b)** adding "and the plan" after "to the system"; and **(c)** deleting ", retirants," after "the members"; and **(2)** substituted "and" for ", retirants, and their" in subd (a)(1).

1998 Amendment: (1) Added "of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program" in the introductory clause; **(2)** added "of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program" in subd (a)(1); **(3)** substituted "plan" for "system" in subd (c); and **(4)** amended subd (d) by adding **(a)** "the plan and"; and **(b)** "and Part 14 (commencing with Section 26000)".

§ 22251. Purposes for which assets may be held

(a) Except as provided in subdivision (b), the assets of the plan shall never inure to the benefit of an employer and shall be held for the exclusive purposes of providing benefits to members and beneficiaries of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program and defraying reasonable expenses of administering the plan and the system.

(b) In the case of a contribution that is made by an employer by a mistake of fact, subdivision (a) shall not prohibit the return of that contribution within one year after the system knows, or should know in the ordinary course of business, that the contribution was made by a mistake of fact.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 57 (SB 2041); Stats 1998 ch 965 § 28 (AB 2765).

Former Sections: Former § 22251, similar to present Ed C § 23701, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22225.51, as added Stats 1989 ch 542 § 3.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** substituting "plan shall never inure to the benefit of an employer" for "system shall never inure to the benefit of a school district or other employing agency"; and **(b)** deleting ", retirants," after "benefits to members"; and **(2)** substituted "an employer" for "a school district or other employing agency" after "is made by" in subd (b).

1998 Amendment: Amended subd (a) by adding **(1)** "of the Defined Benefit Program as well as the participants and beneficiaries of the Cash Balance Benefit Program"; and **(2)** "the plan and" before "the system" at the end.

§ 22252. Prohibited transactions

Except as otherwise provided by law, the board and its officers and employees of the system shall not cause the system to engage in a transaction if they know or should know that the transaction constitutes a direct or indirect:

(a) Sale or exchange, or leasing, of any property from the system to a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, for less than adequate consideration, or from a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, to the system for more than adequate consideration.

(b) Lending of money or other extension of credit from the system to a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, without the receipt of adequate security and a reasonable rate of interest, or from a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, with the provision of excessive security or an unreasonably high rate of interest.

(c) Furnishing of goods, services, or facilities from the system to a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, for less than adequate consideration, or from a member, or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, to the system for more than adequate consideration.

(d) Transfer to, or use by or for the benefit of, a member or beneficiary of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program, of any assets of the plan for less than adequate consideration.

(e) Acquisition, on behalf of the system, of any employer security, real property, or loan.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 58 (SB 2041); Stats 1998 ch 965 § 29 (AB 2765).

Former Sections: Former § 22252, similar to present Ed C § 23702, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 1144 prevails), amended Stats 1993 ch 1144 § 1, and repealed Stats 1994 ch 933 § 12, effective September 27, 1994.

Historical Derivation: Former Ed C § 22225.52, as added Stats 1989 ch 542 § 4.

Amendments

1996 Amendment: Substituted **(1)** "the offices and employees of the system" for "officers and employees" in the introductory clause; **(2)** "member or beneficiary" for "member, retirant, or beneficiary" wherever it appears; **(3)** "plan" for "system" after "assets of the" in subd (d); and **(4)** "employer" for "school district or other employing agency" in subd (e).

1998 Amendment: (1) Added "of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program," in subds (a)–(d); **(2)** added "of the Defined Benefit Program, as well as a participant or beneficiary of the Cash Balance Benefit Program," in subds (a)–(c); and **(3)** deleted "retirant," after "from a member," in subd (c).

§ 22253. Conflicts of interest

The board and its officers and employees of the system shall not do any of the following:

(a) Deal with the assets of the plan and the system in their own interest or for their own account.

(b) In their individual or in any other capacity, act in any transaction involving the system on behalf of a party, or represent a party, whose interests are adverse to the interests of the plan or the interests of the members and beneficiaries of the Defined Benefit Program, as well as participants and beneficiaries of the Cash Balance Benefit Program.

(c) Receive any consideration for their personal account from any party conducting business with the system in connection with a transaction involving the assets of the plan.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 59 (SB 2041); Stats 1998 ch 965 § 30 (AB 2765).

Former Sections: Former § 22253, similar to present Ed C § 23703, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, amended Stats 1993 ch 219 § 72 (ch 219 prevails), repealed Stats 1993 ch 893 § 2, and repealed Stats 1994 ch 933 § 13, effective September 27, 1994.

Historical Derivation: Former Ed C § 22225.53, as added Stats 1989 ch 542 § 2.

Amendments

1996 Amendment: (1) Added "of the system" in the introductory clause; **(2)** substituted "plan or the interests of the members" for "system or the interests of its members, retirants," after "to the interests of the" in subd (b); and **(3)** amended subd (c) by substituting **(a)** "conducting business" for "dealing"; and **(b)** "plan" for "system" at the end.

1998 Amendment: Added **(1)** "the plan and" in subd (a); and **(2)** "of the Defined Benefit Program, as well as participants and beneficiaries of the Cash Balance Benefit Program" in subd (b).

§ 22254. Personal liability of board members and officers for breach of fiduciary duties

(a) Any board member or officer who breaches any of the responsibilities, obligations, or duties imposed upon them by Section 22251, 22252, or 22253 shall be personally liable to make restitution to the retirement fund for any losses to it resulting from each breach, and to restore any profits that have been made through use of assets of the fund and shall be subject to any other equitable or remedial relief the court may deem appropriate, including removal from the board.

(b) No board member or officer shall be liable with respect to a breach of fiduciary duty under this part if the breach was committed before the board member or officer became one, or ceased to be one.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 60 (SB 2041).

Former Sections: Former § 22254, similar to the present Ed C § 23705, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22225.6, as added Stats 1982 § 3, amended Stats 1989 ch 542 § 6.

Amendments

1996 Amendment: Amended subd (a) by substituting **(1)** "board member or officer" for "member of the board or its officers" near the beginning; **(2)** "restitution" for "good" after "liable to make"; and **(3)** "from the board" for "of the board member or officer" at the end.

§ 22255. Scope of personal liability; Breach of fiduciary duties

(a) No board member or officer shall be personally liable for the breach of a fiduciary duty except as set forth in Section 22254 or 22256. This subdivision shall apply only to causes of actions arising on or after January 1, 1990.

(b) Nothing in this section shall be interpreted to lessen the scope of liability of board members or employees of the system for gross negligence or fraud in the investment of the retirement fund assets, nor to lessen the scope of liability of the board or system for breach of fiduciary duty pertaining to the administration of the plan.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 61 (SB 2041).

Former Sections: Former § 22255, similar to present Ed C § 23706, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22225.65, as added Stats 1989 ch 542 § 7.

Amendments

1996 Amendment: Amended subd (b) by **(1)** substituting "board members" for "members of the board" after "of liability of"; **(2)** adding "board or" after "of liability of the"; and **(3)** substituting "the plan" for "retirement benefits, including the granting, denial, or withdrawal of benefits" at the end.

§ 22256. Additional bases of liability for breach of fiduciary duties

A board member or officer shall be liable for a breach of fiduciary responsibility of another board member or officer with respect to the system in the following circumstances:

(a) If the board member or officer knowingly participates in, or knowingly undertakes to conceal an act or omission of the other board member or officer knowing that the act or omission is a breach.

(b) If the board member's or officer's failure to comply with his or her responsibilities as set forth in Section 22251, 22252, or 22253 has enabled another board member or officer to commit a breach.

(c) If the board member or officer has knowledge of a breach unless the board member or officer makes reasonable efforts under the circumstances to remedy the breach.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22256, similar to present § 22222, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22225.7, as added Stats 1982 ch 1200 § 4, amended Stats 1989 ch 542 § 8.

§ 22257. Investment managers

(a) Notwithstanding Section 22203, the board may contract with or appoint one or more investment managers to manage the assets of the retirement fund. If the board has acted with care, skill, prudence, and diligence in meeting the requirements of Sections 22252 and 22253 in selecting and monitoring the investment managers, then, notwithstanding Sections 22250, 22252, 22253, 22254, and 22256, no board member shall be liable for the acts or omissions of the investment managers or be under any obligation to invest or otherwise manage any assets of the retirement fund that are subject to the management of the investment managers.

(b) Incorporation of the fiduciary duty set forth in Section 22250 into the terms of a contract between the system and an investment manager shall be admissible as evidence that the board has acted with care, skill, prudence, and diligence in the selection of the investment manager.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22257, relating to periodic actuarial valuation reports, was added Stats 1992 ch 1166 § 7, effective September 29, 1992, operative until January 1, 1997 and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22225.8, as added Stats 1983 ch 104 § 3, amended Stats 1989 ch 542 § 9.

§ 22258. Appropriations; Liability insurance for fiduciaries

Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund to the board, the amount necessary to pay for any insurance obtained pursuant to Section 7511 of the Government Code. These payments shall be made upon warrants drawn by the Controller upon demands made by the board.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22225.75, as added Stats 1984 ch 1503 § 3.

§ 22259. Fidelity bond; Liability insurance for fiduciaries

(a) All board members and officers and employees of the system shall execute a fidelity bond, in an amount determined by the board to be prudent, conditioned upon the faithful performance of the duties of the board member or employee.
(b) All board members and officers and all staff of the investment division who are authorized to invest funds shall be covered with fiduciary liability insurance in an amount determined by the board to be prudent.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 62 (SB 2041).

Historical Derivation: Former Ed C § 22225.9, as added Stats 1984 ch 1504 § 1.

Amendments

1996 Amendment: (1) Substituted "board members and officers and employees of the system" for "members of the board and its officers and employees" in subd (a); **(2)** added "board" before "member or employee" at the end of subd (a); and **(3)** substituted "board members and" for "members of the board and its" in subd (b).

§ 22260. Credit enhancement

Notwithstanding any other provision of law, the system may provide credit enhancement for bonds, notes, certificates of participation, or other evidences of indebtedness of an employer, provided that any credit enhancement transaction satisfies the requirement of Section 22250 and does not constitute a prohibited transaction for purposes of Section 503 of the United States Internal Revenue Code.

Added by Stats 1998 ch 1076 § 4 (SB 2126).

§ 22261. Investment in surplus property

Notwithstanding any other provision of law, the board may make investments related to the planning, development, or acquisition of surplus real property owned by an employer, if the investment satisfies the requirements of Section 22250 and does not constitute a prohibited transaction for purposes of Section 503 of the Internal Revenue Code.

Added by Stats 2002 ch 903 § 1 (SB 1983).

CHAPTER 5. ADMINISTRATION

§ 22300. Chief executive officer

The chief executive officer is the chief administrative officer of the system. The chief executive officer may administer oaths.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22300, similar to present § 22400, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 659 § 5, Stats 1989 ch 115 § 2, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22201, enacted Stats 1976 ch 1010 § 2.

§ 22301. Power of chief executive officer

The chief executive officer has the authority and responsibility for the administration of the system and the plan pursuant to the policies and rules adopted by the board. The chief executive officer may delegate to his or her subordinates any act or duty unless the board by motion or resolution recorded in its minutes has required the chief executive officer to act personally.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 63 (SB 2041).

Former Sections: Former § 22301, similar to present Ed C § 22401, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22204, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Added "and the plan" after "of the system" in the first sentence; and **(2)** amended the second sentence by substituting **(a)** "The chief executive officer" for "He or she" at the beginning; and **(b)** "the chief executive officer" for "him or her" after "minutes has required".

§ 22302. Ombudsman

(a) The board shall establish an ombudsman position to serve as an advocate for the members of the Defined Benefit Program and participants of the Cash Balance Benefit Program. The duties of the ombudsman position shall include reviewing and making recommendations to the chief executive officer regarding complaints by school employees, members, employee organizations, the Legislature, or the public regarding actions of the employees of the system.
(b) It is the intent of the Legislature that the salary of the position of ombudsman be offset, as much as possible, through savings realized from a reduction in interest payments on delinquent benefits to members, and through a more efficient and improved public relations program.

Added by Stats 1993 ch 893 § 2 (AB 2765). Amended by Stats 1994 ch 933 § 15, effective September 27, 1994; Stats 1996 ch 634 § 64; Stats 1998 ch 965 § 31.

Former Sections: Former § 22302, similar to present Ed C § 22216, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 870 § 5, operative July 1, 1979, Stats 1984 ch 53 § 1, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: (a) Former Ed C § 22204.5, as added Stats 1984 ch 88 § 1.
(b) Former Ed C § 22211, as added Stats 1993 ch 893 § 2.

Amendments

1994 Amendment: Amended subd (a) by **(1)** adding the first sentence; **(2)** deleting "established pursuant to Section 22211" after "ombudsman position"; and **(3)** adding "to the chief executive officer".

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "plan" for "system" after "members of the" at the end of the first sentence; and **(b)** employee organizations, the Legislature, or the public regarding actions of the employees" for "retirants, employee organizations, Members of the Legislature, or members of the public regarding actions of the staff" in the second sentence; and **(2)** substituted "from a" for "in" after "through savings realized" in subd (b).

1998 Amendment: Substituted "Defined Benefit Program and participants of the Cash Balance Benefit Program" for "plan" in the first sentence of subd (a).

§ 22302.5. Contract with third party

The board may contract with a qualified third–party administrator for custodial, record keeping, or other administrative services necessary to carry into effect the provisions of Chapter 38 (commencing with Section 25000) of this part or Part 14.

Added by Stats 2000 ch 74 § 23 (AB 1509), as Ed C § 22302. Renumbered by Stats 2000 ch 1021 § 13.5.

§ 22303. Retirement counseling services; Employment of retired public employees; Receipt of documents

(a) Due to an increase in the demand for retirement counseling services, the system, notwithstanding any other provision of law, may contract with a county superintendent or other employer to provide retirement counseling. Retired public employees may be employed on a part-time basis for that purpose, unless and until the study required by subdivision (b) of Section 7 of Chapter 1532 of the Statutes of 1985 recommends against the employment of retired public employees for these purposes. This authorization is subject to the availability of funds appropriated for that purpose in the annual Budget Act.

(b) The board may, by resolution, designate one or more official representatives who provide retirement counseling pursuant to subdivision (a), or as an employee of the system, to receive documents submitted pursuant to this part, Part 13.5 (commencing with Section 25900), or Part 14 (commencing with Section 26000). Notwithstanding any other provision of law, any document received by a designated system representative during regular counseling office business hours or in the course of performing counseling services pursuant to this subdivision shall be deemed to have been received by the system's headquarters office, as established pursuant to Section 22375, on the date received by the officially designated system representative.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 65 (SB 2041); Stats 2006 ch 655 § 7.5 (SB 1466), effective January 1, 2007; Stats 2010 ch 207 § 4 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 2 (SB 349), effective January 1, 2012.

Former Sections: Former § 22303, similar to present Ed C § 22402, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Substituted "employer" for "employing agency" after "superintendent or other" in the first sentence; **(2)** divided the former first sentence into the present first and second sentences by substituting a period for ", employing"; and **(3)** added "may be employed" after "Retired public employees" at the beginning of the second sentence.

2006 Amendment: (1) Added subd designation (a); and **(2)** added subd (b).

2010 Amendment: (1) Amended the first sentence of subd (b) by adding **(a)** "or benefits counselors"; and **(b)** the comma after "Section 25900)"; and **(2)** amended the second sentence of subd (b) by adding **(a)** "or a benefits counselor"; **(b)** "or any benefits counseling activity"; and **(c)** "or benefits counselor".

2011 Amendment: (1) Amended the first sentence of subd (b) by **(a)** substituting "representatives who" for "contracted offices or benefits counselors that"; and **(b)** adding ", or as an employee of the system,"; and **(2)** amended the second sentence of subd (b) by substituting **(a)** "a designated system representative during regular counseling office" for "an official contracted office or a benefits counselor designated by the board pursuant to this subdivision during the office's regular"; **(b)** "in the course of performing counseling services pursuant to this subdivision" for "any benefits counseling activity"; and **(c)** "officially designated system representative" for "designated official contracted office or benefits counselor".

Historical Derivation: Former Ed C § 22204.6, as added Stats 1986 ch 369 § 1.

§ 22303.5. Midcareer retirement information program

(a) Notwithstanding any other provision of law, the board shall offer a midcareer retirement information program for the benefit of all members.

(b) In implementing this section, the board shall develop plans for the development and delivery of information to enhance awareness of the features and benefits of the Defined Benefit Program, and services of the system, federal Social Security Act programs and benefits as they apply to members, and awareness of personal planning responsibilities. This information shall be provided to assist members in understanding the importance of financial, legal, estate, and personal planning, and how choices and options offered by the system may impact retirement.

(c) The board, at a public meeting, may assess a participation fee for the recovery of all startup and ongoing expenses of the midcareer information program.

(d) The board shall provide both active and retired members with notice pertaining to paragraph (1) of subdivision (c) of Section 44830 and pertaining to Section 44252.5, making all members aware of the time constraints and possible requirement for passing the state basic skills proficiency test if an individual wants to return to the classroom after 39 months. The methods for providing the notice may include, but are not limited to, any of the following:

(1) Inclusion in annual member publications.

(2) Inclusion within packets of information provided to members upon or prior to retirement.

(3) Inclusion as an attachment to any warrants issued to members.

Added by Stats 1994 ch 656 § 1 (AB 3407). Amended by Stats 1996 ch 634 § 66 (SB 2041); Stats 1998 ch 965 § 32 (AB 2765); Stats 2001 ch 734 § 14 (AB 804), effective October 11, 2001.

Amendments

1996 Amendment: (1) Deleted the former paragraph following subd (b) which read: "The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Teachers' Retirement Fund to the board, in augmentation of Item 1920–001–835 of the Budget Act of 1994, to pay the startup expenses of the midcareer retirement information program required by this section."; **(2)** redesignated former subd (d) to be subd (c); and **(3)** substituted "may" for "shall" in subd (c).

1998 Amendment: Substituted "and benefits of the Defined Benefit Program" for ", benefits".

2001 Amendment: Added subd (d).

§ 22304. Administrative costs

(a) The costs of administration of the plan shall be paid from the retirement fund and those costs may not exceed the amount made available by law during any fiscal period.

(b) The administrative costs of the plan shall be divided proportionately in accordance with the assets of the Defined Benefit Program, the Defined Benefit Supplement Program, and the Cash Balance Benefit Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 67 (SB 2041); Stats 1998 ch 1048 § 7.5 (SB 2085); Stats 2000 ch 74 § 24 (AB 1509).

Former Sections: Former § 22304, similar to present Ed C § 22356, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22003, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "plan" for "system" after "administration of the".
1998 Amendment: (1) Designated the former section to be subd (a); and **(2)** added subd (b).
2000 Amendment: Added ", the Defined Benefit Supplement Program," in subd (b).

§ 22305. Effect of rules and regulations

Any rules and regulations adopted by the board for the purpose of the administration of this part and Part 14 (commencing with Section 26000), and not inconsistent with this part and Part 14 (commencing with Section 26000), have the force and effect of law.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 16 (AB 3171), effective September 27, 1994; Stats 1998 ch 965 § 33 (AB 2765).

Former Sections: Former § 22305, relating to additional authorized investments, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1983 ch 1043 § 5, operative June 5, 1984.
Historical Derivation: Former § 22210, as enacted Stats 1976 § 2.

Amendments

1994 Amendment: Added "of this part".
1998 Amendment: Added "and Part 14 (commencing with Section 26000)," both times it appears.

§ 22306. Confidentiality

(a) Information filed with the system by a member, participant, or beneficiary of the plan is confidential and shall be used by the system for the sole purpose of carrying into effect the provisions of this part. No official or employee of the system who has access to the individual records of a member, participant, or beneficiary shall divulge any confidential information concerning those records to any person except in the following instances:
(1) To the member, participant, or beneficiary to whom the information relates.
(2) To the authorized representative of the member, participant, or beneficiary.
(3) To the governing board of the member's or participant's current or former employer.
(4) To any department, agency, or political subdivision of this state.
(5) To other individuals as necessary to locate a person to whom a benefit may be payable.
(6) Pursuant to subpoena.
(7) To an agent or a physician authorized by the board in the performance of duties pursuant to Section 24003, 24012, 24103, or 24111.
(8) To a physician or psychologist authorized by the member to receive medical information, if the system determines that the information may be detrimental to the member, as provided under Section 1798.40 of the Civil Code.
(b) Information filed with the system in a beneficiary designation form may be released after the death of the member or participant to those persons who may provide information necessary for the distribution of benefits.
(c) The information is not open to inspection by anyone except the board and its officers and employees of the system, and any person authorized by the Legislature to make inspections.

Added by Stats 1996 ch 634 § 69 (SB 2041). Amended by Stats 1998 ch 965 § 34 (AB 2765); Stats 1999 ch 939 § 24 (SB 1074); Stats 2007 ch 323 § 4 (AB 757), effective January 1, 2008.

Former Sections: Former § 22306, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 17, effective September 27, 1994, and repealed Stats 1996 ch 634 § 68.

Former § 22306, relating to additional authorized investments in stocks or shares, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1983 ch 1043 § 6, operative June 5, 1984.

Amendments

1998 Amendment: (1) Amended subd (a) by adding **(a)** ", participant," both times it appears; and **(b)** "of the plan" in the first sentence; **(2)** added ", participant" in subds (a)(1) and (a)(2); **(3)** added "or participant's" in subd (a)(3); and **(4)** added "or participant" in subd (b).

1999 Amendment: Added **(1)** the commas after "participant" in subds (a)(1) and (a)(2); and **(2)** subd (a)(6).

2007 Amendment: Added subds (a)(7) and (a)(8).

§ 22307. Authorization for transfer and disbursement of funds

(a) The board may authorize the transfer and disbursement of funds from the retirement fund for the purpose of carrying into effect this part and Part 14 (commencing with Section 26000). That action shall require signatures of either the board chairperson and vice chairperson, or the signatures of the board chairperson or vice chairperson and the chief executive officer or any employee of the system designated by the chief executive officer.

(b) Notwithstanding Section 13340 of the Government Code, the board may disburse funds for benefits payable under this part and Part 14 (commencing with Section 26000), for the payment of refunds and for investment transactions. Funds for these purposes shall not require appropriation by the annual Budget Act.

(c) Funds for the payment of administrative expenses are not continuously appropriated, and funds for that purpose shall be appropriated by the annual Budget Act.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 70 (SB 2041); Stats 1998 ch 1048 § 7 (SB 2085); Stats 2000 ch 1025 § 15 (AB 816).

Former Sections: Former § 22307, relating to retaining investment counsel, trust companies, or trust departments of banks to advise the board, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 327 § 1, and repealed Stats 1982 ch 1434 § 2.

Historical Derivation: Former Ed C § 22206, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "members" for "retirants, disabilitants" after "payment of benefits to" in subd (b).

1998 Amendment: Added **(1)** "and Part 14 (commencing with Section 26000)" in subd (a); and **(2)** "of the Defined Benefit Program as well as to participants and beneficiaries of the Cash Balance Benefit Program" in subd (b).

2000 Amendment: (1) Substituted ". That action shall require signatures of either the board chairperson and vice chairperson, or the signatures of the board chairperson or vice chairperson and" for "upon the signature of either or both of its chairperson and vice chairperson or" in subd (a); **(2)** substituted the first and second sentences of subd (b) for the former first sentence of subd (b) which read: "Notwithstanding Section 13340 of the Government Code, the board may disburse funds for the payment of benefits to members and beneficiaries of the Defined Benefit Program as well as to participants and beneficiaries of the Cash Balance Benefit Program, for the payment of refunds and for investment transactions and these funds shall not be required to be appropriated through the annual Budget Act."; **(3)** designated the former second sentence of subd (b) to be subd (c); and **(4)** added "funds for that purpose" in subd (c).

§ 22307.5. Teachers' Retirement Program Development Fund created

(a) There is in the State Treasury a trust fund to be known as the Teachers' Retirement Program Development Fund. There shall be deposited directly in that fund, and not transferred from the Teachers' Retirement Fund, that portion of employer contributions determined by the board as necessary to fund the expenditures authorized by this section.

(b) Notwithstanding Section 13340 of the Government Code, moneys in the Teachers' Retirement Program Development Fund are continuously appropriated without regard to fiscal years to pay any costs determined by the board to be related to the development of programs authorized by statute that the board determines directly or indirectly enhance the financial security of members, participants, or beneficiaries of the State Teachers' Retirement Plan, if the board determines, by resolution, the proposed program is to have a reasonable expectation to generate sufficient revenue to carry out the ongoing responsibilities of the programs under development and permit the subsequent deposit of funds, pursuant to subdivision (e), into the Teachers' Retirement Fund.

(c) The board may authorize the transfer and disbursement of funds from the Teachers' Retirement Program Development Fund for the purpose of carrying into effect this section upon the signature of either or both of its chairperson and vice chairperson or the chief executive officer or any employee of the system designated by the chief executive officer.

(d) Disbursements of moneys from the Teachers' Retirement Program Development Fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds.

(e) An amount equal to employer contributions deposited in the Teachers' Retirement Program Development Fund pursuant to subdivision (a), together with interest calculated based on the actuarially assumed rate of investment return for the Defined Benefit Program for the period beginning with the deposit of employer contributions into the Teachers' Retirement Program Development Fund and ending with the transfer to the Teachers' Retirement Fund, on terms and conditions established by the board pursuant to subdivision (b), shall be deposited in the Teachers' Retirement Fund, from funds generated from the programs receiving development funds pursuant to this section.

Added by Stats 2006 ch 780 § 1 (AB 2462), effective January 1, 2007.

§ 22307.6. Transfer of funds from Teachers' Retirement Program Development Fund into designated fund

The board may, by resolution, direct the Controller to transfer all or a portion of the assets in the Teachers' Retirement Program Development Fund, established pursuant to Section 22307.5, into the designated fund or account that is authorized to expend funds for the same program for which the assets in the Teachers' Retirement Program Development Fund were credited, if the board finds that the transfer of the assets of the Teachers' Retirement Program Development Fund into the designated fund or account would facilitate the efficient administration of the program for which the fund or account was established.

Added Stats 2010 ch 207 § 5 (AB 2260), effective January 1, 2011.

§ 22308. Correction of errors or omissions

(a) Subject to subdivision (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any member or beneficiary of the Defined Benefit Program, and of any participant or beneficiary of the Cash Balance Benefit Program, if all of the following facts exist:

(1) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(2) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

(b) Failure by a member, participant or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(c) Subject to subdivision (d), the board may correct all actions taken as a result of errors or omissions of the employer or this system.

(d) The duty and power of the board to correct errors and omissions, as provided in this section, shall terminate upon the expiration of obligations of the board, system, and plan to the party seeking correction of the error or omission, as those obligations are defined by Section 22008.

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a), (b), and (c) are adjusted to be the same that they would have been if the act that was taken or would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a), (b), and (c) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a), (b), and (c) cannot be adjusted to be the same as they would have been if the error or omission had not occurred.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 71 (SB 2041); Stats 1998 ch 965 § 35 (AB 2765).

Former Sections: Former § 22308, similar to present Ed C § 22324, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1988 ch 902 § 1, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22233, as added Stats 1987 ch 376 § 1.

(b) Former Ed C § 22233, as added Stats 1988 ch 1089 § 2.

Amendments

1996 Amendment: (1) Substituted "or beneficiary" for ", retirant, or any beneficiary of any member or retirant" after "of any member" in the introductory clause of subd (a); **(2)** deleted ", retirant," after "by a member" in subd (b); **(3)** substituted "the board, system, and plan" for "this system" after "of obligations of" in subd (d); and **(4)** added "was taken or" after "if the act that" in the first sentence of subd (e).

1998 Amendment: (1) Substituted "of the Defined Benefit Program, and of any participant or beneficiary of the Cash Balance Benefit Program, if" for ", provided that" in the introductory clause of subd (a); and **(2)** added ", participant" in subd (b).

Notes of Decisions

In construing the correction provision applicable to the teachers' retirement system under Ed C § 22308, the court declined to look to the correction provision applicable to the Public Employees' Retirement System, Gov C § 20160, which used "shall" correct rather than "may" correct. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

Where a representative of the California State Teachers' Retirement Board (CalSTRS) misled a teacher about the eligibility requirements for disability retirement benefits in 1999, the teacher's 2005 application for disability benefits, arising from a 1998 attack by students, should have been remanded to CalSTRS to decide whether to exercise its power under Ed C § 22308 to relieve the teacher from the consequences of the late-filed application, including her inability to prove with contemporaneous medical evidence that she was disabled in 1999. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

§ 22309. Individual account statements (Annual statement)

(a) The board shall issue to each active and inactive member, no less frequently than annually after the close of the school year, a statement of the member's individual Defined Benefit Program and Defined Benefit Supplement accounts, provided the employer or member has informed the system of the member's current United States Postal Service mailing address. If the member indicates that he or she prefers to receive that annual statement through the Web site of the system, the board may, in lieu of mailing, issue the annual statement by secured access through the Web site of the system.

(b) The board shall periodically make a good faith effort to locate inactive members to provide these members with information concerning any benefit for which they may be eligible.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 18 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 72 (SB 2041); Stats 2000 ch 74 § 25 (AB 1509); Stats 2006 ch 655 § 8 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22309, similar to present Ed C § 22359, was added Stats 1986 ch 900 § 1 and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22228, as enacted Stats 1976 ch 1010 § 2, amended Stats 1993 ch 861 § 2.

Amendments

1994 Amendment: (1) Added subdivision designation (a); **(2)** added ", provided the employer or member has informed the system of the member's current mailing address" in subd (a); and **(3)** added subd (b).

1996 Amendment: (1) Added "active and inactive" after "issue to each" in subd (a); **(2)** redesignated former subd (b)(1) to be subd (b); and **(3)** deleted former subd (b)(2) which read: "(2) For purposes of this subdivision, 'inactive member' means a member who, by the report period ending June 30 of a school year, has performed no service during that school year."

2000 Amendment: Amended subd (a) by **(1)** adding "no less frequently than annually"; **(2)** substituting "the member's" for "his or her"; and **(3)** substituting "Defined Benefit Program and Defined Benefit Supplement accounts" for "account".

2006 Amendment: (1) Added "United States Postal Service" after "the member's current"; and **(2)** added the last sentence.

§ 22310. Unclaimed refund or benefit

(a) If a benefit or refund cannot be paid because, after a good faith effort, the member or beneficiary cannot be located, the amount payable shall be returned to the retirement fund until the time the party entitled to payment is located.

(b) Interest shall continue to accrue on the accumulated contributions pursuant to this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 19 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 73 (SB 2041).

Former Sections: Former § 22310, relating to teacher tax–sheltered annuity fund, was added Stats 1978 ch 870 § 6 amended Stats 1990 ch 831 § 3, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24609, as enacted Stats 1976 § 1010 § 2, amended Stats 1980 ch 244 § 13.

Amendments

1994 Amendment: Substituted the section for the former section which read:

"(a) Whenever a refund cannot be made under Section 23103, or a benefit cannot be paid because the member cannot be found, all accumulated contributions credited to the member's account shall be transferred to the retirement fund.

"(b) If a member whose entire accumulated contributions were transferred to the retirement fund returns to a position requiring membership is located, or applies for a benefit or a refund of contributions, the system shall return all his or her contributions to the member's account with interest that would have been credited to the account had the accumulated contributions not been transferred."

1996 Amendment: Amended subd (a) by **(1)** deleting "of contributions" after "benefit or refund"; and **(2)** substituting "returned to the retirement fund" for "retained in the Teachers' Retirement Fund".

§ 22311. Actuarial investigations

The board shall maintain all data necessary to perform an actuarial investigation of the demographic and economic experience of the plan and for the actuarial valuation of the assets and liabilities of the plan.

Added by Stats 2000 ch 74 § 27 (AB 1509).

Former Sections: Former § 22311, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 20, effective September 27, 1994, Stats 1996 ch 634 § 74, Stats 1998 ch 1048 § 8, and repealed Stats 2000 ch 74 § 26.

Historical Derivation: Former Ed C § 22226, as enacted Stats 1976 ch 1010 § 2, amended Stats 1987 ch 416 § 2.

§ 22311.5. Actuary's services

The board shall acquire the services of an actuary to do all of the following:

(a) Make recommendations to the board for the adoption of actuarial assumptions that, in the aggregate, are reasonably related to the past experience of the plan and reflect the actuary's informed estimate of the future experience.

(b) Make an actuarial investigation of the demographic and economic experience, including the mortality, service, and other experience, of the plan with respect to members and beneficiaries of the Defined Benefit Program; members, beneficiaries, and annuity beneficiaries of the Defined Benefit Supplement Program; and participants and beneficiaries of the Cash Balance Benefit Program.

(c) Make an annual actuarial review of the goals regarding the sufficiency of the Gain and Loss Reserves with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program and make recommendations to the board for maintaining a sufficient Gain and Loss Reserves for the Defined Benefit Supplement Program and the Cash Balance Benefit Program.

(d) Recommend to the board the amount, if any, to be transferred to the separate Gain and Loss Reserves from the investment earnings of the plan with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program.

(e) At least once every six years with respect to the Defined Benefit Program and annually with respect to the Defined Benefit Supplement Program and the Cash Balance Benefit Program, using actuarial assumptions adopted by the board, perform an actuarial valuation of each program that identifies the assets and liabilities, and report the findings to the board. The report of the actuary on the results of each actuarial valuation shall identify and include the components of normal cost, if applicable, and adequate information to determine the effects of changes in actuarial assumptions. Copies of the report on each actuarial valuation shall be transmitted to the Governor and the Legislature.

(f) Recommend to the board all rates and factors necessary to administer the plan, including, but not limited to, mortality tables, annuity factors, interest rates, and additional earnings credits.

(g) Recommend to the board a strategy for amortizing any unfunded actuarial obligation.

(h) As requested by the board, perform any other actuarial services that may be required for administration of the plan.

Added by Stats 2000 ch 74 § 28 (AB 1509), ch 1021 § 14 (AB 2700).

§ 22311.7. Actuarial plan amendments

Upon the basis of the actuarial investigation and actuarial valuation pursuant to Section 22311.5, or any part thereof, the board shall adopt by plan amendment actuarial assumptions, rates, factors, and tables as the board determines are necessary for administration of the plan and its programs.

Added by Stats 2000 ch 74 § 29 (AB 1509).

§ 22313. Retroactive adjustment of rates

(a) No adjustment shall be included in new rates of contribution adopted by the board on the basis of an investigation, valuation, and determination or because of amendment to the Teachers' Retirement Law with respect to the Defined Benefit Program, for time prior to the effective date of the adoption or amendment, as the case may be.

(b) No action of the board, other than correction of errors in calculating the allowance or annuity at the time of retirement, disability or death of a member shall change the allowance or annuity payable to a retired member or beneficiary prior to the date the action is taken.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 75 (SB 2041); Stats 1998 ch 965 § 36 (AB 2765).

Former Sections: Former § 22313, relating to authority of retirement board to invest in real property, was added Stats 1982 ch 24 § 1 and repealed Stats 1985 ch 54 § 2.

Historical Derivation: Former Ed C § 22227, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Deleted "annuity" after "new rates of" in subd (a); and **(2)** substituted "allowance or annuity at the time of retirement, disability or death of a member shall change the allowance or annuity payable to a retired member or beneficiary" for "annuity at the time of retirement, shall change the annuity payable to a retirant retired" in subd (b).

1998 Amendment: Added "with respect to the Defined Benefit Program" in subd (a).

§ 22314. Advisement of possible tax liabilities

The system shall inform a member, upon retirement, that future tax liabilities may occur as the result of the pending retirement allowance.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22314, relating to definitions and requirements for secutity loan agreements, was added Stats 1982 ch 72 § 1, effective March 1, 1982, and repealed Stats 1985 ch 54 § 3.

Historical Derivation: Former § 22004.1, as added Stats 1984 ch 683 § 1, amended Stats 1988 ch 382 § 1.

§ 22317.5. Amount of compensation considered in computing benefits for members on or after July 1, 1996

The amount of compensation that is taken into account in computing benefits payable under this part to any person who first becomes a member of the Defined Benefit Program on or after July 1, 1996, shall not exceed the annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12–month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12–month period begins. In a determination of average annual compensation over more than one 12–month period, the amount of

compensation taken into account for each 12–month period, shall be subject to the annual compensation limit applicable to that period.

Notwithstanding any other provision of this part, no member contribution shall be paid upon any compensation in excess of the annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United States Code.

Added by Stats 1995 ch 829 § 1 (SB 791). Amended by Stats 1998 ch 965 § 40 (AB 2765).

Amendments

1998 Amendment: Amended the first sentence by **(1)** adding "under this part" after "benefits payable"; and **(2)** substituting "the Defined Benefit Program" for "this system".

§ 22318. Payment of checks to disabled member or member retired for disability; Retroactive checks

(a) The initial payment to a disabled member or member retired for disability shall be paid within 45 days following the date the disability is approved, the effective date of the disability retirement or disability allowance, or receipt of all necessary information, whichever occurs last. Monthly payments shall continue thereafter. Initial payments may be based on a good faith estimated amount pending receipt by the system of all necessary employment, dependent, and other public benefit information.

(b) The allowance payable to a disabled member or member retired for disability shall be finalized and a retroactive payment, if one is due, shall be issued within 45 days of receipt by the system of all necessary information.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 79 (SB 2041).

Amendments

1996 Amendment: Substituted **(1)** "disabled member or member retired for disability" for "disabilitant or a disability retirant" in the first sentence of subd (a); and **(2)** subd (b) for former subd (b) which read: "(b) The disabilitant or disability retirant shall be placed on the final roll and issued a retroactive payment, if one is due, within 45 days of receipt by the system of all necessary information."

§ 22319. Payment of checks to member retired for service; Retroactive checks

(a) The initial payment to a member retired for service shall be issued within 45 days of either the effective date of retirement or receipt by the system of a completed application for retirement, whichever is later. The initial payment to an option beneficiary shall be issued within 45 days following receipt by the system of a completed application for death benefits and proof of death of the member. Monthly payments shall continue thereafter. Payments may be based on a good faith estimate pending receipt by the system of all necessary employment information.

(b) The allowance payable to a member retired for service or option beneficiary shall be finalized and a retroactive payment, if one is due, shall be issued within 45 days of receipt by the system of all necessary information.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 22 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 80 (SB 2041).

Amendments

1994 Amendment: Substituted "proof of death of the member or retirant" for "a certified death certificate" at the end of the second sentence of subd (a).

1996 Amendment: (1) Amended subd (a) by **(a)** substituting "member retired for service" for "retirant" after "The initial payment to a" at the beginning of the first sentence; **(b)** deleting "or retirant" after "death of the

member" at the end of the second sentence; and **(c)** substituting "estimate" for "estimated amount" after "on a good faith" in the fourth sentence; and **(2)** substituted subd (b) for former subd (b) which read: "(b) The retirant or option beneficiary shall be placed on the final roll and issued a retroactive payment, if one is due, within 45 days of receipt by the system of all necessary information."

§ 22320. Payment of death benefits

The death benefits provided pursuant to Chapter 22 (commencing with Section 23800), Chapter 23 (commencing with Section 23850), and Chapter 24 (commencing with Section 23880) shall be paid to the beneficiary or estate within 45 days of receipt by the system of all necessary information.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22320, similar to present § 22375, was added Stats 1982 ch 1429 § 1, effective September 27, 1982, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 24612.2, as added Stats 1992 ch 1167 § 16.
Former § 24612.2, as added Stats 1982 ch 1428 § 3, amended Stats 1987 ch 330 § 19, Stats 1990 ch 560 § 13.

§ 22321. Penalty for late payments (Interest penalty)

The system shall pay interest for delays in excess of the allowable days specified in Sections 22318 to 22320, inclusive. The interest rate for late payments shall be the regular interest rate. Interest payments shall be deemed to be interest earned in the calendar year in which paid. All interest payments under this section shall be paid in addition to any credited interest that is paid.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 81 (1st) (SB 2041).

Former Sections: Former § 22321, similar to present Ed C § 22376, was added Stats 1982 ch 1429 § 1, effective September 27, 1982, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 24612.5, as added Stats 1982 ch 1428 § 4, amended 1989 ch 327 § 2, Stats 1990 ch 560 § 14.

Amendments

1996 Amendment: Deleted "the retirant, option beneficiary, disabilitant, beneficiary, or estate" after "The system shall pay" at the beginning of the first sentence.

§ 22322. Report of late payments to board

The system shall report monthly to the board on all late payments.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 81 (2nd) (SB 2041).

Former Sections: Former § 22322, similar to present Ed C § 22377, was added Stats 1982 ch 1429 § 1, effective September 27, 1982, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 24613, as added Stats 1982 ch 1428 § 5.

Amendments

1996 Amendment: Substituted the section for the former section which read: "The system shall make a report to the board of all late payments at each regularly scheduled meeting."

§ 22323. Monthly report of outstanding death benefits

The system shall report monthly to the board concerning outstanding death benefits payable that have not been paid within six months of the notification of the death of the member.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 82 (SB 2041).

Former Sections: Former § 22323, similar to present Ed C § 22378, was added Stats 1982 ch 1429 § 1, effective September 27, 1982, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24618, as added Stats 1986 ch 1006 § 3.

Amendments

1996 Amendment: Added "payable" after "outstanding death benefits".

§ 22324. Annual report

The board shall file an annual report with the Governor and the Legislature by March 1 of each year on all phases of its work that could affect the need for public contributions for costs of administration of the system, including the subjects of benefits, programs, practices, procedures, comments on trends and developments in the field of retirement, and the following information on the assets of the plan:

(a) A copy of the annual audit performed pursuant to Section 22217.

(b) A certification letter from the system's consulting actuary concerning the findings of the most recent actuarial valuation, accompanied by analysis of funding progress and summaries of the actuarial cost method, assumptions, and demographic data, including actual payroll subject to the system.

(c) A review of the system's asset mix strategy, a market review or the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(d) A description of the investments of the system at cost and market value, and a summary of major changes that occurred since the previous year.

(e) The annual return on investments and the following information regarding the rate of return of the system by asset type:

(1) Time-weighted market value rate of return on a five-year, three-year, and one-year basis.

(2) Time-weighted book value rate of return on a five-year, three-year, and one-year basis.

(3) Portfolio return comparisons that compare investment returns with universes and indexes.

(f) A report on the use of outside investment advisers and managers.

(g) A report on the nature and cost of investment contract services used, including either the start date of an existing contract or, if there are multiple existing contracts with the same contractor or vendor, the earliest start date.

(h) A report on shareholder voting.

(i) A report for the prior fiscal year on the following information:

(1) The percentage of purchasing power protection and any changes adopted by the board.

(2) The extent to which inflation has eroded the purchasing power of benefits provided under the Defined Benefit Program.

(3) The amount of supplementary increases in retirement allowances required to preserve the purchasing power of benefits provided by the Defined Benefit Program.

Added by Stats 1995 ch 829 § 3 (SB 791). Amended by Stats 1996 ch 634 § 83 (SB 2041); Stats 2012 ch 864 § 4 (AB 2663), effective January 1, 2013.

Former Sections: Former § 22324, similar to the present section, was added Stats 1993 ch 893 § 2, and repealed Stats 1995 ch 829 § 2.

Former § 22324, similar to present Ed C § 22379, was added Stats 1982 ch 1429 § 1, effective September 27, 1982, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22218, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22308, as enacted Stats 1976 ch 1010 § 2, amended Stats 1988 ch 902 § 1.

(c) Former Ed C § 22325, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: Substituted "plan" for "system" after "the assets of the" at the end of the introductory clause.

2012 Amendment: (1) Amended subd (b) by **(a)** adding "analysis of funding progress and"; and **(b)** substituting ", including actual payroll subject to the system" for "and analysis of funding progress"; **(2)** added "The annual return on investments and" in the introductory clause of subd (e); **(3)** added subds (g) and (i); and **(4)** redesignated former subd (g) to be subd (h).

§ 22327. Disclosure of earnings of recipient (Disability allowance and disability retirement)

Notwithstanding any other provision of law, the Employment Development Department shall disclose to the board information in its possession relating to the earnings of any person who is receiving a disability benefit under the Defined Benefit Program. The earnings information shall be released to the board only upon written request from the board specifying that the person is receiving disability benefits under the Defined Benefit Program. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing. The board shall notify recipients of disability benefits that earnings information shall be obtained from the Employment Development Department upon request by the board. The board shall not release any earnings information received from the Employment Development Department to any person, agency, or other entity. The system shall reimburse the Employment Development Department for all reasonable administrative expenses incurred pursuant to this section.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 84 (SB 2041); Stats 1998 ch 965 § 41 (AB 2765); Stats 1999 ch 939 § 25 (SB 1074).

Historical Derivation: Former Ed C § 22242, as added Stats 1985 ch 543 § 1 as Ed C § 23910.3, amended and renumbered by Stats 1992 ch 1167 § 12.

Amendments

1996 Amendment: Substituted **(1)** "benefit from the plan" for "allowance or disability retirement allowance from the system" at the end of the first sentence; **(2)** "disability benefits from the plan" for "benefits for a disability allowance or disability retirement allowance from the system" at the end of the second sentence; and **(3)** "benefits that earnings information from shall be obtained from the Employment Development Department's" for "allowances and disability retirement allowances that earnings information from the Employment Development Department's records will be released" in the fourth sentence.

1998 Amendment: Amended the fourth sentence by **(1)** deleting "from" after "earnings information"; and **(2)** substituting "Department" for "Department's".

1999 Amendment: Substituted "under the Defined Benefit Program" for "from the plan" at the end of the first and second sentences.

§ 22328. Credits on cancellation of allowances accrued after July 1, 1972

(a) Upon termination of a retirement allowance or disability allowance that began to accrue on or after July 1, 1972, the person's individual account shall be credited with the amount of his or her accumulated retirement contributions as they were on the effective date of retirement or disability, less the sum of all payments made under paragraph (1) of subdivision (a) of Section 24202, and under Sections 24006 and 24007. The reduction shall not be greater than the total of the accumulated retirement contributions.

(b) Upon the termination of a retirement allowance, the person's accumulated annuity deposit contribution accounts shall be credited with the amounts of the contributions as they were on the date the annuity became payable because of the retirement less the sum of all payments made under paragraph (2) of subdivision (a) of Section 24202.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 85 (SB 2041).

Historical Derivation: Former Ed C § 23914, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 870 § 15, Stats 1984 ch 53 § 4.

Amendments

1996 Amendment: Amended the first sentence of subd (a) by **(1)** adding "allowance" after "of a retirement" near the beginning; and **(2)** deleting "allowance" after "date of retirement or disability".

§ 22329. Toll–free telephone assistance

In order to provide equitable telephone assistance to all members and beneficiaries, regardless of their location in California, the system shall install a toll–free, "800" prefix, line.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 86 (SB 2041).

Historical Derivation: Former Ed C § 22235, as added Stats 1984 ch 683 § 2.

Amendments

1996 Amendment: Substituted "and beneficiaries" for ", beneficiaries, and retirants" after "to all members".

§ 22330. Analysis of asset and liability implications of bills affecting investment strategy, funding, or benefit structure; Appropriation

(a) The board shall provide the Legislature with an analysis of the asset and liability implications of each bill that would affect the investment strategy of the system, the funding of the plan, or the benefit structure of the plan. The analysis shall include an explanation of the methodology employed and the assumptions used in its preparation. Neither fiscal committee of the Legislature shall hear any such bill until the analysis has been provided to the committee.

(b) There is hereby continuously appropriated, without regard to fiscal years, from the retirement fund, an amount sufficient to pay all costs arising from subdivision (a), but not to exceed fifty thousand dollars ($50,000) in any one fiscal year.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 87 (SB 2041).

Historical Derivation: Former Ed C § 22236, as added Stats 1984 ch 1502 § 1.

Amendments

1996 Amendment: Substituted "plan, or the benefit structure of the plan" for "system, or the benefit structure of the system" at the end of the first sentence in subd (a).

§ 22335. Disbursement of moneys in Teachers Tax–Sheltered Annuity Fund (Operative term contingent)

(a) All moneys in the Teachers Tax–Sheltered Annuity Fund are continuously appropriated to the board for disbursement for the purposes of the tax–sheltered annuity plan previously provided under this part.

(b) The board may provide by board rule for optional forms of payment from the Teachers Tax–Sheltered Annuity Fund.

(c) The Teachers Tax–Sheltered Annuity Fund as it existed on December 31, 1994, shall continue to exist for purposes of this section.

(d) This section shall cease to be operative 180 days after the date that an annuity contract and custodial account established pursuant to Chapter 36 (commencing with Section 24950) becomes operative. On the date this section ceases to be operative this section is repealed unless a statute that is enacted before that date deletes or extends that date.

Added by Stats 1994 ch 489 § 1 (AB 3705). Amended by Stats 1996 ch 634 § 89 (SB 2041).

Amendments

1996 Amendment: Substituted "Teachers Tax–Sheltered Annuity Fund" for "Teacher Tax–Sheltered Annuity Fund" wherever it appears.

CHAPTER 6. INVESTMENTS

§ 22350. Legislative declaration; Investment expertise

The Legislature finds and declares that changing economic conditions and increasing complexity in the investment market make it necessary and desirable that the system obtain the best possible investment expertise.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22205.1, as added Stats 1982 ch 1433 § 1, amended Stats 1986 ch 230 § 1.

§ 22351. Legislative intent; Expertise of investment advisers

It is the intent of the Legislature that the board secure investment advisors with the composite expertise necessary for the investment of the retirement fund portfolio.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22312, as added Stats 1982 ch 1432 § 1.

§ 22352. Contract for investment services

Upon a finding by the board that necessary investment expertise is not available within existing civil service classifications, and with the approval of the State Personnel Board, the board may contract with qualified investment managers having demonstrated expertise in the management of large and diverse investment portfolios to render service in connection with the investment program of the board.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 2001 ch 803 § 5 (SB 501); Stats 2012 ch 728 § 30 (SB 71), effective January 1, 2013 (ch 728 prevails), ch 864 § 5 (AB 2663), effective January 1, 2013.

Historical Derivation: Former § 22205.2, as added Stats 1982 ch 1433 § 2, amended Stats 1986 ch 230 § 2, Stats 1987 ch 330 § 6.

Amendments

2001 Amendment: Amended the first sentence of subd (b) by **(1)** adding "and" after "Legislature,"; **(2)** deleting ", and the Joint Public Pension Fund Investments Committee" after "Committee"; and **(3)** deleting "the" after "duration, and".

2012 Amendment: Deleted **(1)** subdivision designation (a); and **(2)** former subd (a) which read: "(b) The board shall report to the Governor, the Legislature, and the Joint Legislative Budget Committee on the nature, duration, and cost of investment contract services used. The report shall first be submitted in April 1987, and annually in April of every year thereafter."

§ 22353. Requirement of separate individual investment advisers

(a) Notwithstanding any other provision of law, the board shall by contract retain not less than two separate individual investment advisers.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated without regard to fiscal years, from the retirement fund, an amount sufficient to pay all costs arising from this section.

(c) No costs arising from this section shall be paid from the General Fund.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22312.5, as added Stats 1982 ch 1432 § 2.

§ 22354. Duties of investment managers

(a) The board shall, pursuant to the state civil service statutes, either contract with, or establish and fill full–time positions for, investment managers who are experienced and knowledgeable in corporate management issues to monitor each corporation any of whose shares are owned by the plan and to advise the board on the voting of the shares owned by the plan and on the responses of the system to merger proposals and tender offers and all other matters pertaining to corporate governance.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund, an amount sufficient to pay all costs arising from this section.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 23 (AB 3171), effective September 27, 1994; Stats 1998 ch 965 § 42 (AB 2765).

Historical Derivation: Former § 22239, as added Stats 1984 ch 1105 § 1, amended Stats 1987 ch 330 § 8, Stats 1988 ch 382 § 3.

Amendments

1994 Amendment: Added "retirement" in subd (b).
1998 Amendment: Substituted "plan" for "system" after "owned by the" both times it appears in subd (a).

§ 22355. Employment of investment personnel also serving as investment staff

In no event shall the board employ through interagency agreement any investment personnel who would also serve during the term of the agreement as investment staff to the Board of Administration of the Public Employees' Retirement System.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22205.5, as added Stats 1982 ch 1434 § 1, amended Stats 1983 ch 426 § 1, Stats 1987 ch 330 § 7.

§ 22356. Reduction of book value of securities

The board may apply to reduce the book value of securities purchased, all or part of the excess of the proceeds of the sale or redemption prior to maturity of securities over the book value of the securities sold or redeemed provided the purchase of securities is made with those proceeds and provided that the terms of both securities from the date of sale, redemption, or purchase, as the case may be, to the respective dates of maturity, do not differ by more than five years. All applications of excess of sales or redemption proceeds, even with greater difference in terms, made by the board before October 1, 1949, are hereby validated and confirmed.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22304, as enacted Stats 1976 ch 1010 § 2.

§ 22359. Custodian services

Notwithstanding any other provision of law, the board may retain a bank or trust company to serve as custodian for safekeeping, delivery, securities valuation, investment performance reporting, and other services in connection with investment of the retirement fund.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22309, as added Stats 1986 ch 900 § 1.

§ 22360. State Teachers' Retirement System Home Loan Program Act; Authority to enter correspondent agreements with private lending institutions to assist retirement fund to invest in residential mortgages

(a) Notwithstanding any other provision of law, the board may pursuant to Section 22203 and in conformance with its fiduciary duty set forth in Section 22250, enter into correspondent agreements with private lending institutions in this state to utilize the retirement fund to invest in residential mortgages, including assisting borrowers, through financing, to obtain homes in this state.

(b) The program shall, among other things, provide:

(1) That home loans be made available to borrowers for the purchase of single–family dwellings, two–family dwellings, three–family dwellings, four–family dwellings, single–family cooperative apartments, and single–family condominiums.

(2) That the recipients of the loans occupy the homes as their principal residences in accordance with policies established by the board.

(3) That the home loans shall be available only for the purchase or refinance of homes in this state.

(4) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board that shall provide a loan of up to 100 percent of the appraised value. In no event shall the loan amount exceed 200 percent of the conforming loan limit set by the Federal National Mortgage Association (FNMA) or 200 percent of the conforming loan limit set by the Federal Home Loan Mortgage Corporation (FHLMC), whichever is greater. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code, in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(5) That there may be prepayment penalties assessed on the loans in accordance with policies established by the board.

(6) That the criteria and terms for its loans shall be consistent with the financial integrity of the program and the sound investment of the retirement fund.

(7) Any other terms and conditions as the board shall deem appropriate.

(c) It is the intent of the Legislature that the provisions of this section be used to establish an investment program for residential mortgages, including assisting borrowers in purchasing homes in this state, or refinancing a mortgage loan. The Legislature intends that home loans made pursuant to this section shall be secured primarily by the property purchased or refinanced and shall not exceed the appraised value of that property.

(d) Appropriate administrative costs of implementing this section and Section 22360.5 shall be paid by the participating borrowers. Those costs may be included in the loan amount.

(e) Appropriate interest rates shall be periodically reviewed and adjusted to provide loans to borrowers consistent with the financial integrity of the home loan program and the sound and prudent investment of the retirement fund. Under no circumstances, however, shall the interest rates offered to borrowers be below current market rate.

(f) The board shall administer this section and Section 22360.5 under other terms and conditions it deems appropriate and in keeping with the investment standard. The board may adopt policies as ne-

cessary for its administration of this section and Section 22360.5 and to assure compliance with applicable state and federal laws.

(g) This section and Section 22360.5 shall be known as, and may be cited as, the Dave Elder State Teachers' Retirement System Home Loan Program Act.

Added by Stats 1998 ch 419 § 2 (SB 1945). Amended by Stats 1999 ch 939 § 26 (SB 1074); Stats 2001 ch 802 § 4 (SB 499).

Former Sections: Former § 22360, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 25, effective September 27, 1994, Stats 1996 ch 634 § 91, and repealed Stats 1998 ch 419 § 1.

Historical Derivation: Former Ed C § 22238, as added Stats 1984 ch 392 § 1, amended Stats 1986 ch 69 § 1, ch 369 § 2, Stats 1988 ch 408 § 1, Stats 1990 ch 11 § 1, Stats 1991 ch 543 § 4.

Amendments

1999 Amendment: (1) Substituted "borrowers" for "members" in subd (a); **(2)** deleted former subd (b) which read: "(b) For the purpose of this section, the term 'member' means any person who is receiving, or is entitled to receive, a retirement allowance funded by this system, notwithstanding any vesting requirement and without regard to present eligibility to retire."; **(3)** redesignated former subds (c) and (d) to be subds (b) and (c); **(4)** amended subd (b) by substituting **(a)** "The program" for "The board shall adopt regulations governing the program that" in the introductory clause; **(b)** "accordance with policies" for "accord with rules and regulations" in subd (b)(2); **(c)** "of up to 100 percent of the appraised value. In no event shall the loan amount exceed three hundred fifty thousand dollars ($350,000)" for "loan–to–value ratio of: (A) for the first loan, except for three–family dwellings and four–family dwellings, a maximum of 95 percent of the first loan; (B) for the first loan on three–family dwellings and four–family dwellings, a maximum of 90 percent of the first loan; and (C) for each additional loan, a maximum of 95 percent of each additional loan" in subd (b)(4); and **(d)** "policies" for "rules and regulations" in subd (b)(5); **(5)** amended subd (c) by **(a)** substituting "borrowers in purchasing" for "members in obtaining" in the first sentence; **(b)** adding ", or refinancing a mortgage loan" at the end of the first sentence; and **(c)** substituting "purchased or refinanced and shall not exceed the appraised value of that property" for "acquired and shall not exceed the fair market value of the property acquired" at the end; **(6)** deleted former subds (e)–(i) which read:

"(e) The board shall include in any investment program established pursuant to this section a procedure whereby a borrower may obtain 100–percent financing for the purchase of a single–family dwelling unit in accordance with the following criteria:

"(1) The member shall obtain one loan with a loan–to–value ratio not to exceed 95 percent secured by the purchased home and a second personal loan with a loan–to–value ratio not to exceed 5 percent secured by a portion of the accumulated contributions and vested accrued benefits in the member's individual account. The 5 percent personal loan shall only be used for the purchase of the member's principal residence and not for a loan to refinance.

"(2) The loan secured by the purchased home shall be consistent with the loan–to–value ratios specified in the schedules established pursuant to this section.

"(3) In no event shall the loan amount exceed three hundred fifty thousand dollars ($350,000).

"(4) In no event may the personal loan secured by the accumulated contributions and vested accrued benefits in the member's individual account exceed the lesser of 50 percent of the current value amount of the accumulated contributions, or fifty thousand dollars ($50,000).

"(5) The pledge of security under this section shall remain in effect until the loan is paid in full.

"(f) In the event of a default on the personal loan secured by the member's contributions as authorized by this section, the board may deduct an amount from the member's contributions on deposit and adjust the member's accrued benefit, up to the amount pledged as security, prior to making any disbursement of retirement benefits.

"(g) The secured personal loan permitted under this section shall be made available only to currently employed members who meet eligibility criteria the board deems advisable.

"(h) If the member is married at the time the home is purchased with a personal loan secured by the member's contributions as authorized by this section, then the member's spouse shall agree in writing to the pledge of secu-

rity, as to his or her community interest in the amount pledged regardless of whether title to the home is in joint tenancy.

"(i) The pledge of security under this section shall take binding effect. In the event of default, the accumulated contributions in the member's account shall be reduced as necessary to recover any outstanding loan balance, not to exceed the pledge amount.";

(7) redesignated former subds (j)–(m) to be subds (d)–(g); **(8)** amended subd (d) by **(a)** adding "and Section 22360.5"; and **(b)** substituting "participating borrowers" for "members utilizing this section"; **(9)** amended subd (f) by **(a)** adding "and Section 22360.5" both times it appears; and **(b)** substituting "policies' for "procedural guidelines" in the second sentence; and **(10)** added "and Section 22360.5" in subd (g).

2001 Amendment: Substituted "200 percent of the conforming loan limit set by the Federal National Mortgage Association (FNMA) or 200 percent of the conforming loan limit set by the Federal Home Loan Mortgage Corporation (FHLMC), whichever is greater" for "three hundred fifty thousand dollars ($350,000)" in subd 9b)(4).

§ 22360.5. State Teachers' Retirement System Home Loan Program Act; Procedure for member to obtain 100 percent residential financing

(a) The board may include in any investment program established pursuant to Section 22360 a procedure whereby a member may obtain 100 percent financing for the purchase for a single–family dwelling unit in accordance with the following criteria:

(1) The member shall obtain one loan secured by the purchased home, pursuant to Section 22360, and a second personal loan secured by a portion of the accumulated retirement contributions in the member's individual account. The personal loan shall only be used for the purchase of the member's principal residence and not for a loan to refinance the member's existing mortgage.

(2) The loan secured by the purchased home shall be consistent with the requirements imposed by Section 22360.

(3) In no event may the personal loan secured by the accumulated retirement contributions in the member's individual account exceed the lesser of 50 percent of the current value amount of the accumulated retirement contributions or fifty thousand dollars ($50,000).

(4) If two members are married, the personal loan secured by the sum total of accumulated retirement contributions in both members' accounts shall not exceed 5 percent of the loan.

(5) The pledge of security under this section shall remain in effect until the personal loan is paid in full.

(b) The pledge of security under this section shall take binding effect. In the event of a default on the personal loan secured by the member's retirement contributions as authorized by this section, the board shall deduct an amount from the member's accumulated retirement contributions on deposit and adjust the member's accumulated retirement contributions as necessary to recover any outstanding loan balance prior to making any disbursement of a refund or a lump–sum distribution.

(c) In the event of a default on the personal loan by a member, the board shall deduct the monthly principal plus appropriate interest from the member's benefit, when the member begins receiving a benefit, until the loan is paid in full.

(d) In the event of a default on the personal loan by a member receiving a benefit, the board shall deduct the monthly principal and interest from the member's benefit until the personal loan is paid in full.

(e) The secured personal loan permitted under this section shall be made available only to members who meet eligibility criteria as determined by the board.

(f) In the event of a refund or lump–sum distribution of the accumulated retirement contributions, the member's account shall be adjusted as necessary to recover any outstanding loan balance.

(g) If the member is married at the time the home is purchased with a personal loan secured by the member's accumulated retirement contributions as authorized by this section, then the member's spouse shall agree in writing to the pledge of security, as to his or her community interest in the amount pledged, regardless of whether title to the home is held in joint tenancy.

(h) For purposes of the section only, "member" means any person who is entitled to receive an allowance funded by the system pursuant to this part or Part 14, notwithstanding any vesting requirement and without regard to present eligibility to retire, and who is not retired or disabled.

Added by Stats 1999 ch 939 § 27 (SB 1074).

§ 22361. Loans from retirement fund for repair or rebuilding of homes damaged by natural disaster

(a) The board may, subject to and consistent with its fiduciary duty, establish a program utilizing the retirement fund to assist currently employed members and retired members who are victims of a natural disaster to obtain loans from the retirement fund for the sole purpose of repairing or rebuilding their homes that have been damaged by a natural disaster. In order to qualify for such a loan, the home of the currently employed member or retired member shall have been damaged by a natural disaster and the home shall have been in an area that has been declared a disaster area in a proclamation of the Governor of a state of emergency affecting the area in which the currently employed member or retired member resides.

(b) The board may loan any amount of money, up to and including 100 percent of the current appraised value of a home of a currently employed member or retired member. However, 5 percent of the loan may, at the discretion of the board, be secured by the contributions of the member who requests the loan.

(c) The board may, under such conditions as it may deem prudent, require that a currently employed member or retired member pledge other assets as collateral for a loan.

(d) The board shall establish terms for the termination of loans made pursuant to this section upon the separation of members from service, to ensure, in the case of any default, that the fund shall not suffer any loss and to provide, as a condition of retirement, for alternative security. The board may impose any other terms and conditions the board may determine appropriate.

(e) The Legislature hereby reserves full power and authority to change, revise, limit, expand, or repeal the loan program authorized by this section.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 92 (SB 2041).

Historical Derivation: Former Ed C § 22238.1, as added Stats 1st Ex Sess 1989–90 ch 35 § 1.

Amendments

1996 Amendment: Substituted **(1)** "retired members" for "retirants" after "currently employed members and" in the first sentence of subd (a); **(2)** "currently employed members and retired members" for "member or retirant" wherever it appears; and **(3)** "fund" for "system" after "default, that the" in the first sentence in subd (d).

§ 22362. Investment guidelines

(a) Notwithstanding any other provision of law, the board shall give first priority to investing not less than 25 percent of all funds of the plan that become available in a fiscal year for new investments, in any of the following:

(1) Obligations secured by a lien or charge solely on residential realty, including rental housing, located in the state and on the security of which, commercial banks are permitted to make loans pursuant to Article 2 (commencing with Section 1220) of Chapter 10 of Division 1 of the Financial Code.

(2) Securities representing a beneficial interest in a pool of obligations secured by a lien or charge solely on residential realty located in the state.

(3) Certificates of deposit issued by savings and loan associations, if the savings and loan associations agree to make loans, or to fund tax-exempt notes or bonds issued by housing authorities, cities,

or counties, on residential realty located in the state, including rental housing, in an amount equal to the amount of the deposit.

(b) Funds subject to investment pursuant to this section include all moneys received as employer and member contributions, investment income, and the proceeds from all net gains and losses from securities, reduced by the amount of benefit payments and withdrawals occurring during the fiscal year. In computing the amount of investment pursuant to this section, a dollar-for-dollar credit shall be given for residential realty investments described in this section that are contractually agreed to be made by a financial institution from which the board, in consideration thereof, purchases other such investments. In computing the amount of investment pursuant to this section, the board may elect to include the dollar amount of commitments to purchase mortgages from public revenue bond programs in the year the commitment is given. However, that election may not exceed one-fifth of the total guideline amount.

(c) Nothing in this section shall be construed to require the acquisition of any instrument or security at less than the market rate.

(d) If the board determines during any fiscal year that compliance with this section will result in lower overall earnings for the retirement fund than obtainable from alternative investment opportunities that would provide equal or superior security, including guarantee of yield, the board may substitute those higher yielding investments, to the extent actually available for acquisition, for the investments otherwise specified by this section. Additionally, if, and to the extent that, adherence to the diversification guideline specified in this section would conflict with its fiduciary obligations in violation of Section 9 of Article I of the California Constitution or Section 10 of Article I of the United States Constitution, or would conflict with the standard for prudent investment of the fund as set forth in Section 17 of Article XVI of the California Constitution, the board may substitute alternative investments.

(e) The board, upon determining the final amount of funds available for investment in substitute alternative investments and the estimated amount of funds invested pursuant to subdivision (a), shall submit that information to the Governor and the Joint Legislative Audit Committee. Thereafter, the Joint Legislative Audit Committee shall transmit the report of the State Auditor to the Speaker of the Assembly and the Senate Committee on Rules for transmittal to the affected policy committees.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 92.5 (SB 2041); Stats 2003 ch 107 § 4 (AB 569); Stats 2006 ch 654 § 3 (SB 1465), effective January 1, 2007.

Historical Derivation: Former Ed C § 22223, as added Stats 1987 ch 416 § 1, amended Stats 1992 ch 540 § 2.

Amendments

1996 Amendment: Added **(1)** "of the plan" after "percent of all funds" in the introductory clause of subd (a); and **(2)** "retirement" after "overall earnings for the" in the first sentence of subd (d).

2003 Amendment: (1) Substituted "State Auditor's" for "Auditor General's" in the last sentence of subd (d); and **(2)** substituted "State Auditor" for "Auditor General" in the last sentence of subd (e).

2006 Amendment: Deleted the former last two sentences of subd (d) which read: "In that case, the board shall estimate the amount of funds available in substitute alternative investments and the amount of funds invested pursuant to subdivision (a) and shall submit its resolution of findings and determinations, together with a description of the type, quantity, and yield of the investments substituted, to the Governor and to the Joint Legislative Audit Committee within 20 days following the conclusion of the fiscal year. Within 30 days thereafter, the Joint Legislative Audit Committee shall transmit the State Auditor's report to the Speaker of the Assembly and to the Senate Committee on Rules for transmittal to affected policy committees."

§ 22363. Closed session on vendor or contractor (Campaign contributions of gifts)

No matter involving any vendor or contractor, in their individual or any other capacity, shall be considered during a closed session on any transaction involving the system unless, prior to the closed session, a written disclosure has been submitted by the vendor or contractor of any campaign contributions aggregating two hundred fifty dollars ($250) or more and any gifts aggregating fifty dollars ($50) or more in value that the vendor or contractor has made during the preceding calendar year to any member of the board or any officer or employee of the system. Failure to disclose the campaign contributions and gifts shall provide the basis for disqualification of the contractor or the vendor.

Added by Stats 1998 ch 923 § 2 (SB 1753).

§ 22364. Communication with interested party

(a) During the process leading to an award of any contract by the system, no member of the board or its staff shall knowingly communicate concerning any matter relating to the contract or selection process with any party financially interested in the contract, or an officer or employee of that party, unless the communication is (1) part of the process expressly described in the request for proposal or other solicitation invitation, or (2) part of a noticed board meeting, or (3) as provided in subdivision (c). Any applicant or bidder who knowingly participates in a communication that is prohibited by this paragraph shall be disqualified from the contract award.

(b) During the evaluation of any prospective investment transaction, no party who is financially interested in the transaction, or an officer or employee of that party, may knowingly communicate with any board member concerning any matter relating to the transaction or its evaluation, unless the financially interested party discloses the content of the communication in a writing addressed and submitted to the executive officer and the board prior to the board's action on the prospective transaction. This subdivision shall not apply to communications that are part of a noticed board meeting, or as provided in subdivision (c).

(1) The writing shall disclose the date and location of the communication, and the substance of the matters discussed. The board shall prescribe other procedures concerning this disclosure.

(2) Any board member who participates in a communication subject to this subdivision shall also have the obligation to disclose the communication to the executive officer and board, prior to the board's action on the prospective transaction. The board shall prescribe procedures for this disclosure, including procedures to apply to board members who fail to disclose communications as required by this subdivision.

(3) Consistent with its fiduciary duties, the board shall determine the appropriate remedy for any knowing failure of a financially interested party to comply with this subdivision including, but not limited to, outright rejection of the prospective investment transaction, reduction in fee income, or any other sanction.

(4) The communications disclosed under this subdivision shall be made public, either at the open meeting of the board in which the transaction is considered, or if in closed session, upon public disclosure of any closed session votes concerning the investment transaction.

(c) The procedures and prohibitions prescribed by this section shall not apply to:

(1) Communications that are incidental, exclusively social, and do not involve the system or its business, or the board or staff member's role as a system official.

(2) Communications that do not involve the system or its business and that are within the scope of the board or staff member's private business or public office wholly unrelated to the system.

Added by Stats 1998 ch 923 § 3 (SB 1753).

CHAPTER 7. SYSTEM HEADQUARTERS

§ 22375. Acquisition of real property to establish permanent facility

Notwithstanding Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code, the board may select, purchase, or acquire in the name of the plan, the fee or any lesser interest in real property, improved or unimproved, and may remodel and equip, or construct an office building in the greater metropolitan Sacramento area, including the City of Sacramento, the County of Sacramento, and the eastern part of Yolo County, for the purposes of establishing a permanent headquarters facility for the system.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 93 (SB 2041); Stats 2004 ch 378 § 1 (AB 2680).

Historical Derivation: Former Ed C § 22320, as added Stats 1982 ch 1429 § 1.

Amendments

1996 Amendment: Substituted "plan" for "system" after "in the name of the".
2004 Amendment: (1) Deleted "Section 20205.9 or"; and **(2)** substituted "greater metropolitan Sacramento area, including the City of Sacramento, the County of Sacramento, and the eastern part of Yolo County," for "County of Sacramento".

§ 22376. Excess building space

All buildings acquired or improvements constructed by the board under the provisions of this chapter may contain space in excess of immediate requirements. The board may contract with the Department of General Services to handle the rentals of any excess space over and above that required by the board and to furnish general supervision and maintenance of buildings and improvements constructed under the provisions of this chapter.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22321, as added Stats 1982 ch 1429 § 1.

§ 22377. Contract for state agency assistance

The board may contract with the Department of General Services or any other state agency for assistance in the acquisition of real property and any construction thereon of buildings or improvements authorized by this chapter.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22322, as added Stats 1982 ch 1429 § 1.

§ 22378. Condemnation; Purchase of selected property

In the event that condemnation of the property selected is necessary, the board may elect to deposit with the treasurer funds it deems necessary, and that are appropriated, for purchase of the selected property subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22323, as added Stats 1982 ch 1429 § 1.

§ 22379. Award of contract to lowest responsible bidder

Work on all projects shall be done under contract awarded to the lowest responsible bidder pursuant to bidding procedures set forth in the State Contract Act (Chapter 1 (commencing with Section 10100) of Division 2 of the Public Contract Code).

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 22324, as added Stats 1982 ch 1429 § 1.

§ 22380. Building account; Insurance; Accounting procedures

(a) The board shall establish a building account for the transfer of money appropriated for that purpose from the retirement fund for the construction or remodeling of buildings and improvements thereon, maintenance, repair, and improvement thereof.

(b) The board may contract with the Department of General Services for the purchase of insurance against loss of, or damage to, the property or the loss of use or occupancy of the building, liability insurance, and other insurance that is customarily carried on state office buildings. Premiums for this insurance shall be paid from the building account.

(c) The land, building, equipment, and improvements thereon, shall constitute an investment of the system and shall be carried on the books thereof in accordance with generally accepted accounting principles.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 2010 ch 207 § 6 (AB 2260), effective January 1, 2011.

Historical Derivation: Former § 22325, as added Stats 1982 ch 1429 § 1.

Amendments

2010 Amendment: (1) Deleted the former second sentence of subd (a) which read: "For accounting purposes, the board shall pay rental to the building account in an amount sufficient to repay all costs of acquisition, construction, and maintenance of space used by the board plus interest to the retirement fund."; and **(2)** amended subd (c) by **(a)** substituting "of the system" for ", in lieu of facilities operations cost, in the retirement fund"; **(b)** deleting "as such" after "books thereof"; and **(c)** substituting "principles" for "practices".

CHAPTER 8. ESTABLISHMENT AND CONTROL OF FUNDS

§ 22400. Establishment of Teachers' Retirement Fund

(a) There is in the State Treasury a special trust fund to be known as the Teachers' Retirement Fund. There shall be deposited in that fund the assets of the plan and its predecessors, consisting of employee contributions, employer contributions, state contributions, appropriations made to it by the Legislature, income on investments, other interest income, income from fees and penalties, donations, legacies, bequests made to it and accepted by the board, and any other amounts provided by this part and Part 14. General Fund transfers pursuant to Section 22954 shall be placed in a segregated account known as the Supplemental Benefit Maintenance Account within the retirement fund, which is continuously appropriated without regard to fiscal years, notwithstanding Section 13340 of the Government Code, for expenditure for the purposes of Section 24415.

(b) Disbursement of money from the retirement fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds except that notwithstanding the foregoing disbursements may be made to return funds deposited in the fund in error.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 94 (SB 2041); Stats 1999 ch 939 § 28 (SB 1074).

Former Sections: Former § 22400, similar to present Ed C § 22450, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1997, amended Stats 1993 ch 861 § 3 (ch 861 prevails), repealed Stats 1993 ch 893 § 1, and repealed Stats 1994 ch 933 § 26, effective September 27, 1994.

Historical Derivation: Former Ed C § 22300, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 659 § 5, Stats 1989 ch 115 § 2.

Amendments

1996 Amendment: Substituted "plan" for "system" after "the assets of the" in the second sentence in subd (a).

1999 Amendment: Amended subd (a) by **(1)** adding "and Part 14" at the end of the first sentence; and **(2)** deleting "and subdivisions (a) and (b) of Section 24414" at the end of the second sentence.

§ 22401. Collection and deposit of return on investments and other receipts

Return on investments shall be collected by the Treasurer, and together with any other moneys received for the retirement fund shall be immediately deposited to the credit of that fund and reported immediately to the system. Money in whatever form received directly by the system shall be deposited immediately in the State Treasury to the credit of that fund.

Added by Stats 1993 ch 893 § 3 (AB 1796).

Former Sections: Former § 22401, similar to present § 22451, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 98, effective April 29, 1977, operative April 30, 1977, Stats 1982 ch 1314 § 2, and repealed Stats 1993 ch 893 § 2.

Historical Derivation: Former § 22301, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 659 § 5.

§ 22402. Use of earned interest not credited

Earned interest on plan assets with respect to the Defined Benefit Program that is not credited to member accounts under the Defined Benefit Program and the plan's other income with respect to the Defined Benefit Program shall be allocated to provide benefits payable under the Defined Benefit Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 1048 § 9 (SB 2085); Stats 2000 ch 1025 § 16 (AB 816).

Former Sections: Former § 22402, similar to present § 22457, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22303, as enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Substituted the section for the former section which read: "Earned interest not credited to accounts and other income shall be used to provide the benefits under this part."

2000 Amendment: (1) Added "on plan assets"; **(2)** substituted "member accounts under the Defined Benefit Program and the plan's" for "accounts maintained pursuant to either this part of Part 14 (commencing with Section 26000) and"; and **(3)** substituted "payable under the Defined Benefit Program" for "under this part".

§ 22403. Findings as to Cash Balance transfer of funds

The Legislature hereby finds and declares that pursuant to the authorizing legislation creating and establishing the Cash Balance Plan, the board transferred one million dollars ($1,000,000) in the form of a loan from the retirement fund holding assets at that time exclusively for the State Teachers' Retirement System Defined Benefit Plan to the newly created Cash Balance Plan. That loan represented an asset receivable to the State Teachers' Retirement System Defined Benefit Plan and a liability obligation to the State Teachers' Retirement System Cash Balance Plan. As a result of the merger of these two plans authorized under this part, the assets held in the retirement fund shall hereby reflect the combined assets of the State Teachers' Retirement Plan. That loan shall be discharged by the creation and establishment of the State Teachers' Retirement Plan pursuant to the merger.

Added by Stats 1998 ch 1048 § 10 (SB 2085).

Former Sections: Former § 22403, similar to present Ed C § 22455, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

§ 22404. Benefit adjustments (Threshold for payments and collections)

(a) Notwithstanding any other provision of this part or Part 14 (commencing with Section 26000) to the contrary, the board may establish by plan amendment a specified amount or amounts, not to exceed ten dollars ($10), below which the system may dispense with the processing of benefit or other payments or collection of benefit or other overpayments that result from adjustments made to the benefit or other amount paid to a member, participant, or beneficiary.

(b) When the cumulative dollar amount associated with one or more benefit or other adjustments equals or exceeds the amount described in subdivision (a), that amount shall be paid to, or collected from, the member, participant, or beneficiary. That cumulative amount paid or collected shall not be credited with interest.

Added Stats 2006 ch 654 § 4 (SB 1465), effective January 1, 2007. Amended Stats 2011 ch 703 § 3 (SB 349), effective January 1, 2012.

Amendments

2011 Amendment: (1) Amended subd (a) by adding **(a)** "(commencing with Section 26000)"; **(b)** "or other" after "of benefit" both times it appears; and **(c)** "or other amount"; and **(2)** added "or other" in the first sentence of subd (b).

CHAPTER 9. MEMBER AND EMPLOYER DUTIES

§ 22450. Information affecting status of member or beneficiary

(a) Each member and beneficiary shall furnish to the board any information affecting his or her status as a member or beneficiary of the Defined Benefit Program as the board requires, which may include, but shall not be limited to, the following:

(1) Financial statements, certified copies of state and federal income tax records, or evidence of financial status.

(2) Employment, legal, or medical documentation.

(b) A member who has not had any creditable service reported during the prior school year shall provide the system with his or her current mailing address and beneficiary information.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 31 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 95 (SB 2041); Stats 1998 ch 965 § 44 (AB 2765); Stats 2007 ch 323 § 5 (AB 757), effective January 1, 2008.

Historical Derivation: Former Ed C § 22400, as enacted Stats 1976 ch 1010 § 2, amended Stats 1993 ch 861 § 3.

Amendments

1994 Amendment: (1) Designated the former section to be subd (a); and **(2)** added subd (b).

1996 Amendment: Substituted "plan as" for "system" after "or beneficiary of the" in subd (a).

1998 Amendment: (1) Substituted "Defined Benefit Program" for "plan" in subd (a); and **(2)** added "creditable" in subd (b).

2007 Amendment: (1) Substituted ", which may include, but shall not be limited to, the following:" for the period at the end of the introductory clause of subd (a); and **(2)** added subds (a)(1) and (a)(2).

§ 22451. Information required

(a) Each member shall file a statement with the board, at the option of, and upon the form furnished by, the system, giving the following information:

(1) Date of birth.

(2) All service previously performed subject to coverage by the plan or its predecessors.

(b) Each person becoming a member on or after January 1, 1983, shall include in the health resume required by the teacher preparation and licensing agency all information that shall verify any and all handicaps and disabling conditions at the time of application. Upon request by the system this information shall be made available when an application for disability benefits is received.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 96 (SB 2041).

Historical Derivation: Former Ed C § 22401, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 98, Stats 1982 ch 1314 § 2.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** substituting "system" for "board" after "furnished by, the" in the introductory clause; **(b)** deleting "His or her" in subd (1); and **(c)** substituting "subject to coverage by the plan" for "by him or her in a position requiring membership in the system" in subd (2); and **(2)** substituted "an application for disability benefits is received" for "a person applies for a disability allowance" at the end of the second sentence in subd (b).

§ 22451.5. Proof of date of birth

(a) Upon request by the system, a member shall provide proof of his or her date of birth to resolve any discrepancy between the member's date of birth as originally documented on the records of the system and the member's date of birth as subsequently submitted.

(b) A member shall provide proof of the date of birth of a person designated by the member as beneficiary under an option selected pursuant to Chapter 28 (commencing with Section 24300) if the beneficiary is not also a member of the plan.

(c) Documentation substantiating the date of birth of a member's dependent child shall be provided if an allowance payable under this part will include an amount for that dependent child.

(d) At the time application is made for payment of a family allowance or survivor benefit allowance to a surviving spouse or dependent parent, a member's surviving spouse or dependent parent shall provide proof of his or her date of birth.

(e) At the discretion of the board, an original document, a certified copy of the original, or a photocopy shall be acceptable to establish proof of the date of birth.

Added by Stats 1993 ch 920 § 3 (AB 1631) as § 22401.1. Amended and renumbered by Stats 1994 ch 933 § 27 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 1165 § 13 (AB 3032).

Historical Derivation: (a) Former Ed C § 22452, as added Stats 1993 ch 893 § 2.
(b) Former Ed C § 22801, as enacted Stats 1976 ch 1010 § 2.

Amendments

1994 Amendment: Substituted "Chapter 28 (commencing with Section 24300)" for "Chapter 23 (commencing with Section 24200)" in subd (b).

1996 Amendment: (1) Substituted "date of birth" for "birthdate" in subds (a) and (c); **(2)** substituted "plan" for "system" in subd (b); and **(3)** amended subd (c) by **(a)** adding "dependent" both times it appears; and **(b)** substituting "an" for "a disability allowance, a disability retirement allowance, a family allowance, or a survivor benefit".

§ 22451.7. Withholding of benefit payments until receipt of proof of birth

The system may withhold benefit payments until proof of the date of birth of a member, beneficiary under an option selected pursuant to Chapter 28 (commencing with Section 24300), surviving spouse, dependent child or dependent parent has been received and accepted by the system.

Added by Stats 1993 ch 920 § 4 (AB 1631) as § 22401.2. Amended and renumbered by Stats 1994 ch 933 § 28 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 1165 § 14 (AB 3032).

Amendments

1994 Amendment: Substituted "Chapter 28 (commencing with Section 24300)" for "Chapter 23 (commencing with Section 24200)" in subd (b).

1996 Amendment: (1) Deleted "child," before "surviving spouse,"; and **(2)** added "dependent child".

§ 22453. Signature of spouse on application

(a) Except as provided in Section 22454, the signature of the spouse of a member shall be required under the Defined Benefit Program on any application for, or cancellation of, an unmodified allowance; the election, change, or cancellation of an option; or any request for a refund of the member's accumulated retirement contributions or accumulated annuity deposit contributions; and under the Defined Benefit Supplement Program on any application for, or cancellation of, a retirement benefit, disability benefit, or termination benefit; and under either the Defined Benefit Program or the Defined Benefit Supplement Program on any other requests related to the selection of benefits by a member in

which a spousal interest may be present, unless the member declares, in writing, under penalty of perjury, that one of the following conditions exists:

(1) The member is not married.

(2) The current spouse has no identifiable community property interest in the benefit.

(3) The member and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.

(4) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(5) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(b) This section shall not be applicable to an application for a disability allowance under the Defined Benefit Program.

(c) The sole purpose of this section is to provide for spousal protection in the selection of specified benefits made by a member.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 33 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 96.5 (SB 2041); Stats 2000 ch 74 § 30 (AB 1509), ch 1021 § 15 (AB 2700).

Historical Derivation: (a) Former Ed C § 22401.6, as added Stats 1990 ch 1390 § 1, amended Stats 1991 ch 543 § 6.

(b) Former Ed C § 22401.6, as added Stats 1992 ch 1166 § 8.4, amended Stats 1993 ch 219 § 17.

Amendments

1994 Amendment: Substituted "Part 5 (commencing with Section 1500)" for "Chapter 2 (commencing with Section 1600) of Part 5)" in subd (a)(3).

1996 Amendment: (1) Deleted "or retirant" after "member" wherever it appears; and **(2)** added ", change," after "allowance, the election" in the introductory clause of subd (a).

2000 Amendment: (1) Amended the introductory paragraph of subd (a) by **(a)** adding "under the Defined Benefit Program" the first time it appears; **(b)** substituting the semicolon for the comma after "unmodified allowance"; **(c)** substituting "; or any" for the comma after "cancellation of an option"; and **(d)** substituting "; and under the Defined Benefit Supplement Program on any application for, or cancellation of, a retirement benefit, disability benefit, or termination benefit; and under either the Defined Benefit Program or the Defined Benefit Supplement Program on any" for "or"; **(2)** redesignated former subds (a)(1), (a)(2), (a)(4), and (a)(5) to be subds (a)(5), (a)(4), (a)(1), and (a)(2); and **(3)** amended subd (b) by **(a)** substituting "shall not be" for "is not"; and **(b)** adding "under the Defined Benefit Program". (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

§ 22454. Refusal of spouse to sign application

If a spouse refuses to sign an application, as set forth in Section 22453, the member may bring an action in court to enforce the spousal signature requirement or to waive the spousal signature requirement. Either party may bring an action pursuant to Section 1101 of the Family Code to determine the rights of the party.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 34 (AB 3171), effective September 27, 1994, ch 1269 § 4 (AB 2208); Stats 1996 ch 634 § 97 (SB 2041).

Historical Derivation: Former Ed C § 22401.7, as added Stats 1992 ch 1166 § 8.5, amended Stats 1993 ch 219 § 75.

Amendments

1994 Amendment (ch 933): Substituted "Section 1101" for "Section 11101".
1994 Amendment (ch 1269): The amendment made no further change.
1996 Amendment: Deleted "or retirant" after "Section 22453, the member" in the first sentence.

§ 22455. County superintendent required to furnish information

(a) The county superintendent and other employing agencies shall furnish any further information concerning any member or beneficiary the board may require.

(b) Any information or reports required to be submitted to the system by an employer pursuant to this part or Part 14 (commencing with Section 26000) shall be submitted in a form, including, but not limited to, electronic transmission, as directed by the system.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 2012 ch 864 § 6 (AB 2663), effective January 1, 2013.

Amendments

2012 Amendment: Added **(1)** subdivision designation (a); and **(2)** subd (b).

§ 22455.5. Requirement that public employers provide employees with coverage by social security or in qualified retirement plan (Right to elect Defined Benefit membership)

(a) The Legislature finds and declares that the federal Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508) requires all public employers to provide their employees with either social security coverage or membership in a qualified retirement plan.

(b) Employers shall make available criteria for membership, including optional membership, in a timely manner to all persons employed to perform creditable service subject to coverage by the Defined Benefit Program, and shall inform part–time and substitute employees, within 30 days of the date of hire, or by March 1, 1995, whichever is later, that they may elect membership in the plan's Defined Benefit Program at any time while employed. Written acknowledgment by the employee shall be maintained in employer files on a form provided by this system.

(c) Employers shall be liable to the plan for employee and employer contributions and interest with respect to the Defined Benefit Program from the date of hire, or March 1, 1995, whichever is later, in addition to system administrative and audit costs, if an audit or a member's complaint reveals noncompliance. However, no employer shall be liable for employee contributions for service performed prior to January 1, 1995.

Added by Stats 1994 ch 603 § 1 (AB 2554). Amended by Stats 1996 ch 634 § 98 (SB 2041); Stats 1999 ch 939 § 29 (SB 1074).

Amendments

1996 Amendment: (1) Substituted "Employers" for "Employing agencies" at the beginning of the first sentences in subds (b) and (c); **(2)** amended the first sentence of subd (b) by substituting **(a)** "persons employed to perform creditable service subject to coverage by the plan, and shall inform part–time and substitute" for "certificated employees and shall inform part–time and substitute certificated"; and **(b)** "plan" for "system" after "membership in the"; and **(3)** substituted "plan" for "system" after "liable to the" in the first sentence of subd (c).

1999 Amendment: (1) Amended the first sentence of subd (b) by substituting **(a)** "Defined Benefit Program" for "plan" the first time it appears; and **(b)** "plan's Defined Benefit Program" for "plan" the second time it appears; and **(2)** added "with respect to the Defined Benefit Program" in the first sentence of subd (c).

§ 22456. Information to be furnished by employer

At any time upon the request of the system, the employer shall furnish a statement of the amount of contributions deducted from the compensation of any member, the service performed and the compensation earned by the member since the end of the period covered by the last report of the employer. The system may use the information shown in the statement in determining contributions to be paid by or to the member or to a beneficiary, or use it in determining the member' s status upon retirement, even though the member's and employer' s contributions will not be received by the board until after the payment or determination.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 99 (SB 2041); Stats 1997 ch 482 § 6 (SB 471).

Historical Derivation: Former Ed C § 23012, added Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Amended the first sentence by **(1)** substituting "employer" for "employing agency" after "the system, the"; **(2)** substituting "the salary of any member, the service performed and the salary earned by the member" for "salary payments of any member, the services performed and the salary earned by him or her"; and **(3)** deleting "superintendent or" after "report of the".

1997 Amendment: Substituted "compensation" for "salary" both times it appears in the first sentence.

§ 22457. Notice of employment, death, resignation, or discharge

(a) Each county superintendent shall give immediate notice in writing to the board of the employment, death, resignation, or discharge of any person employed by the county or by a school district or community college district in the county to perform creditable service subject to coverage by the Defined Benefit Program.

(b) Every other employing agency shall give similar notice with respect to each person it employs to perform creditable service subject to coverage by the Defined Benefit Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 100 (SB 2041); Stats 1999 ch 939 § 30 (SB 1074).

Historical Derivation: Former Ed C § 22402, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted **(1)** "by the county or by a school district or community college district in the county to perform creditable service subject to coverage by the plan" for "in a position requiring membership in the system, by the county or by a school district in the county" at the end of subd (a); and **(2)** "it employs to perform creditable service subject to coverage by the plan" for "employed by it in a position requiring membership in the system" at the end of subd (b).

1999 Amendment: Substituted "Defined Benefit Program" for "plan" at the end of subds (a) and (b).

§ 22458. Provision of documents regarding compensation

Each employer shall provide the system with information regarding the compensation to be paid to employees subject to the Defined Benefit Program in that school year. The information shall be submitted annually as determined by the board and may include, but shall not be limited to, employment contracts, salary schedules, and local board minutes.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 101 (SB 2041); Stats 1999 ch 939 § 31 (SB 1074).

Historical Derivation: Former Ed C § 22403.1, as added Stats 1991 ch 543 § 7.

Amendments

1996 Amendment: (1) Amended the first sentence by **(a)** substituting "employer shall provide the system with information regarding" for "employing agency shall provide the system with copies of documents respecting"; and **(b)** adding "subject to the plan"; and **(2)** substituted "information" for "documents".

1999 Amendment: Substituted "Defined Benefit Program" for "plan" in the first sentence.

§ 22459. Withholding of salary on failure to file information or pay amount due

(a) The county superintendent or other employing agency shall withhold the salary of any member who fails to file information required by the board in the administration of the Defined Benefit Program, or to pay amounts due from the members to the fund with respect to the Defined Benefit Program.

(b) The salary shall be withheld by the county superintendent or employing agency upon his or her own knowledge, if any, of the failure or upon notice from the board of the failure of the member to file or pay.

(c) The salary shall be withheld and not released until notice is given by the board to the county superintendent or employing agency, or until the county superintendent or agency knows otherwise, that the information has been filed or the payment has been made.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 102 (SB 2041); Stats 1999 ch 939 § 32 (SB 1074).

Historical Derivation: Former Ed C § 22404, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted **(1)** "plan" for "system" wherever it appears in subd (a); and **(2)** "member" for "teacher" after "the failure of the" in subd (b).

1999 Amendment: Amended subd (a) by substituting **(1)** "Defined Benefit Program" for "plan" the first time it appears; and **(2)** "fund with respect to the Defined Benefit Program" for "plan".

§ 22460. Notification to terminating employee of benefits

(a) If a member terminates employment with less than five years of credited service, the employer shall notify the member of the following:

(1) That unless the member is eligible, or becomes eligible in the future, for concurrent retirement pursuant to paragraph (2) of subdivision (a) of Section 24201, the member is eligible only for a refund of accumulated retirement contributions under the Defined Benefit Program and the return of the member's accumulated Defined Benefit Supplement account balance.

(2) The current rate of interest that shall be earned on accumulated retirement contributions that are not refunded and the current minimum interest rate that shall be applied to the member's Defined Benefit Supplement account.

(3) Actions that may be taken by the board if accumulated retirement contributions are not refunded under the Defined Benefit Program and the member's Defined Benefit Supplement account balance is not returned.

(b) Employers shall transmit to a member who terminates employment with less than five years of credited service the information specified in subdivision (a) as part of the usual separation documents.

Added by Stats 2000 ch 1021 § 17 (AB 2700).

Former Sections: Former § 22460, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1996 ch 634 § 103, and repealed Stats 2000 ch 74 § 31, ch 1021 § 16.

Historical Derivation: Former Ed C § 23108, as added Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 104.

§ 22461. Obligation to advise reemployed retired member of earnings limitation and to report earnings

(a) Upon retaining the services of a retired member under Section 24114, 24116, 24214, 24214.5, or 24215, the school district, community college district, county superintendent of schools, California State University, or other employing agency shall do both of the following regardless of whether the retired member performs the services as an employee of the employer, an employee of a third party, or an independent contractor:

(1) Advise the retired member of the earnings limitation set forth in Sections 24114, 24116, 24214, 24214.5, and 24215.

(2) Maintain accurate records of the retired member's earnings and report those earnings monthly to the system and the retired member regardless of the method of payment or the fund from which the payments were made.

(b) This section shall not be construed to make any school district, community college district, county superintendent of schools, the California State University, or other employing agency liable for any amount paid to the retired member in excess of the earnings limitation under any circumstance, including the failure to inform the retired member that continuation of service would exceed the limitations.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 104 (SB 2041); Stats 2012 ch 864 § 7 (AB 2663), effective January 1, 2013.

Historical Derivation: Former Ed C § 23921, as added Stats 1979 ch 796 § 12, amended Stats 1983 ch 143 § 15.

Amendments

1996 Amendment: (1) Amended the introductory clause of subd (a) by **(a)** substituting "retired member" for "retirant as an employee" after "the services of a"; and **(b)** adding "regardless of whether the retired member performs the services as an employee of the employer, an employee of a third party, or an independent contractor" at the end; **(2)** substituted "retired member" for "retirant" wherever it appears; and **(3)** substituted "retired member's" for "retirant's" after "records of the" in subd (a)(2).

2012 Amendment: Substituted **(1)** "Section 24114, 24116, 24214, 24214.5, or 24215" for "Section 24116, 24214, or 24215" in the introductory clause of subd (a); and **(2)** "Sections 24114, 24116, 24214, 24214.5, and 24215" for "Sections 24116, 24214, and 24215" in subd (a)(1).

CHAPTER 10. MEMBERSHIP

§ 22500. Status of members (June 30, 1996)

All persons who were members of the California State Teachers' Retirement System on June 30, 1996, are members of the Defined Benefit Program under the plan, in accordance with Section 401(a) of the Internal Revenue Code of 1986, as amended.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 105 (SB 2041); Stats 1998 ch 965 § 45 (AB 2765); Stats 2000 ch 1025 § 17 (AB 816).

Former Sections: Former § 22500, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 873 § 1.

Amendments

1996 Amendment: Substituted "June 30, 1996, are members of the Defined Benefit Plan" for "June 30, 1944, are members of the system".

1998 Amendment: Substituted "Defined Benefit Program under the plan" for "Defined Benefit Plan" at the end.

2000 Amendment: Added ", in accordance with Section 401(a) of the Internal Revenue Code of 1986, as amended" at the end.

§ 22501. Employees as members

(a) Any person employed to perform creditable service on a full–time basis who is not already a member of the Defined Benefit Program under the plan shall become a member as of the first day of employment, unless excluded from membership pursuant to Section 22601.

(b) Creditable service in more than one position shall not be aggregated for the purpose of determining mandatory membership under this section.

(c) This section shall be deemed to have become operative on July 1, 1996.

Added by Stats 1996 ch 634 § 107 (SB 2041), operative July 1, 1996. Amended by Stats 1998 ch 965 § 46 (AB 2765).

Former Sections: Former § 22501, similar to the present section, was added Stats 1993 ch 893 § 2, and repealed Stats 1996 ch 634 § 106.

Former § 22501, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 873 § 1.

Amendments

1998 Amendment: (1) Added subdivision designations; **(2)** amended subd (a) by substituting **(a)** "Any person" for "All persons" at the beginning; **(b)** "on a full–time basis who is not already a member of the Defined Benefit Program under the plan shall become a member" for "as defined in Section 22119.5 are members of the plan"; and **(c)** "Section 22601" for "Chapter 11 (commencing with Section 22600)" at the end; and **(3)** substituted "under this section" for "in the plan" at the end of subd (b).

§ 22502. Part–time employees

(a) Any person employed by a school district or county office of education to perform creditable service on a part–time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following his or her employment to perform cre-

ditable service for 50 percent or more of the full–time position, unless excluded from membership pursuant to Section 22601.

(b) Any person employed by a community college district to perform creditable service on a part–time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following his or her employment to perform creditable service that is not subject to Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded from membership pursuant to Section 22601.

(c) This section shall apply to persons who perform service subject to coverage under this part and to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

Added by Stats 1998 ch 965 § 47 (AB 2765), operative July 1, 1996. Amended by Stats 1999 ch 939 § 33 (SB 1074); Stats 2004 ch 474 § 1 (AB 3076), operative July 1, 2005.

Amendments

1999 Amendment: Added "subsequent" after "first day of" in subd (a).

2004 Amendment: (1) In subd (a), **(a)** added "by a school district or county office of education"; **(b)** added the comma after "basis"; **(c)** added the comma after "Program"; **(d)** substituted "the pay period following his or her" for "subsequent"; and **(e)** deleted "equivalent for the"; **(2)** added present subd (b); **(3)** redesignated former subd (b) as present subd (c); and **(4)** deleted former subd (c) which read: "This section shall be deemed to become operative on July 1, 1996."

§ 22503. Substitute employees

(a) Any person employed to perform creditable service as a substitute employee who is not already a member of the Defined Benefit Program is a member as of the first day of the pay period following the pay period in which the person performed 100 or more complete days of creditable service during the school year in one school district, community college district, or county superintendent's office, unless excluded from membership pursuant to Section 22601.

(b) This section does not apply to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) This section is deemed to have become operative on July 1, 1996.

Added by Stats 1998 ch 965 § 48 (AB 2765), operative July 1, 1996. Amended by Stats 1999 ch 939 § 34 (SB 1074); Stats 2003 ch 859 § 6 (SB 627).

Former Sections: Former § 22503, was added Stats 1993 ch 893 § 2, and repealed Stats 1995 ch 592 § 5. The repealed section related to other employees of public schools as members

Amendments

1999 Amendment: Added "who are" in subd (b).

2003 Amendment: (1) Amended subd (a) by substituting **(a)** "employee" for "teacher"; and **(b)** "is a member" for "shall become a member"; **(2)** substituted "does not apply" for "shall not apply" in subd (b); and **(3)** substituted "is deemed" for "shall be deemed" in subd (c).

§ 22504. Part–time employees on hourly or daily basis

(a) Any person employed by a school district or county office of education to perform creditable service on a part–time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following the pay period in which the person performed at least 60 hours of creditable service, if employed on an hourly basis, or 10 days of creditable

service, if employed on a daily basis, during the school year, in one school district or county office of education, unless excluded from membership pursuant to Section 22601.

(b) Any person employed by a community college district to perform creditable service on a part–time basis, who is not already a member of the Defined Benefit Program, shall become a member as of the first day of the pay period following his or her employment to perform creditable service that is not subject to Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded from membership pursuant to Section 22601.

(c) Subdivision (a) does not apply to persons who perform service subject to coverage under this part and who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(d) Subdivision (b) shall apply to persons who perform service subject to coverage under this part and to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

Added by Stats 1998 ch 965 § 49 (AB 2765), operative July 1, 1996. Amended by Stats 1999 ch 939 § 35 (SB 1074); Stats 2004 ch 474 § 2 (AB 3076), operative July 1, 2005.

Amendments

1999 Amendment: (1) Amended subd (a) by **(a)** adding "to perform creditable service" near the beginning; **(b)** substituting "as of" for "on" after "become a member"; and **(c)** adding "during the school year," after "on a daily basis,"; and **(2)** substituted "who are employed" for "employed on a part-time basis" in subd (b).

2004 Amendment: (1) In subd (a), **(a)** added "by a school district or county office of education"; **(b)** added the comma after "basis"; **(c)** added the comma after "Program"; and **(d)** substituted "district or county office of education, "for "district, community college district, or county superintendent's office,"; **(2)** added designation of subd (b); **(3)** substituted "Any person employed by a community college district to perform creditable service on a part–time basis, who is not already a member of the Defined Benefit Program shall become a member as of the first day of the pay period following his or her employment to perform creditable service that is not subject to Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded from membership pursuant to Section 22601" for "This section shall"; **(4)** added present subd (c); **(5)** added the designation of subdivision (d), and added "Subdivision (b) shall apply to persons who perform service subject to coverage under this part and"; and **(6)** deleted former "subd (c) which read: "This section shall be deemed to have become operative on July 1, 1996".

§ 22508. Effect of change of employment (Right of election)

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

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

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

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

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

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

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

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

Added Stats 1996 ch 383 § 3 (AB 3221). Amended Stats 1998 ch 965 § 50 (AB 2765); Stats 1999 ch 939 § 36 (SB 1074); Stats 2000 ch 880 § 1 (SB 1694) (ch 880 prevails), ch 1025 § 18 (AB 816); Stats 2001 ch 77 § 1 (SB 165); Stats 2009 ch 304 § 2 (SB 634), effective January 1, 2010.

Former Sections: Former § 22508, similar to the present section, was added Stats 1993 ch 893 § 2, and repealed Stats 1996 ch 383 § 2.

Former § 22508, relating to termination of membership and mailing of warrants, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1981 ch 124 § 23.

Historical Derivation: (a) Former Ed C § 22504, as added Stats 1977 ch 36 § 413, amended Stats 1990 ch 1372 § 176.

(b) Former Ed C § 22508, as added Stats 1993 ch 893 § 2.

(c) Former Ed C § 22509, as added Stats 1993 ch 893 § 2.

(d) Former Ed C § 22608, as added Stats 1977 ch 36 § 414.

Amendments

1998 Amendment: Substituted the section for the former section which read: "(a) A member who becomes employed by a school district, community college district, or a county superintendent to perform duties that require membership in a different public retirement system, shall be excluded from membership in this plan, unless the member elects in writing within 60 days from the date of hire in the position requiring membership in a different public retirement system to continue as a member of this plan. If that election is made, the subsequent service performed up to the full–time equivalent for the position shall be considered creditable service for purposes of this part. (b) A member of the Public Employees' Retirement System employed by a school district, community college district, or a county superintendent who is subsequently employed to perform creditable service subject to coverage by this plan shall become a member of this plan unless the person elects within 60 days from the date of hire to continue as a member of the Public Employees' Retirement System."

1999 Amendment: (1) Substituted "this plan" for "the State Teachers' Retirement Plan" in the first sentence of subd (b); and **(2)** added subd (c).

2000 Amendment: (1) Amended the first sentence of subd (a) by **(a)** substituting "district or" for the comma after "different school"; **(b)** adding ", or who becomes employed by the state in a position described in subdivision (b),"; and **(c)** adding "and who is not excluded from membership in that public retirement system,"; **(2)** added subd (b); **(3)** redesignated former subds (b) and (c) to be subds (c) and (d); **(4)** amended the first sentence of subd (c) by **(a)** deleting "or" after "college district,"; **(b)** adding ", or the State Department of Education"; **(c)** adding "subsequent" after "elect to have that"; and **(d)** adding "pursuant to Section 20309 of the Government Code" at the end; **(5)** deleted the former second sentence of subd (b) which read: "The election shall be made in writing on a form prescribed by this system within 60 days from the date of hire to perform creditable service."; and **(6)** substituted "the" for "that" after "If" at the beginning of the second sentence of subd (c).

2001 Amendment: (1) Designated former subd (c) to be subd (c)(1); **(2)** substituted "described in paragraph (2)" for "who is employed by a school district, community college district, a county superintendent, or the State Department of Education and" in the first sentence of subd (c)(1); and **(3)** added subd (c)(2).

2009 Amendment: Substituted "requiring" for "subject to" in the first sentence of subd (c)(1).

§ 22508.5. Election of retirement system

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

(b) A member of the Public Employees' Retirement System who is employed by the Board of Governors of the California Community Colleges who subsequently is employed by a community college district to perform creditable service subject to coverage under the Defined Benefit Program, may elect to have that service subject to coverage by the Public Employees' Retirement System and excluded from coverage under the Defined Benefit Program pursuant to Section 20309 of the Government Code.

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

Added by Stats 1997 ch 838 § 1 (SB 227). Amended by Stats 1998 ch 965 § 51 (AB 2765); Stats 1999 ch 939 § 37 (SB 1074).

Amendments

1998 Amendment: Amended subd (a) by substituting **(1)** "Defined Benefit Program of the State Teachers' Retirement plan" for "State Teachers' Retirement System" near the beginning; **(2)** "Defined Benefit Program" for "State Teachers' Retirement System" at the end of the first sentence; and **(3)** "program" for "State Teachers' Retirement System" at the end of the second sentence.

1999 Amendment: (1) Amended the first sentence of subd (a) by substituting **(a)** "State Teacher's Retirement Plan" for "State Teacher's Retirement plan"; and **(b)** "are subject to" for "require" after "perform duties that"; and **(2)** substituted "under the Defined Benefit Program" for "by this plan" both times it appears in subd (b).

§ 22508.6. Subsequent employment of members (Right to elect Defined Benefit membership)

(a) Any person who is a member of the Defined Benefit Program and who subsequently became employed and continues to be employed by the state to perform service that requires membership in the Public Employees' Retirement System and who meets the requirements of subdivision (b) may elect to have that state service subject to coverage by the Defined Benefit Program and excluded from coverage by the Public Employees' Retirement System.

(b)(1) Only a person who has achieved program vesting shall be eligible to make the election under this section.

(2) A person is eligible to make the election if he or she left employment with a school district, county superintendent of schools, or community college district and began employment with the state within 30 days without any intervening employment and that change in employment occurred on or after July 1, 1991, and prior to the effective date of this section.

(3) A person is eligible to make the election if, at the time of the election, he or she is a member of the Public Employees' Retirement System subject to Second Tier benefits and is one of the following:

(A) Represented by a State Bargaining Unit that has agreed by a memorandum of understanding to become subject to Section 20309.5 of the Government Code.

(B) Excluded from the definition of "state employee" in subdivision (c) of Section 3513 of the Government Code, but performing, supervising, or managing work similar to work performed by employees described in subparagraph (A).

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

(c) The election under this section shall be made in writing to each system within 90 days after the effective date of this section or within 60 days after the eligible member is notified by the system of his or her right to make the election, whichever is later. The member's election shall be effective on the day following the date on which the election is received by the Public Employees' Retirement System.

(d) If the election is made, the state service performed from and after the date of the election shall be considered creditable service for purposes of this part and the provisions of Section 22801.5 shall be applicable with respect to service performed prior to that date.

Added by Stats 2000 ch 402 § 2 (AB 649), effective September 11, 2000.

§ 22509. Notice of right to election of membership; Procedure for election

(a) Within 10 working days of the date of hire of an employee who has the right to make an election pursuant to Section 22508 or 22508.5, the employer shall inform the employee of the right to make an election and shall make available to the employee written information provided by each retirement system concerning the benefits provided under that retirement system to assist the employee in making an election.

(b) Any election made pursuant to subdivision (a) of Section 22508 or subdivision (a) of Section 22508.5 shall be filed with the office of the State Teachers' Retirement System and a copy of the election shall be filed with the other public retirement system. Any election made pursuant to subdivision (b) of Section 22508 or subdivision (b) of Section 22508.5 shall be filed with the office of the Public Employees' Retirement System and a copy of the election shall be filed with the office of this system.

(c) Any election made pursuant to Section 22508 or Section 22508.5 shall become effective as of the first day of employment in the position that qualified the employee to make an election.

Added by Stats 1996 ch 383 § 5 (AB 3221). Amended by Stats 1997 ch 838 § 2 (SB 227).

Former Sections: Former § 22509, similar to present Ed C § 22508, was added Stats 1993 ch 893 § 2, and repealed Stats 1996 ch 383 § 4.

Former § 22509, similar to present § 22510, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 714 § 80, Stats 1983 ch 143 § 13, and repealed Stats 1993 ch 893 § 1.

Amendments

1997 Amendment: (1) Amended subd (a) by **(a)** adding "of an employee who has the right to make an election pursuant to Section 22508 or 22508.5"; **(b)** deleting "pursuant to Section 22508" after "an election"; and **(c)** substituting "each retirement system concerning the benefits provided under that retirement system" for "the retirement systems"; **(2)** substituted subd (b) for former subd (b) which read: "(b) The election shall be made on a form prescribed by the retirement systems."; and **(3)** amended subd (c) by substituting **(a)** "or Section 22508.5 shall become effective as of the first day of employment in the position that qualified the employee to make an election" for "shall be filed with the office of the State Teachers' Retirement System and the other public retirement system"; and **(b)** deleting the last sentence which read: "Once received and accepted by the system, the election shall become effective as of the first day of employment in the position that qualified the member to make an election.".

§ 22510. Election to transfer membership to Public Employees' Retirement System

Members who on January 1, 1976, are in state service positions according to former Section 13948 as it read on December 31, 1975, or who are employees of the Trustees of the California State University, may elect in writing prior to July 1, 1976, not to continue as members of this system and to transfer membership to the Public Employees' Retirement System. Failure to execute and file the election, which shall be received in the office of this system by the close of business on June 30, 1976, shall be deemed a decision to remain a member of the plan.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 108 (SB 2041).

Former Sections: Former § 22510, similar to present Ed C § 22511, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22509, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 714 § 80, Stats 1983 ch 143 § 13.

Amendments

1996 Amendment: Substituted "a member of the plan" for "as a member of this system" at the end of the second sentence.

§ 22511. Certain members who elect to remain in plan; Limitation on benefits

Members eligible to elect under Section 22510 and who elect to retain membership in the plan shall be eligible only for those benefits available for all other members and shall not be eligible for the benefits of the Berryhill Total Compensation Act, as amended, except for the reduced hospitalization insurance premiums. These members shall not be considered eligible for any additional benefits that may accrue to other state employees.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 109 (SB 2041).

Former Sections: Former § 22511, similar to present Ed C § 22512, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22510, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Amended the first sentence by substituting **(1)** "the plan" for "this system" after "retain membership in"; and **(2)** "and shall" for "of this system, and" after "all other members".

§ 22512. Effect of election of membership in Public Employees' Retirement System

If a member elects membership in the Public Employees' Retirement System under Section 22510, this election shall not be counted as a break in service if employment is continuous.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22512, similar to present § 22513, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1988 ch 382 § 4, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22511, as enacted Stats 1976 ch 1010 § 2.

§ 22513. Retention of survivor and disability benefits; Plan vesting

Members of the Defined Benefit Program who elect membership in the Public Employees' Retirement System and have achieved plan vesting according to Section 22156 shall retain the vested rights

to survivor and disability benefits under this part until they qualify for the similar benefits in the Public Employees' Retirement System.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 110 (SB 2041); Stats 1998 ch 965 § 52 (AB 2765).

Historical Derivation: Former Ed C § 22512, as enacted Stats 1976 ch 1010 § 2, amended Stats 1988 ch 382 § 2.

Amendments

1996 Amendment: Substituted "plan" for "system" after "benefits under this".
1998 Amendment: (1) Added "of the Defined Benefit Program"; **(2)** substituted "Section 22156" for "Section 22173"; and **(3)** substituted "part" for "plan" after "benefits under this".

§ 22514. Qualification when plan vesting not achieved

Members who have not achieved plan vesting shall become eligible for benefits under the Defined Benefit Program when total service under the Defined Benefit Program and the Public Employees' Retirement System equals the minimum required under Sections 23801 and 23804. These members shall retain vested rights to survivor and disability benefits under this plan until they qualify for the similar benefits under the Public Employees' Retirement System.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 36 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 111 (SB 2041); Stats 1999 ch 939 § 38 (SB 1074).

Former Sections: Former § 22514, similar to present Ed C § 22315, was added Stats 1989 ch 1004 § 1 and repealed Stats 1993 ch 893 § 2.

Amendments

1994 Amendment: Substituted "Sections 23801 and 23804" for "Sections 23800 and 23804".
1996 Amendment: (1) Substituted the first sentence for the former first sentence which read: "Persons who have not achieved plan vesting shall qualify for eligibility for benefits under this system when total service under both systems equals the minimum required under Sections 23801 and 23804."; and **(2)** amended the second sentence by **(a)** substituting "members" for "persons" after "These"; and **(b)** adding "under this plan" after "disability benefits".
1999 Amendment: Substituted **(1)** "the Defined Benefit Program" for "this plan" both times it appears; and **(2)** "under" for "in" after "similar benefits" in the second sentence.

§ 22515. Election to join plan by substitute teachers and part–time employees

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 507 § 2 (AB 2647); Stats 1996 ch 634 § 112 (SB 2041), operative July 1, 1996; Stats 1998 ch 965 § 53 (AB 2765); Stats 2002 ch 375 § 4 (AB 2982); Stats 2009 ch 304 § 3 (SB 634), effective January 1, 2010.

Former Sections: Former § 22515, similar to present Ed C § 24275, was added Stats 1989 ch 1004 § 2 and repealed Stats 1993 ch 893 § 2.

Historical Derivation: Former Ed C § 22603.1, as enacted Stats 1976 ch 1010 § 2.

Amendments

1994 Amendment: Substituted "Sections 22602, 22603, and 22604" for "Sections 22602 and 22604".

1996 Amendment: (1) Substituted the first sentence for the former first sentence which read: "Persons excluded from membership in Sections 22602, 22603, and 22604 may elect membership in the system at any time while employed in a substitute or part–time position that does not qualify for membership in this system."; and **(2)** added the third sentence.

1998 Amendment: (1) Amended the first sentence by **(a)** substituting "Defined Benefit Program" for "plan"; and **(b)** adding "subject to coverage under that program" at the end; **(2)** amended the second sentence by **(a)** deleting "is irrevocable," after "The election"; and **(b)** adding "on a form prescribed by this system"; and **(3)** added the third sentence.

2002 Amendment: Deleted **(1)** the comma after "prescribed by this system" in the second sentence; and **(2)** the former third sentence which read: "The election is irrevocable, and shall remain in effect until the member terminates employment and receives a refund of accumulated retirement contributions."

2009 Amendment: Added the third sentence.

§ 22516. Persons not excluded from membership

(a) Nothing in this chapter shall be construed or applied to exclude from membership in the Defined Benefit Program any person employed to perform creditable service at a level that requires mandatory membership in the program for which he or she has the right to elect membership in the program or another retirement system and who elects membership in the other retirement system, or who is employed to perform creditable service at a level that does not require mandatory membership in the Defined Benefit Program.

(b) Service performed after becoming a member of another retirement system shall not be credited to the member under this part, nor shall contributions or benefits under this part be based upon that service or the compensation received by the member during that period of service, except as provided in the definition of "final compensation" contained in Section 22134.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 113 (SB 2041); Stats 1998 ch 965 § 54 (AB 2765); Stats 1999 ch 939 § 39 (SB 1074).

Historical Derivation: Former Ed C § 22610, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read:

"(a) Nothing in this chapter shall be construed or applied to exclude from membership in this system any member who accepts a position requiring membership in this system in which he or she has the right to elect membership in this or another retirement system and who elects membership in the other retirement system, or who enters a position that does not require membership in this system, but in which time served is included in this part.

"(b) Time served after becoming a member of the other system shall not be credited to the member under this system, nor shall contributions or benefits under this system be based upon that time or the salary received by the member during that time, except as provided in the definition of 'final compensation' contained in Section 22133."

1998 Amendment: Substituted **(1)** "the Defined Benefit Program" for "this plan" both times it appears in subd (a); **(2)** "the program" for "this plan" both times it appears in subd (a); and **(3)** "part" for "plan" after "under this" both times it appears in subd (b).

1999 Amendment: Substituted "Section 22134" for "Section 22133" at the end of subd (b).

CHAPTER 11. EXCLUSIONS FROM MEMBERSHIP

§ 22601. Exchange or sojourn teachers

Persons serving as exchange teachers or sojourn teachers from outside of this state are excluded from membership in the plan.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 114 (SB 2041).

Former Sections: Former § 22601, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "plan" for "system" at the end.

§ 22601.5. Exclusion of part–time employees from mandatory membership

(a) Any person employed by a school district or county office of education to perform creditable service who is not already a member in the Defined Benefit Program and whose basis of employment is less than 50 percent of the time an employer requires for the full–time position is excluded from mandatory membership in the Defined Benefit Program.

(b) Any person employed by a community college district to perform creditable service pursuant to Section 87474, 87480, 87481, 87482, or 87482.5 who is not already a member of the Defined Benefit Program is excluded from mandatory membership in the Defined Benefit Program.

(c) This section shall apply to persons who perform service subject to coverage under this part and to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

Added by Stats 1996 ch 634 § 115 (SB 2041), operative July 1, 1996. Amended by Stats 1998 ch 965 § 56 (AB 2765); Stats 1999 ch 939 § 40 (SB 1074); Stats 2004 ch 474 § 3 (AB 3076), operative July 1, 2005.

Amendments

1998 Amendment: (1) Substituted "Any person who is not already a member of the plan who is" for "Persons who are not already members of the plan who are" in subd (a); **(2)** deleted former subd (b) which read: "(b) Persons whose basis of employment to perform creditable service changes to 50 percent or more of the full–time equivalent for the position shall become members of the plan on the first day of the pay period in which the change in the basis of employment occurred."; **(3)** redesignated former subds (c) and (d) to be subds (b) and (c); and **(4)** added "who perform service subject to coverage under this part and to persons who are" in subd (b).

1999 Amendment: Amended subd (a) by **(1)** adding "employed to perform creditable service"; **(2)** substituting "in the Defined Benefit Program" for "of the plan who is employed to perform creditable service" the first time it appears; and **(3)** substituting "Defined Benefit Program" for "plan" at the end.

2004 Amendment: (1) Amended subd (a) by **(a)** adding "by a school district or county office of education"; and **(b)** substituting "time an employer requires for the full–time equivalent for the" for "equivalent for the"; **(2)** added subd (b); **(3)** redesignated former subd (b) to be subd (c); and **(4)** deleted former subd (c) which read: "This section shall be deemed to have become operative on July 1, 1996."

§ 22602. Substitute teachers

(a) Any person employed to perform creditable service as a substitute teacher who is not already a member in the Defined Benefit Program and who performs less than 100 complete days of creditable

service in one school district, community college district, or county superintendent's office during the school year is excluded from mandatory membership in the Defined Benefit Program.

(b) This section shall not apply to persons who perform service for employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 592 § 9 (AB 1298); Stats 1996 ch 634 § 116 (SB 2041), operative July 1, 1996; Stats 1998 ch 965 § 57 (AB 2765); Stats 1999 ch 939 § 41 (SB 1074).

Former Sections: Former § 22602, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1988 ch 497 § 1, and repealed Stats 1993 ch 893 § 1.

Amendments

1995 Amendment: Added subd (c).

1996 Amendment: (1) Substituted subds (a) and (b) for former subds (a) and (b) which read:

"(a) Persons employed on a substitute basis, who are not already members when they become employed and who perform less than 100 complete days of service during the school year are excluded from membership in the system.

"(b) Persons employed on a substitute basis who have performed 100 or more complete days of substitute service in one school district or county superintendent's office in that school year shall become members on the first day of the following pay period during which the additional service was performed.";
(2) substituted "not apply to employers who" for "apply to employers who do not" in subd (c); and **(3)** added subd (d).

1998 Amendment: (1) Amended subd (a) by **(a)** substituting "Any person who is not already a member of the plan who is employed as a substituted and who performs" for "Persons who are not already members of the plan who are employed as substitutes and who perform"; **(b)** adding "in one school district, community college district, or county superintendent's office"; and **(c)** substituting "is" for "are" after "during the school year"; **(2)** deleted former subd (b) which read: "(b) Persons employed as substitutes who have performed 100 or more complete days of creditable service in one school district, community college district, or county superintendent's office in that school year shall become members on the first day of the pay period following the pay period in which the creditable service in excess of 100 days was performed."; and **(3)** redesignated former subds (c) and (d) to be subds (b) and (c).

1999 Amendment: (1) Amended subd (a) by **(a)** adding "employed to perform creditable service as a substitute teacher"; **(b)** substituting "in the Defined Benefit Program" for "of the plan" the first time it appears; and **(c)** substituting "Defined Benefit Program" for "plan" at the end; and **(2)** added "persons who perform service for" in subd (b).

§ 22604. Part–time employees working on hourly or daily basis

(a) Any person employed to perform creditable service on a part–time basis, who is not already a member of the Defined Benefit Program and who performs less than 60 hours of creditable service in a pay period if employed on an hourly basis, or less than 10 days of creditable service in a pay period if employed on a daily basis, during the school year in one school district or county office of education, is excluded from mandatory membership in the Defined Benefit Program.

(b) Any person employed by a community college district to perform creditable service pursuant to Section 87474, 87480, 87481, 87482, or 87482.5, who is not already a member of the Defined Benefit Program, is excluded from mandatory membership in the Defined Benefit Program.

(c) Subdivision (a) does not apply to persons who perform service subject to coverage under this part and who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(d) Subdivision (b) shall apply to persons who perform service subject to coverage under this part and to persons who are employed by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 592 § 11 (AB 1298); Stats 1996 ch 634 § 117 (SB 2041), operative July 1, 1996; Stats 1998 ch 965 § 58 (AB 2765); Stats 1999 ch 939 § 42 (SB 1074); Stats 2004 ch 474 § 4 (AB 3076), operative July 1, 2005.

Historical Derivation: Former Ed C § 22603, as enacted Stats 1976 ch 1010 § 2, amended Stats 1988 ch 497 § 2.

Amendments

1995 Amendment: Added subd (c).

1996 Amendment: (1) Substituted subds (a) and (b) for former subds (a) and (b) which read:

"(a) Persons employed on a part–time basis who are not already members when they become employed, and who perform less than 60 hours of service per pay period or less than 10 days of service in a pay period on a daily basis, are excluded from membership in the system.

"(b) Persons employed on a part–time basis who have performed 60 or more hours of service in a pay period, or 10 days or more of service in a pay period on a daily basis in one school district or county superintendent's office shall become members on the first day of the following pay period during which the additional service was performed.";

(2) substituted "not apply to employers who" for "apply to employers who do not" in subd (c); and **(3)** added subd (d).

1998 Amendment: (1) Amended subd (a) by substituting **(a)** "Any person who is not already a member of the plan who is employed on a part–time basis, and who performs" for "Persons who are not already members of the plan who are employed on a part–time basis, and who perform"; **(b)** "in a" for "per" after "creditable service" the first time it appears; and **(c)** "in one school district, community college district, or county superintendent's office is" for "are"; **(2)** deleted former subd (b) which read: "(b) Persons employed on a part–time basis who have performed 60 or more hours of creditable service in a pay period, or 10 or more days of creditable service in a pay period in one school district, community college district, or county superintendent's office shall become members on the first day of the pay period following the pay period in which the creditable service in excess of 60 hours or 10 days was performed."; and **(3)** redesignated former subds (c) and (d) to be subds (b) and (c).

1999 Amendment: (1) Amended subd (a) by **(a)** adding "employed to perform creditable service on a part–time basis"; **(b)** substituting "in the Defined Benefit Program" for "of the plan" the first time appears; **(c)** adding "during the school year"; and **(d)** substituting "Defined Benefit Program" for "plan" the end; and **(2)** added "persons who are employed by" in subd (b).

2004 Amendment: (1) In subd (a), **(a)** added "by a school district or county office of education"; **(b)** added the comma after "basis"; **(c)** added the comma after "Program"; and **(d)** substituted "district or county office of education, " for "district, community college district, or county superintendent's office,"; **(2)** added designation of subd (b); **(3)** substituted "Any person employed by a community college district to perform creditable service on a part-time basis, who is not already a member of the Defined Benefit Program shall become a member as of the first day of the pay period following his or her employment to perform creditable service that is not subject to Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded from membership pursuant to Section 22601" for "This section shall"; **(4)** added present subd (c); **(5)** added the designation of subdivision (d), and added "Subdivision (b) shall apply to persons who perform service subject to coverage under this part and"; and **(6)** deleted former "subd (c) which read: "This section shall be deemed to have become operative on July 1, 1996".

CHAPTER 12. COMMUNITY PROPERTY

§ 22650. Power of court; Rights of nonmember spouses

(a) This chapter establishes the power of a court in a dissolution of marriage or legal separation action with respect to community property rights in accounts with the plan under this part and establishes and defines the rights of nonmember spouses and nonmember registered domestic partners in the plan under this part.

(b) For purposes of this chapter, the termination, dissolution, or nullity of a registered domestic partnership, or the legal separation of partners in a registered domestic partnership, as provided in Section 299 of the Family Code, shall be treated in the same manner as a dissolution of marriage or legal separation of a member and his or her spouse.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 118 (SB 2041); Stats 1998 ch 965 § 59 (AB 2765); Stats 2004 ch 912 § 6 (AB 2233); Stats 2005 ch 418 § 4 (SB 973), effective January 1, 2006.

Former Sections: Former § 22650, similar to the present section, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "plan" for "system" wherever it appears.

1998 Amendment: Added "under this part" both times it appears.

2004 Amendment: (1) Redesignated the former section to be subd (a); **(2)** added "and nonmember registered domestic partners" in subd (a); and **(3)** added subd (b).

2005 Amendment: Amended subd (b) by substituting "the termination, dissolution, or" for "any reference to 'dissolution of marriage or legal separation' includes the termination or dissolution of a domestic partnership,"; adding "registered" in two places; and substituting "Code, shall be treated in the same manner as a dissolution of marriage or legal separation of a member and his or her spouse." for "Code."

§ 22651. "Nonmember spouse" and "Nonmember registered domestic partner" for community property purposes

(a) For purposes of this chapter and Section 23300, "nonmember spouse" means a member's spouse or former spouse, and also includes a member's registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part.

(b) For purposes of this chapter and Section 23300, a member's registered domestic partner or former registered domestic partner who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part shall be treated in the same manner as a nonmember spouse.

(c) A nonmember spouse shall not be considered a member based upon his or her receipt of any of the following being awarded to the nonmember spouse as a result of legal separation or dissolution of marriage:

(1) A separate account of service credit and accumulated retirement contributions, a retirement allowance, or an interest in the member's retirement allowance under the Defined Benefit Program.

(2) A separate account based on the member's Defined Benefit Supplement account balance, a retirement benefit, or an interest in the member's retirement benefit under the Defined Benefit Supplement Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 119 (SB 2041); Stats 1998 ch 965 § 60 (AB 2765); Stats 2000 ch 74 § 33 (AB 1509), ch 1021 § 18 (AB 2700); Stats 2004 ch 912 § 7 (AB 2233); Stats 2005 ch 418 § 5 (SB 973), effective January 1, 2006.

Former Sections: Former § 22651, similar to the present section, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22651.5, as added Stats 1990 ch 1390 § 2.

Amendments

1996 Amendment: (1) Substituted "or the benefits of a member" for "of the member or the benefits of a retirant" at the end of the first sentence; **(2)** substituted "or who receives a retirement allowance, or who is awarded an interest in a member's retirement allowance is not a member" for "is not a member of the system" at the end of the second sentence; and **(3)** deleted the former third sentence which read: "A nonmember spouse who receives a retirement allowance or is awarded an interest in a retirement allowance of a retirant is not a retirant of the system."

1998 Amendment: Added "under this part" wherever it appears.

2000 Amendment: (1) Amended the first sentence by **(a)** substituting "a member's" for "the" after "means"; **(b)** adding the comma after "service credit"; and **(c)** substituting ", accumulated Defined Benefit Supplement account balance, or benefits of the" for "or the benefits of a"; and **(2)** substituted the second sentence for the former second sentence which read: "A nonmember spouse who is awarded a separate account of service credit and accumulated retirement contributions or who receives a retirement allowance under this part, or who is awarded an interest in a member's retirement allowance under this part is not a member."

2004 Amendment: Added **(1)** the subdivision designations; and **(2)** ", and also includes a member's registered domestic partner or former registered domestic partner," in subd (a).

2005 Amendment: (1) Added subd (b); **(2)** redesignated former subd (b) to be subd (c); and **(3)** amended subd (c) by **(a)** adding subdivision designations (c)(1) and (c)(2); and **(b)** substituting the period after "Defined Benefit Program" at the end of subd (c)(1) for "; or".

§ 22652. Judgment or court order (Court ordered deduction)

(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 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 under 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 under this part, 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.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 61 (AB 2765); Stats 2000 ch 74 § 34 (AB 1509), ch 1020 § 1 (AB 820), ch 1021 § 19.5 (AB 2700).

Former Sections: Former § 22652, similar to the present section, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Amendments

1998 Amendment: (1) Amended subd (b) by adding **(a)** "under this part that are" in the first sentence; **(b)** "under this part" after "contributions" in the second sentence; and **(c)** "in the Defined Benefit Program" at the end; and **(2)** added "under this part" wherever it appears in subds (c)(1)–(c)(4).

2000 Amendment: (1) Added "other than a retired member," in subd (a); **(2)** amended subd (b) by **(a)** adding "member's" after "court order that the" in the first sentence; **(b)** adding "the Defined Benefit Program, or the member's Defined Benefit Supplement account balance, or both, under"; **(c)** substituting "and" for "or" after "Any service credit" in the second sentence; **(d)** adding "under the Defined Benefit Program and any accumulated Defined Benefit Supplement account balance"; **(e)** substituting "under" for "in" after "property of the member" in the second sentence; and **(f)** adding "or the Defined Benefit Supplement Program, as applicable" at the end; **(3)** added "under this part" in subd (c); **(4)** substituted "the Defined Benefit Program and, if applicable, a retirement benefit under the Defined Benefit Supplement Program" for "this part" in subd (c)(1); **(5)** substituted "the Defined Benefit Program and the return of the accumulated Defined Benefit Supplement account balance that were awarded to the nonmember spouse" for "this part" in subd (c)(2); and **(6)** substituted subds (c)(3) and (c)(4) for former subds (c)(3) and (c)(4) which read:

"(3) The right to redeposit accumulated retirement contributions which are eligible for redeposit under this part by the member under Sections 23200 to 23203, inclusive, and the shares of the member and the nonmember spouse of the eligible redeposit amount.

"(4) The right to purchase additional service credit under this part which is eligible for purchase by the member under Sections 22800 to 22810, inclusive, and the shares of the member and the nonmember spouse of the service credit eligible for purchase." (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by two earlier chapters, chs 74, 1020. See Gov C § 9605.)

§ 22653. Entitlement of nonmember spouse

(a) The nonmember spouse who is awarded a separate account under this part pursuant to Section 22652 is not a member of the Defined Benefit Program based on that award. The nonmember spouse is entitled only to rights and benefits based on that award explicitly established by this chapter.

(b) This section shall not be construed to limit any right arising from the account of a nonmember spouse under this part that exists because the nonmember spouse is or was employed to perform creditable service subject to coverage by the Defined Benefit Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 120 (SB 2041); Stats 1998 ch 965 § 62 (AB 2765).

Former Sections: Former § 22653, similar to the present section, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Amended the first paragraph by **(a)** substituting "plan based on that award" for "system" at the end of the first sentence; and **(b)** adding "based on that award" in the second sentence; and **(2)** added subd (b).

1998 Amendment: (1) Added subdivision designation (a); **(2)** amended the first sentence of subd (a) by **(a)** adding "under this part"; and **(b)** substituting "Defined Benefit Program" for "plan"; and **(3)** substituted "Defined Benefit Program" for "plan" in subd (b).

§ 22655. Determination of community property rights in retirement allowance of retired member

(a) Upon the legal separation or dissolution of marriage of a retired member, the court may include in the judgment or court order a determination of the community property rights of the parties in the retired member's retirement allowance and, if applicable, retirement benefit under this part consistent with this section. Upon election under subparagraph (B) of paragraph (3) of subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonmember spouse a community property share in the retirement allowance or retirement benefit, or both, of a retired member shall be consistent with this section.

(b) If the court does not award the entire retirement allowance or retirement benefit under this part to the retired member and the retired member is receiving a retirement allowance that has not been modified pursuant to Section 24300 or 24300.1, a single life annuity pursuant to Section 25011 or 25018, or a member only annuity described in paragraph (1) of subdivision (a) of Sections 25011.1 and 25018.1, the court shall require only that the system pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance or retirement benefit, or both, under this part.

(c) If the court does not award the entire retirement allowance or retirement benefit under this part to the retired member and the retired member is receiving an allowance that has been actuarially modified pursuant to Section 24300 or 24300.1, or a joint and survivor annuity pursuant to Section 25011, 25011.1, 25018, or 25018.1, the court shall order only one of the following:

(1) The retired member shall maintain the retirement allowance or joint and survivor annuity, or both, under this part without change.

(2) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and elect a new joint and survivor option or designate a new beneficiary or both, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance payable to the retired member, the option beneficiary, or both.

(3) The retired member shall cancel the joint and survivor annuity under which the retirement benefit is being paid pursuant to Section 24305.3, and elect a new joint and survivor annuity or designate a new annuity beneficiary or both, based on the actuarial equivalent of the member's canceled annuity, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement benefit payable to the retired member, the annuity beneficiary, or both.

(4) The retired member shall take the action specified in both paragraphs (2) and (3).

(5) The retired member shall cancel the option that modified the retirement allowance under this part pursuant to Section 24305 and elect an unmodified retirement allowance and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retired member's retirement allowance under this part.

(6) The retired member shall cancel, pursuant to Section 24305.3, the joint and survivor annuity under which the retirement benefit is being paid, and elect a single life annuity, and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement benefit payable to the retired member.

(7) The retired member shall take the action specified in both paragraphs (5) and (6).

(d) If the option beneficiary or annuity beneficiary or both under this part, other than the nonmember spouse, predeceases the retired member, the court shall order the retired member to designate a new option beneficiary pursuant to Section 24306, or a new annuity beneficiary pursuant to Section 24305.3 and shall order the system to pay the nonmember spouse, by separate warrant, his or her share

of the community property interest in the retirement allowance or retirement benefit payable to the retired member or the new option beneficiary or annuity beneficiary or each of them.

(e) The right of the nonmember spouse to receive his or her community property share of the retired member's retirement allowance or retirement benefit or both under this section shall terminate upon the death of the nonmember spouse. However, the nonmember spouse may designate a beneficiary under the Defined Benefit Program and a payee under the Defined Benefit Supplement Program to receive his or her community property share of the retired member's accumulated retirement contributions and accumulated Defined Benefit Supplement account balance under this part in the event that there are remaining accumulated retirement contributions and a balance of credits in the member's Defined Benefit Supplement account to be paid upon the death of the nonmember spouse.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 1269 § 5 (AB 2208); Stats 1996 ch 634 § 122 (SB 2041); Stats 1998 ch 965 § 63 (AB 2765); Stats 2000 ch 74 § 35 (AB 1509), ch 1021 § 20 (AB 2700); Stats 2006 ch 655 § 9 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22655, similar to present Ed C § 22661, was added Stat 1988 ch 542 § 2, effective August 23, 1988, repealed Stats 1993 ch 893 § 1 (ch 1082 prevails), amended Stats 1993 ch 1082 § 2, and repealed Stats 1994 ch 933 § 37, effective September 27, 1994.

Historical Derivation: Former Ed C § 22662, as added Stats 1988 ch 542 § 2, amended Stats 1992 ch 163 § 68, Stats 1993 ch 1082 § 3.

Amendments

1994 Amendment: Substituted "paragraph (4) of subdivision (a)" for "subdivision (d)" in the first paragraph.

1996 Amendment: (1) esignated the former first paragraph to be subd (a); **(2)** redesignated former subds (a)–(d) to be subds (b)–(e); **(3)** substituted "retired member" for "retirant" wherever it appears in subds (a)–(d); **(4)** substituted "subparagraph (B) of paragraph (3)" for "paragraph (4)" in the second sentence of subd (a); **(5)** substituted "that has not been modified pursuant to" for "under any section other than" before "Section 24300" in subd (b); **(6)** added "from the plan" after "by separate warrant" in subds (b), (c)(2), (c)(3), and (d); **(7)** substituted "option under which the retirement allowance is modified" for "retirement allowance" before "pursuant to Section 24305" in subds (c)(2) and (c)(3); **(8)** substituted "allowance" for "benefit" after "unmodified retirement" in subd (c)(3); **(9)** substituted "predeceases" for "dies before" after "than the nonmember spouse"; and **(10)** amended subd (e) by adding **(a)** "of the retirement allowance of the retired member" after "community property share" in the first sentence; and **(b)** "the retired member's" after "community property share of" in the second sentence.

1998 Amendment: Added "under this part" wherever it appears.

2000 Amendment: (1) Amended subd (a) by substituting **(a)** "retired member's retirement allowance and, if applicable, retirement benefit under this part" for "retirement allowance under this part of the retired member"; and **(b)** "retirement allowance or retirement benefit, or both," for "benefits"; **(2)** amended subd (b) by **(a)** adding "or retirement annuity"; **(b)** adding "or a single life annuity pursuant to Section 25011 or 25018,"; **(c)** deleting "from the plan" after "by separate warrant"; and **(d)** substituting "retired member's retirement allowance or retirement benefit, or both, under this part" for "retirement allowance, under this part of the retired member"; **(3)** amended subd (c) by **(a)** adding "or retirement benefit"; **(b)** substituting "that" for "which" after "receiving an allowance"; and **(c)** adding "or a joint and survivor retirement benefit pursuant to Section 25011 or 25018,"; **(4)** added "or retirement benefit, or both," in subd (c)(1); **(5)** amended subd (c)(2) by **(a)** substituting "that modified the retirement allowance" for "under which the retirement allowance is modified"; and **(b)** deleting "from the plan" after "separate warrant"; **(6)** added subds (c)(3) and (c)(4); **(7)** redesignated former subd (c)(3) to be subd (c)(5); **(8)** amended subd (c)(5) by **(a)** substituting "that modified the retirement allowance" for "under which the retirement allowance is modified"; **(b)** deleting "from the plan" after "separate warrant"; and **(c)** substituting "retired member's retirement allowance under this part" for "retirement allowance of the retired member"; **(9)** added subds (c)(6) and (c)(7); **(10)** amended subd (d) by **(a)** adding "or annuity beneficiary or both"; **(b)** substituting "pursuant to Section 24306, or a new annuity beneficiary pursuant to Section 24305.3" for "under this part pursuant to Section 24306"; **(c)** deleting "from the plan" after "separate warrant"; **(d)** adding "or retirement benefit or both"; and **(e)** substituting "or annuity beneficiary or each of them" for ", or both" at the end; and **(11)** amended subd (e) by **(a)** adding "retired member's" in the first sentence; **(b)** substituting "or retirement benefit

or both" for "under this part of the retired member" in the first sentence; **(c)** adding "under the Defined Benefit Program and a payee under the Defined Benefit Supplement Program"; **(d)** adding "and accumulated Defined Benefit Supplement account balance"; **(e)** adding "there are remaining"; and **(f)** substituting "and a balance of credits in the member's Defined Benefit Supplement account to be paid upon the death of the nonmember spouse" for "become payable". (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

2006 Amendment: (1) Amended subd (b) by **(a)** substituting "benefit" for "annuity" after "allowance to retirement"; **(b)** substituting "or 24300.1," for the comma after "pursuant to Section 24300"; and **(c)** adding "or a member only annuity described in paragraph (1) of subdivision (a) of Sections 25011.1 and 25018.1" after "Section 25011 or 25018,"; **(2)** amended subd (c) by **(a)** adding "or 24300.1" after "pursuant to Section 24300"; **(b)** substituting "annuity" for "retirement benefit" after "a joint and survivor"; and **(c)** substituting ", 25011.1, 25018, or 25018.1," for "or" after "pursuant to Section 25011"; **(3)** substituted "joint and survivor annuity" for "retirement benefit" after "the retirement allowance in subd (c)(1); **(4)** amended subd (c)(2) by **(a)** substituting "elect" for "select" after "pursuant to Section 24305 and"; **(b)** adding "designate" after "survivor option or"; and **(c)** substituting "payable to" for "under this part" after "the retirement allowance"; **(5)** amended subd (c)(3) by **(a)** substituting "annuity" for "retirement benefit" after "the joint and survivor"; **(b)** substituting "elect" for "select" after "pursuant to Section 24305.3, and"; **(c)** adding "designate" after "and survivor annuity or"; and **(d)** substituting "benefit" for "annuity" after "share of the retirement"; **(6)** substituted "elect" for "select" after "pursuant to Section 24305 and" in subd (c)(5); **(7)** amended subd (c)(6) by **(a)** substituting "elect" for "select" after "is being paid, and"; and **(b)** deleting "benefit" after "retirement benefit payable"; and **(8)** amended subd (d) by **(a)** adding "designate" after "retired member to"; and **(b)** substituting "payable to" for "or both under this part" after "or retirement benefit".

§ 22656. Joinder of plan as party to action and service of judgment or court order

No judgment or court order issued pursuant to this chapter is binding on the system with respect to the Defined Benefit Program or the Defined Benefit Supplement Program until the system has been joined as a party to the action and has been served with a certified copy of the judgment or court order.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 122.5 (SB 2041); Stats 1998 ch 965 § 64 (AB 2765); Stats 2000 ch 74 § 37 (AB 1509), ch 1021 § 21 (AB 2700).

Former Sections: Former § 22656, similar to present Ed C § 22662, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22664, as added Stats 1988 ch 542 § 2, effective August 23, 1988.

Amendments

1996 Amendment: Substituted "plan until the plan" for "system until the system".

1998 Amendment: Added "with respect to the Defined Benefit Program".

2000 Amendment: (1) Substituted "system" for "plan" both times it appears; and **(2)** added "or the Definied Benefit Supplement Program". (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

§ 22657. Application of other provisions to nonmember spouse

(a) The following provisions shall apply to a nonmember spouse as if he or she were a member under this part: Sections 22107, 22306, 22906, and 23802, subdivisions (a) and (b) of Section 24600, and Sections 24601, 24602, 24603, 24605, 24606, 24607, 24608, 24611, 24612, 24613, 24616, 24617, 25009, 25010, 25011, 25011.1, 25013, 25020, 25021, and 25022.

(b) Notwithstanding subdivision (a), this section shall not be construed to establish any right for the nonmember spouse under this part that is not explicitly established in Sections 22650 to 22655, inclusive, and Sections 22658 to 22665, inclusive.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 123 (SB 2041); Stats 1998 ch 965 § 65 (AB 2765); Stats 2002 ch 375 § 5 (AB 2982); Stats 2006 ch 655 § 10 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22657, similar to present Ed C § 22663, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22665, as added Stats 1988 ch 542 § 2, amended Stats 1992 ch 1166 § 11.

Amendments

1996 Amendment: Deleted "or service retirant" after "she were a member" in subd (a).

1998 Amendment: Added "under this part" in subds (a) and (b).

2002 Amendment: Amended subd (a) by **(1)** adding "and" after "22906,"; **(2)** adding "and Sections"; **(3)** deleting "and" after "24616,"; and **(4)** adding ", 25009, 25010, 25011, 25013, 25020, 25021, and 25022".

2006 Amendment: Added "25011.1," after "Sections 25009, 25010, 25011," in subd (a).

§ 22658. Separate administration of accounts of nonmember spouse

(a) A separate account awarded to a nonmember spouse pursuant to Section 22652 shall be administered independently of the member's account.

(b) An accumulated Defined Benefit Supplement account balance, accumulated retirement contributions, service credit, and final compensation attributable to a separate account of a nonmember spouse under this part shall not be combined in any way or for any purpose with the accumulated Defined Benefit Supplement account balance, accumulated retirement contributions, service credit, and final compensation of any other separate account of the nonmember spouse.

(c) An accumulated Defined Benefit Supplement account balance, accumulated retirement contributions, service credit, and final compensation attributable to the separate account of a nonmember spouse shall not be combined in any way or for any purpose with the accumulated Defined Benefit Supplement account balance, accumulated retirement contributions, service credit, and final compensation of an account that exists under this part because the nonmember spouse is employed or has been employed to perform creditable service subject to coverage under the Defined Benefit Program or the Defined Benefit Supplement Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 123.5 (SB 2041); Stats 1998 ch 965 § 66 (AB 2765); Stats 2000 ch 74 § 37 (AB 1509).

Former Sections: Former § 22658, similar to present Ed C § 22664, was added Stats 1988 ch 542 § 2, effective August 23, 1988, amended Stats 1990 ch 83 § 2, effective May 2, 1990, Stats 1992 ch 1166 § 9, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22660, as added Stats 1988 ch 542 § 2.

Amendments

1996 Amendment: (1) Substituted subd (a) for the former first sentence in subd (a) which read: "All separate accounts of a nonmember spouse shall be administered separately."; **(2)** designated the former second sentence of subd (a) to be subd (b); **(3)** redesignated former subd (b) to be subd (c); and **(4)** amended subd (c) by **(a)** deleting "In addition," at the beginning; **(b)** substituting "attributable to" for "in" after "final compensation"; **(c)** substituting "or" for "and" after "combined in any way"; and **(d)** substituting "to perform creditable service subject to coverage by the plan" for "in a position requiring membership in the system" at the end.

1998 Amendment: (1) Added "under this part" after "nonmember spouse" in subd (b) and after "account that exists" in subd (c); and **(2)** substituted "under the Defined Benefit Program" for "by the plan" at the end of subd (c).

2000 Amendment: (1) Substituted "An accumulated Defined Benefit Supplement account balance, accumulated retirement" for "Accumulated" at the beginning of subds (b) and (c); **(2)** added "Defined Benefit Supple-

ment account balance, accumulated retirement" in subds (b) and (c); and **(3)** added "or Defined Benefit Supplement Program" at the end of subd (c).

§ 22659. Requisite information from nonmember spouse

Upon being awarded a separate account or an interest in the retirement allowance or retirement benefit of a retired member under this part, a nonmember spouse shall provide the system with proof of his or her date of birth, social security number, and any other information requested by the system, in the form and manner requested by the system.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 124 (SB 2041); Stats 1998 ch 965 § 67 (AB 2765); Stats 2000 ch 74 § 38 (AB 1509), ch 1021 § 22 (AB 2700).

Former Sections: Former § 22659, similar to present Ed C § 22665, was added Stats 1988 ch 542 § 2, effective August 23, 1988, amended Stats 1992 ch 1166 § 10, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22663, as added Stats 1988 ch 542 § 2.

Amendments

1996 Amendment: Substituted "retirement allowance of a retired member" for "allowance of a retirant".

1998 Amendment: Added "under this part" after "retired member".

2000 Amendment: Added "or retirement benefit". (As amended by Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

§ 22660. Designation of beneficiaries

(a) The nonmember spouse who is awarded a separate account under this part shall have the right to designate, pursuant to Sections 23300 to 23304, inclusive, a beneficiary or beneficiaries to receive the accumulated retirement contributions under the Defined Benefit Program and to designate a payee to receive the accumulated Defined Benefit Supplement account balance under the Defined Benefit Supplement Program remaining in the separate account of the nonmember spouse on his or her date of death, and any accrued allowance or accrued benefit under the Defined Benefit Supplement Program that is attributable to the separate account of the nonmember spouse and that is unpaid on the date of the death of the nonmember spouse.

(b) This section shall not be construed to provide the nonmember spouse with any right to elect to modify a retirement allowance under Section 24300 or 24300.1, or to elect a joint and survivor annuity under the Defined Benefit Supplement Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 68 (AB 2765); Stats 2000 ch 74 § 39 (AB 1509), ch 1021 § 23 (AB 2700); Stats 2001 ch 159 § 59 (SB 662); Stats 2006 ch 655 § 11 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22660, similar to present § 22658, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22654, as added Stats 1988 ch 542 § 2.

Amendments

1998 Amendment: Added "under this part" both times it appears in subd (a).

2000 Amendment: (1) Amended subd (a) by **(a)** adding "under the Defined Benefit Program and to designate a payee to receive the accumulated Defined Benefit Supplement account balance under the Defined Benefit Supplement Program"; **(b)** adding "or accrued benefit under the Defined Benefit Supplement that is"; **(c)** substituting "of the nonmember spouse and that" for "which"; and **(d)** deleting "under this part" at the end; and **(2)** added "or to elect a joint and survivor annuity under the Defined Benefit Supplement Program" at the end of subd (b). (As

amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

2001 Amendment: Substituted "Defined Benefit Supplement Program" for "Defined Benefit Supplement" the second time it appears in subd (a).

2006 Amendment: Added "24300.1, or" after "under Section 24300 or" in subd (b).

§ 22661. Refund of accumulated retirement contributions

(a) The nonmember spouse who is awarded a separate account under this part shall have the right to a refund of the accumulated retirement contributions in the account under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance, of the nonmember spouse under this part.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain a refund or lump-sum payment.

(c) The refund of accumulated retirement contributions in the account under the Defined Benefit Program and the return of the accumulated Defined Benefit Supplement account balance under this part are effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file with the system.

(d) If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions or accumulated Defined Benefit Supplement account balance that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a refund of the nonmember spouse's accumulated retirement contributions as defined in Section 22161.5 or the return of the accumulated Defined Benefit Supplement account balance. This subdivision shall not apply to a nonmember domestic partner, consistent with Section 402 of the Internal Revenue Code.

(e) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit, accumulated retirement contributions, and accumulated Defined Benefit Supplement account balance under this part when the refund and lump-sum payment become effective.

(f) The nonmember spouse may not cancel a refund or lump-sum payment under this part after it is effective.

(g) The nonmember spouse shall not have a right to elect to redeposit the refunded accumulated retirement contributions under this part after the refund is effective, to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective, or to redeposit the accumulated Defined Benefit Supplement account balance after the lump-sum payment becomes effective.

(h) If the total service credit in the separate account of the nonmember spouse under the Defined Benefit Program, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the accumulated retirement contributions in the account.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 38 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 125 (SB 2041); Stats 1998 ch 965 § 69 (AB 2765); Stats 2000 ch 74 § 40 (AB 1509), ch 1021 § 24 (AB 2700); Stats 2004 ch 912 § 8 (AB 2233); Stats 2007 ch 513 § 1 (AB 1432), effective January 1, 2008; Stats 2009 ch 304 § 4 (SB 634), effective January 1, 2010.

Former Sections: Former § 22661, relating to nonmember spouse benefits, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Amendments

1994 Amendment: (1) Added the second sentence of subd (c); and **(2)** deleted "without an application from the nonmember spouse" at the end of subd (g).

1996 Amendment: (1) Designated the former first paragraph to be subd (a); **(2)** amended subd (a) by **(a)** adding "the" after "a refund of"; and **(b)** substituting "account of the nonmember spouse" for "separate allowance of the nonmember"; **(3)** deleted former subd (a) which read: "(a) The right of the nonmember spouse to a refund of accumulated retirement contributions is subject to Section 23105."; and **(4)** substituted "accumulated retirement contributions in" for "of" after "shall refund the" in subd (g).

1998 Amendment: Added "under this part" wherever it appears.

2000 Amendment: (1) Added "under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance," in subd (a); **(2)** supplemented "a refund or lump–sum payment" for "the refund" in subd (b); **(3)** amended subd (c) by substituting **(a)** "of accumulated retirement contributions and the return of the accumulated Defined Benefit Supplement account balance under this part are" for "under this part is" in the first sentence; **(b)** "with" for "in" before "the system" at the end of the first sentence; **(c)** "retirement contributions or accumulated Defined Benefit Supplement account balance" for "contributions" in the second sentence; **(d)** "refund" for "return" after "constitutes a" in the second sentence; and **(e)** "retirement contributions or accumulated Defined Benefit Supplement account balance" for "contributions" at the end; **(4)** amended subd (d) by **(a)** substituting the comma for "under this part and represented by the" after "service credit"; **(b)** adding ", and accumulated Defined Benefit Supplement account balance under this part"; and **(c)** substituting "and lump–sum payment become" for "becomes"; **(5)** substituted "or lump–sum payment under this part after it" for "under this part after the refund" in subd (e); **(6)** amended subd (f) by **(a)** substituting "not have a" for "have no" near the beginning; **(b)** substituting the comma for "and shall have no right" after "is effective"; and **(c)** adding ", or to redeposit the accumulated Defined Benefit Supplement account balance after the lump–sum payment becomes effective" at the end; and **(7)** substituted "the Defined Benefit Program" for "this part" in subd (g).

2004 Amendment: (1) Redesignated the former second sentence of subd (c) to be subd (d); **(2)** added the last sentence in subd (d); and **(3)** redesignated former subds (d)–(g) to be subds (e)–(h).

2007 Amendment: (1) Added "in the account under the Defined Benefit Program" in subd (c); and **(2)** substituted "retirement contributions as defined in Section 22161.5 or the return of the accumulated Defined Benefit Supplement account balance" for "retirement contributions or accumulated Defined Benefit Supplement account balance. This subdivision shall not apply to a nonmember domestic partner, consistent with Section 402 of the Internal Revenue Code" in subd (d).

2009 Amendment: Added the second sentence of subd (d).

§ 22662. Redeposit of accumulated retirement contributions previously refunded to member

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 the Defined Benefit Program 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 spouses' 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 payment of the redeposit is completed.

(d) All payments shall be received by the system before the effective date of the nonmember spouse's retirement under this part. If any payment due because of the election is not received at the system's headquarters office, as established pursuant to Section 22375, 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.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 126 (SB 2041); Stats 1998 ch 965 § 70 (AB 2765); Stats 2000 ch 74 § 41 (AB 1509), ch 1020 § 2 (AB 820), ch 1021 § 25.5 (AB 2700); Stats 2005 ch 351 § 7 (AB 224), effective January 1, 2006.

Former Sections: Former § 22662, similar to present Ed C § 22655, was added Stats 1988 ch 542 § 2, effective August 23, 1988, amended Stats 1992 ch 163 § 68, operative January 1, 1994, repealed Stats 1993 ch 893 § 1 (ch 1082 prevails), amended Stats 1993 ch 1082 § 3, Stats 1994 ch 1269 § 6 (ch 933 prevails), and repealed Stats 1994 ch 933 § 39, effective September 27, 1994.

Historical Derivation: Former Ed C § 22656, as added Stats 1988 ch 542 § 2.

Amendments

1996 Amendment: (1) Substituted "pursuant to" for "required by" after "determination of the court" in the first paragraph; **(2)** substituted "in which the court has determined the nonmember spouse has a community property interest" for "that the court has determined to be the community property interest of the nonmember spouse in the accumulated retirement contributions" at the end of subd (a); **(3)** substituted "an" for "the" after "after the system mails" in subd (b); and **(4)** amended subd (d) by **(a)** adding "in which the nonmember spouse has a community property interest" at the end of the first sentence; and **(b)** substituting "system's office in Sacramento" for "Sacramento office of the system" in the third sentence.

1998 Amendment: (1) Added "under this part" wherever it appears; and **(2)** substituted "accumulated retirement contributions previously refunded under this part and" for "previously refunded accumulated retirement contributions" in the second sentence of subd (f).

2000 Amendment: (1) Substituted "the Defined Benefit Program" for "this part" in the first paragraph and in subd (a); **(2)** amended subd (b) by substituting **(a)** "that specifies" for "addressing" in the first sentence; and **(b)** "spouse's election to redeposit shall be made" for "spouse shall elect to redeposit"; **(3)** substituted subd (c) for former subd (c) which read: "(c) If the nonmember spouse elects to redeposit under this part, he or she shall repay the accumulated retirement contributions and shall pay regular interest from the date of the refund to the date of payment."; and **(4)** amended subd (d) by **(a)** deleting the former first sentence which read: "An election to redeposit shall be considered an election to repay all accumulated retirement contributions previously refunded under this part in which the nonmember spouse has a community property interest."; and **(b)** substituting "the nonmember spouse's retirement" for "retirement of the nonmember spouse". (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by two earlier chapters, ch 74, ch 1021. See Gov C § 9605.)

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento" in subd (d).

§ 22663. Purchase of additional service credit by nonmember spouse

The nonmember spouse who is awarded a separate account under this part has the right to purchase additional service credit in accordance with the determination of the court pursuant to Section 22652.

(a) The nonmember spouse may purchase only the service credit that the court, pursuant to Section 22652, has determined to be the community property interest of the nonmember spouse.

(b) The nonmember spouse shall inform the system in writing of his or her intent to purchase additional service credit within 180 days after the date the judgment or court order addressing the right of the nonmember spouse to purchase additional service credit is entered. The nonmember spouse shall elect to purchase additional service credit on a form provided by the system within 30 days after the system mails an election form and billing.

(c) If the nonmember spouse elects to purchase additional service credit, he or she shall pay, prior to retirement under this part, all contributions with respect to the additional service at the contribution rate for additional service credit in effect at the time of election and regular interest from July 1 of the year following the year upon which contributions are based.

(1)(A) The nonmember spouse shall purchase additional service credit by paying the required contributions and interest in one lump sum, or in not more than 120 monthly installments, provided that no installment, except the final installment, is less than twenty-five dollars ($25). Regular interest shall be charged on the monthly, unpaid balance if the nonmember spouse pays in installments.

(B) If any payment due, because of the election, is not received at the system's headquarters office, as established pursuant to Section 22375, 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.

(2) The contributions shall be based on the member's compensation earnable in the most recent school year during which the member was employed, preceding the date of separation established by the court pursuant to Section 22652.

(3) All payments of contributions and interest shall be received by the system before the effective date of the retirement of the nonmember spouse.

(d) The nonmember spouse does not have a right to purchase additional service credit under this part after the effective date of a refund of the accumulated retirement contributions in the separate account of the nonmember spouse.

(e) The member does not have a right to purchase the community property interest of the nonmember spouse of additional service credit under this part whether or not the nonmember spouse elects to purchase the additional service credit. However, any additional service credit eligible for purchase that is not explicitly awarded to the nonmember spouse by the judgment or court order shall be deemed the exclusive property of the member.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 127 (SB 2041); Stats 1998 ch 965 § 71 (AB 2765); Stats 2003 ch 859 § 7 (SB 627); Stats 2004 ch 912 § 9 (AB 2233); Stats 2005 ch 351 § 8 (AB 224), effective January 1, 2006.

Former Sections: Former § 22663, similar to Ed C § 22659, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22657, as added Stats 1988 ch 542 § 2.

Amendments

1996 Amendment: (1) Substituted "an election form and" for "the election form and the" after "the system mails" in the second sentence of subd (b); **(2)** amended subd (c) by substituting **(a)** "system's office in Sacramento" for "Sacramento office of the system" in subd (1)(B); and **(b)** "member's compensation earnable" for "compensation earnable of the member" in subd (2); **(3)** amended subd (d) by **(a)** substituting "not have a" for "have no" after "spouse shall"; and **(b)** adding "retirement" after "the accumulated"; and **(4)** substituted "shall not have a" for "has no" after "The member" in the first sentence of subd (e).

1998 Amendment: Added "under this part" in the first paragraph of the section, in subds (c) and (d), and in the first sentence of subd (e).

2003 Amendment: (1) Substituted "has the right" for "shall have the right" in the introductory paragraph; **(2)** amended subd (c)(1)(A) by **(a)** substituting "120" for "60"; **(b)** substituting "is less than" for "shall be less than"; and **(c)** adding the comma after "charged on the monthly"; **(3)** added commas before and after "because of the election" in subd (c)(1)(B); and **(4)** substituted "does not have" for "shall not have" in subds (d) and (e).

2004 Amendment: Substituted "nonmember spouse" for "nonmember" at the end of subd (c)(3).

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento" in subd (c)(1)(B).

§ 22664. Right to service retirement allowance

The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance and, if applicable, a retirement benefit under this part.

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

(1) The member had at least five years of credited service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated retirement contributions. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, out-of-state service, and permissive service credit that the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least 2½ years of credited service in his or her separate account.

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

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

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

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

(3) The effective date is no earlier than the first day of the month that the application is received at the system's headquarters office as described in Section 22375, and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

(c)(1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

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

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

Age at Retirement	Percentage
60 ¼	2.033
60 ½	2.067
60 ¾	2.10
61	2.133
61 ¼	2.167
61 ½	2.20
61 ¾	2.233
62	2.267
62 ¼	2.30
62 ½	2.333
62 ¾	2.367
63 and over	2.40

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

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compen-

sation in Section 22134, 22134.5, 22135, or 22136, whichever is applicable, and shall be based on the member's compensation earnable up to the date the parties separated, as established in the judgment or court order pursuant to Section 22652. The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) Upon service retirement under this part, the nonmember spouse shall receive a retirement benefit based on an amount equal to the balance of credits in the nonmember spouse's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(1) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the nonmember spouse on the application for a retirement benefit. A retirement benefit paid as an annuity under this chapter shall be subject to Sections 22660, 25011, and 25011.1.

(2) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the nonmember spouse or the nonmember spouse's beneficiary under the Defined Benefit Supplement Program.

(e) If the member is or was receiving a disability allowance under this part with an effective date before or on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse shall not be eligible to retire until after the disability allowance of the member terminates. If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the portion for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the portion for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Section 24213.

(f) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions under this part, including, but not limited to, Sections 24412 and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 128 (SB 2041); Stats 1998 ch 965 § 72.5 (AB 2765); Stats 1999 ch 939 § 43 (SB 1074); Stats 2000 ch 74 § 42 (AB 1509), ch 1021 § 26 (AB 2700); Stats 2001 ch 803 § 6 (SB 501); Stats 2002 ch 375 § 6 (AB 2982); Stats 2006 ch 655

§ 12 (SB 1466), effective January 1, 2007; Stats 2008 ch 751 § 4 (AB 1389), effective September 30, 2008.

Former Sections: Former § 22664, similar to Ed C § 22656, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22658, as added Stats 1988 ch 542 § 2, amended Stats 1990 ch 83 § 2, Stats 1992 ch 1166 § 9.

Amendments

1996 Amendment: (1) Substituted "at the system's office" for "by the system" after "application is received" in subd (b)(3); **(2)** mended the first sentence in subd (c) by **(a)** adding "at or over normal retirement age" after "Upon service retirement"; and **(b)** deleting "upon retirement at normal retirement age or over," after "in monthly installments"; **(3)** mended the first sentence in the second paragraph of subd (d) by **(a)** substituting "employment to perform creditable service subject to coverage by the plan" for "a position requiring membership" wherever it appears; and **(b)** adding "in any capacity, notwithstanding Section 22132" at the end; and **(4)** substituting "retired member" for "retirant" at the end of the first sentence in subd (e).

1998 Amendment: (1) Added "under this part" wherever it appears; **(2)** amended subd (a)(1) by **(a)** substituting "at least five years of credited" for "performed at least five years of creditable" in the first sentence; **(b)** deleting ", if five of the member's six years of credited service immediately before the dissolution or legal separation had been in California" at the end of the first sentence; and **(c)** adding "out–of–state service," in the second sentence; **(3)** added "or court order pursuant to Section 22652" in subd (b)(3); **(4)** amended subd (c)(2) by substituting **(a)** "Section 22134, 22135, or 22136" for "Section 22133 or Section 22135"; and **(b)** "compensation earnable" for "earnable compensation"; and **(5)** substituted "under the Defined Benefit Program" for "by the plan" both times it appears in the second paragraph of subd (d).

1999 Amendment: (1) Substituted "that" for "which" after "permissive service credit" in the second sentence of subd (a)(1) and after "system," in subd (b)(2); **(2)** redesignated the former first and second sentences of subd (c) to be subds (c)(1) and (c)(2); **(3)** deleted "or over" after "retirement at" in subd (c)(1); **(4)** added subd (c)(3); and **(5)** redesignated former subds (c)(1) and (c)(2) to be subds (c)(4) and (c)(5).

2000 Amendment: (1) Added "and, if applicable, a retirement benefit" in the first paragraph; **(2)** substituted "member's compensation earnable" for "compensation earnable of the member" in subd (c)(5); and **(3)** substituted "portion" for "benefits" after "exclusive of the" in the first and second sentences of subd (d)(1). (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

2001 Amendment: Added "22134.5," in subd (c)(5).

2002 Amendment: (1) Substituted "2½" for "two and one–half" in subd (a)(2); **(2)** added subd (d); and **(3)** redesignated former subds (d) and (e) to be subds (e) and (f).

2006 Amendment: (1) Substituted "55 years of age" for "the age of" after "spouse has attained" in subd (a)(3); **(2)** substituted "a" for "any" after "become effective upon" in subd (b); **(3)** added "properly executed" after "retirement on a" in subd (b)(2); **(4)** amended subd (b)(3) by **(a)** substituting "that" for "in which" after "day of the month"; **(b)** adding "headquarters" after "at the system's"; and **(c)** substituting "as described in Section 22375," for "in Sacramento" after "system's headquarters office"; **(5)** substituted "that" for "in which" after "day of the month" in subd (c)(4); and **(6)** substituted "A" for "Any" after "a retirement benefit." in subd (d)(1).

2008 Amendment: Substituted "Sections 24412 and 24415" for "Sections 24411, 24412, and 24415" in subd (f).

§ 22665. Determination of eligibility of member for retirement or disability allowance (Service credit awarded to nonmember spouse)

The system shall include the service credit awarded to a nonmember spouse in the judgment or court order to determine the eligibility of a member for a retirement or disability allowance under this part. That portion of awarded service credit based on previously refunded accumulated retirement contributions or on permissive service credit may not be used by the member for eligibility requirements until the member has redeposited or purchased his or her portion of the service credit. The member's

service retirement allowance shall be calculated based on the service credit in the member's account on the effective date of service retirement.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 129 (SB 2041); Stats 1998 ch 965 § 73 (AB 2765); Stats 2000 ch 74 § 43 (AB 1509).

Former Sections: Former § 22665, similar to Ed C § 22657, was added Stats 1988 ch 542 § 2, effective August 23, 1988, amended Stats 1992 ch 1166 § 11, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22659, as added Stats 1988 ch 542 § 2, amended Stats 1992 ch 1166 § 10.

Amendments

1996 Amendment: Substituted **(1)** "retirement" for "service retirement, disability retirement," after "eligibility of a member for a" in the first sentence; and **(2)** the third sentence for the former third sentence which read: "The service retirement or disability allowance of a member shall be calculated based on the service credit in the account of the member on the effective date of disability or retirement."

1998 Amendment: Added "under this part" at the end of the first sentence.

2000 Amendment: Added "accumulated retirement" after "previously refunded" in the second sentence.

§ 22666. Legislative intent (Terminable interest doctrine abolishment)

It is the intent of the Legislature to abolish any remaining application of the terminable interest doctrine in California relating to the division of public retirement benefits of a member in the event of dissolution of marriage or death if the division is made under this chapter.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22666, similar to the present section, was added Stats 1988 ch 542 § 2, effective August 23, 1988, and repealed Stats 1993 ch 893 § 1.

CHAPTER 13. SERVICE CREDIT

§ 22700. Provisions governing inclusion of time

This chapter governs the computation of service to be credited under this part to a member of the Defined Benefit Program for the purpose of determining eligibility for benefits under the program, the amount of contributions required of the member in the program, and the amount of benefits paid to a retired member under the program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 130 (SB 2041); Stats 1998 ch 965 § 74 (AB 2765).

Former Sections: Former § 22700, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted **(1)** "eligibility for benefits under the plan" for "whether the member qualifies for retirement"; and **(2)** "retired member" for "retirant" at the end.

1998 Amendment: (1) Added **(a)** "under this part"; **(b)** "of the Defined Benefit Program"; **(c)** "in the program"; and **(d)** "under the program" at the end; and **(2)** substituted "program" for "plan" after "benefits under the".

§ 22701. Computation of service to be credited

(a) Service performed prior to July 1, 1972, shall be credited according to the provisions of law in effect at the time service was performed.

(b) Creditable service performed on or after July 1, 1972, and credited under the Defined Benefit Program, shall be credited in the proportion that the member's creditable compensation for that service bears to the member's compensation earnable.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 390 § 10 (AB 1122), operative July 1, 1996; Stats 1997 ch 482 § 7 (SB 471); Stats 2000 ch 1025 § 19 (AB 816).

Former Sections: Former § 22701, similar to present § 22801, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 3.

Historical Derivation: Former § 22702, as enacted Stats 1976 ch 1010 § 2.

Amendments

1995 Amendment: (1) Deleted "the" after "provisions of" in subd (a); and **(2)** substituted subd (b) for former subd (b) which read: "(b) Service performed on or after July 1, 1972, by a member shall be credited in the proportion the compensation paid bears to the compensation the member would have received if he or she had been employed on a full–time day basis in the particular position in which he or she is employed throughout the school term, school year, or for a period of service at least the equivalent to a school term."

1997 Amendment: Amended subd (b) by substituting **(1)** "that creditable" for "the" after "proportion"; and **(2)** "by the members bears to the member's" for "bears to the" after "earn".

2000 Amendment: Amended subd (b) by **(1)** adding "Creditable" at the beginning; **(2)** adding "and credited under the Defined Benefit Program,"; **(3)** adding "the member's" the first time it appears; and **(4)** substituting "for that service" for "earned by the member".

§ 22703. Computation of service (Defined Benefit and Defined Benefit Supplement Program)

(a) Service shall be credited to the Defined Benefit Program, except as provided in subdivision (b).

(b) A member's creditable service that exceeds 1.000 in a school year shall not be credited to the Defined Benefit Program. Commencing July 1, 2002, contributions by the employer and the member that are deposited in the Teachers' Retirement Fund for creditable compensation paid to the member for service that exceeds 1.000 in a school year, exclusive of contributions pursuant to Section 22951, shall be credited to the Defined Benefit Supplement Program.

(c) In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits that the member would have received for that service under the provisions of this part as they existed on June 30, 1956. This subdivision shall not apply to service that is credited in the San Francisco Employees' Retirement System.

(d) The amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise the amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2003.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 2000 ch 1021 § 27 (AB 2700), operative date contingent; Stats 1996 ch 634 § 131 (SB 2041); Stats 1998 ch 965 § 75 (AB 2765); Stats 2005 ch 351 § 9 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 13 (SB 1466), effective January 1, 2007.

Former Sections: Former § 22703, relating to part–time employment credit, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1984 ch 1308 § 1; Stats 1986 ch 203 § 1, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22709, as enacted Stats 1976 ch 1010 § 2, amended Stats 1982 ch 592 § 1.

Amendments

1996 Amendment: Amended the second sentence of subd (a) by **(1)** adding "creditable" after "All of the"; and **(2)** substituting "subject to coverage by the plan" for "in a position requiring membership in this system".

1998 Amendment: Substituted **(1)** "under the Defined Benefit Program" for "by the plan" in the second sentence of subd (a); and **(2)** "This paragraph does" for "The provisions of this paragraph do" in the second sentence of subd (b).

2000 Amendment: (1) Substituted subd (a) for former subd (a) which read: "(a) Service shall be computed by school years and not by calendar years, portions of years served being accumulated and counted as service. All of the creditable service performed during any one school year subject to coverage under the Defined Benefit Program shall not count for more than one year."; **(2)** added subd (b); **(3)** redesignated former subd (b) to be subd (c); **(4)** amended subd (c) by substituting **(a)** "that the member" for "which he or she" in the first sentence; and **(b)** "subdivision shall not apply to service that" for "paragraph does not apply to service which" in the second sentence; and **(5)** added subd (d).

2005 Amendment: Substituted "Employees'" for "City and County Employees" in subd (c).

2006 Amendment: Amended subd (b) by **(1)** adding "and the member" after "by the employer"; **(2)** substituting "for" for "and the member on" after "Teacher's Retirement Fund"; and **(3)** substituting "service that exceeds 1.000 in a school year" for "that" after "to the member for".

§ 22704. Computation of year–round or continuous school programs

In any school district that is conducting a year–round school operation or a continuous school program, service shall be credited to the school year in which the service began.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22704, similar to present § 22710, was added Stats 1978 ch 787 § 5, and repealed Stats 1993 ch 893 § 1.

Former § 22704, relating to credit for service performed in position prior to inclusion of position in retirement system, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 4.

Historical Derivation: Former § 22709.1, as added Stats 1990 ch 560 § 5.

§ 22705. Exclusion of service covered by other public retirement program

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 Employees' Retirement System. If a retired member under this part becomes entitled to that 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.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 132 (SB 2041); Stats 1998 ch 965 § 76 (AB 2765); Stats 2000 ch 1020 § 3 (AB 820); Stats 2005 ch 351 § 10 (AB 224), effective January 1, 2006.

Former Sections: Former § 22705, similar to present Ed C § 22709, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22710, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Amended the first sentence by **(a)** substituting "service" for "time" after "No"; **(b)** substituting "retirement benefit" for "pension" after "to receive a"; **(c)** substituting "military service, from any public retirement system" for "naval or military service from any source"; and **(d)** deleting "retirement" after "accrued, or a local" near the end; and **(2)** amended the second sentence by **(a)** substituting "retired member" for "retirant" after "If a"; **(b)** substituting "retirement benefit" for "pension" wherever it appears; **(c)** substituting "service" for "time" after "to exclude the"; and **(d)** adding "or her" after "change in his".

1998 Amendment: Amended the first sentence by **(1)** adding "under this part"; **(2)** adding "of the Defined Benefit Program"; and **(3)** substituting "the San Francisco City and County Employees Retirement System" for "a local system" at the end.

2000 Amendment: Added the last sentence.

2005 Amendment: Substituted "Employees'" for "City and County Employees" and "that" for "such a".

§ 22705.5. Exclusion of service covered under San Francisco City and County Retirement System

Service subject to coverage by the San Francisco Employees' Retirement System pursuant to Section 24701 is excluded from coverage in the Defined Benefit Program. The member shall retain the right to receive a retirement allowance for creditable service that is subject to coverage under the Defined Benefit Program unless he or she withdraws his or her accumulated retirement contributions for that service.

Added by Stats 1998 ch 965 § 77 (AB 2765). Amended by Stats 2004 ch 912 § 10 (AB 2233); Stats 2005 ch 351 § 11 (AB 224), effective January 1, 2006.

Former Sections: Former § 22705.5, similar to present Ed C § 22809, was added Stats 1978 ch 486 § 1, and repealed Stats 1979 ch 787 § 6.

Amendments

2004 Amendment: Substituted "San Francisco City and County Employees' Retirement System" for "San Francisco City and County Retirement System" in the first sentence.

2005 Amendment: Deleted "City and County" before "Employees' Retirement System" in the first sentence.

§ 22706. Exclusion of service while covered by retirement or disability

A member shall not receive credit for service performed while receiving a retirement or disability allowance under the Defined Benefit Program or while receiving a retirement or disability benefit under the Defined Benefit Supplement Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 133 (SB 2041); Stats 1998 ch 965 § 78 (AB 2765); Stats 2000 ch 74 § 44 (AB 1509), ch 1021 § 28 (AB 2700).

Former Sections: Former § 22706, similar to present Ed C § 22803, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 7.

Historical Derivation: Former Ed C § 22711, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: "No time shall be included during which a person is a retirant or receiving disability allowance from this system."

1998 Amendment: Substituted **(1)** "A member shall not receive credit for service performed while" for "No service shall be included during which a person is"; and **(2)** "the Defined Benefit Program" for "this plan".

2000 Amendment: (1) Substituted "under" for "from" after "allowance"; and **(2)** added "or while receiving a retirement or disability benefit under the Defined Benefit Supplement Program". (As amended Stats 2000 ch 1021, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 74. See Gov C § 9605.)

§ 22708. Credit for leave under personal leave program or due to mandatory furlough

(a) The calculations of retirement allowances under this part for state employees in the personal leave program shall include credit for service that would have been credited had the employee not been in the personal leave program. The costs that result from the increased service credit shall be paid for by the employer in a manner prescribed by the system.

(b) The calculations of a retirement allowance under this part for a state employee subject to mandatory furloughs shall include earnings, contributions, and compensation earnable that would have been reported had the employee not been subject to mandatory furloughs. The employer shall pay the cost of the increased service credit that results from these inclusions in a manner prescribed by the system pursuant to Section 22909.

(c) For purposes of subdivision (b), "mandatory furloughs" means time during which a member identified below is directed to be absent from work without pay because of an Executive order in the 2008-09 and 2009-10 fiscal years:

(1) A person subject to an Executive order requiring a mandatory furlough for state employees.

(2) A person who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or who is an officer or employee of the executive branch of state government who is not a member of the civil service, and who is subject to an Executive order requiring a mandatory furlough for state employees.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1998 ch 965 § 79 (AB 2765); Stats 2009 ch 240 § 1 (AB 399), effective January 1, 2010.

Former Sections: Former § 22708, similar to present § 22712, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22702.5, as added Stats 1992 ch 1372 § 5.

Amendments

1998 Amendment: Added "under this part" in the first sentence.
2009 Amendment: Added **(1)** subdivision designation (a); and **(2)** subds (b) and (c).

§ 22709. Credit when member prevented from performing service

A member shall receive credit under this part for time during which the member is prevented from performing creditable service subject to coverage under the Defined Benefit Program, by act of God, or by reason of the closing of a school by any duly authorized officer or body. If by reason of a member's Japanese ancestry, the member was required by the Wartime Civil Control Administration to leave his or her teaching position in California and returned prior to July 1, 1972, to service subject to coverage under the Defined Benefit Program, the system shall give the member four years of service credit under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 133.5 (SB 2041); Stats 1998 ch 965 § 80 (AB 2765).

Former Sections: Former § 22709, similar to present Ed C § 22703, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1982 ch 592 § 1, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 22705, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted **(1)** "the member" for "he or she" wherever it appears; **(2)** "creditable service subject to coverage by this plan" for "service in a position requiring membership" in the first sentence; and **(3)** "service subject to coverage by the plan, the system shall give the member" for "a position requiring membership in the State Teachers' Retirement System, he or she shall be given by the system four years of service credit in the system" at the end of the second sentence.
1998 Amendment: (1) Amended the first sentence by **(a)** adding "under this part"; and **(b)** substituting "under the Defined Benefit Program" for "by this plan"; and **(2)** amended the second sentence by substituting **(a)** "under the Defined Benefit Program" for "by the plan"; and **(b)** "under this part" for "in the plan" at the end.

§ 22710. Credit for service performed on payment of prescribed contributions (Credit for job related injury or illness)

(a) Service shall be credited under this part, upon payment of the contributions required under Sections 22901 and 22950, for that time during which a member is excused from performance of creditable service and for which the member receives workers' compensation, or compensation from an insurance carrier of the employer, due to injury or illness that arose out of and in the course of the member's employment. Service for that time shall be credited in the proportion that the creditable compensation paid to the member bears to the compensation earnable by the member.
(b) The amount of creditable compensation paid to the member shall not exceed the compensation earnable by the member during the period of absence specified in subdivision (a).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1997 ch 482 § 8 (SB 471); Stats 1998 ch 965 § 81 (AB 2765).

Former Sections: Former § 22710, similar to present § 22705, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 22704, as added Stats 1979 ch 787 § 5.

Amendments

1997 Amendment: (1) Added subd designations; **(2)** amended of subd (a) by substituting **(a)** "creditable service" for "duties" after "performance of" in the first sentence; and **(b)** adding "creditable" after "proportion that the" in the second sentence; and **(3)** substituted "of absence specified in subdivision (a)" in subd (b).

1998 Amendment: Added "under this part" near the beginning of subd (a).

§ 22711. Service as elected officer of employee organization

(a) A member under this part shall be granted service credit for time during which the member serves as an elected officer of an employee organization while on a compensated leave of absence pursuant to Section 44987 or 87768.5, if all of the following conditions are met:

(1) The member was employed and performed creditable service subject to coverage under this Defined Benefit Program in the month prior to commencement of the leave of absence.

(2) The member makes contributions to the Teachers' Retirement Fund in the amount that the member would have contributed had the member performed creditable service on a full–time basis during the period the member served as an elected officer of the employee organization.

(3) The member's employer contributes to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member had the member performed creditable service on a full–time basis during the period the member served as an elected officer of the employee organization.

(b) The maximum period of time during which a member may serve as an elected officer and receive service credit pursuant to this section shall not exceed 12 calendar years.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 134 (SB 2041); Stats 1998 ch 965 § 82 (AB 2765).

Former Sections: Former § 22711, similar to present Ed C § 22706, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22706.5, as added Stats 1980 ch 1272 § 1, amended Stats 1982 ch 1389 § 2, Stats 1989 ch 118 § 3.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "creditable service subject to coverage by the plan" for "service in a position requiring membership" in subd (a)(1); and **(b)** subd (a)(3) for former subd (a)(3) which read: "(3) The member's employing agency contributes to the Teachers' Retirement Fund an amount based upon the salary that would have been paid to the member had the member been employed full–time and at a rate specified by the board."; and **(2)** substituted subd (b) for former subd (b) which read: "(b) The maximum amount of credit earned by a member for service as an elected officer of an employee organization shall not exceed 12 calendar years."

1998 Amendment: (1) Substituted "under this part shall be granted service" for "shall receive full" in the introductory clause of subd (a); **(2)** substituted "under this Defined Benefit Program" for "by the plan" in subd (a)(1); **(3)** substituted subds (a)(2) and (a)(3) for former subds (a)(2) and (a)(3) which read: "(2) The member contributes to the Teachers' Retirement Fund the amount that would have been contributed had the member been employed full time." and "(3) The member's employer contributes to the Teachers' Retirement Fund at a rate specified by the board an amount based upon the compensation that would have been paid to the member had the member been employed full time."; and **(4)** substituted "period of time during which a member may serve as an elected officer and receive service" for "amount of time for which a member can receive full" in subd (b).

§ 22712. Service as exchange teacher

A member under this part shall receive credit for time served as an exchange teacher in any location.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 83 (AB 2765).

Former Sections: Former § 22712, similar to present § 22804, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 9.
Historical Derivation: Former § 22708, as enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Added "under this part".

§ 22712.5. Service performed that does not qualify (Community service teacher)

All members under this part who are employed by a school district, community college district, or superintendent of schools and who received credit during the school year ending June 30, 1996, for service performed as a community service teacher or in a classified position that does not qualify for membership in the Public Employees' Retirement System, shall continue to receive credit for that service performed after June 30, 1996, provided the member remains continuously employed to perform that service.

Added by Stats 1996 ch 634 § 135 (SB 2041). Amended by Stats 1998 ch 965 § 84 (AB 2765).

Amendments

1998 Amendment: Added **(1)** "under this part who are"; and **(2)** "and" after "superintendent of schools".

§ 22713. Regulations allowing reduction in workload to part time duties; Contributions; Termination of agreement

(a) Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and have his or her retirement allowance, as well as other benefits that the member is entitled to under this part, based, in part, on final compensation determined from the compensation earnable the member would have been entitled to if the member had been employed on a full-time basis, and as further specified in Sections 44922, 87483, and 89516.
(b) The regulations shall include, but may not be limited to, the following:
(1) The option to reduce the member's workload shall be exercised at the request of the member and may be revoked only with the mutual consent of the employer and the member. The agreement to reduce a member's workload shall be in effect at the beginning of the school year.
(2) The member shall have been employed on a full-time basis to perform creditable service subject to coverage under the Defined Benefit Program and have a minimum of 10 years of credited service prior to the reduction in workload. Additionally, the member shall have five years of full-time employment immediately preceding the reduction in workload.
(3) The member may not have had a break in service during the five years immediately preceding the reduction in workload. For purposes of this subdivision, sabbaticals, other approved leaves of absence, and unpaid absences from the performance of creditable service for personal reasons from full-time employment do not constitute a break in service. For purposes of this subdivision, the period of time during which a member is retired for service shall constitute a break in service and a member who reinstates from retirement shall be required to be employed on a full-time basis to perform creditable service for at least five school years immediately preceding the reduction in workload.
(4) The member shall have reached 55 years of age prior to the reduction in workload.

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

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

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

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

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

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

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

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

(h) A member performing service in accordance with this section may not terminate his or her agreement pursuant to paragraph (1) of subdivision (b) if the employer has a formalized agreement to pick up member contributions pursuant to Section 22903. A member may terminate the agreement only if the employee takes one of the following actions:

(1) Terminates service.

(2) Retires from service under the Defined Benefit Program.

(3) Continues to perform service pursuant to this section under a new arrangement to perform creditable service for at least one-half of the time the employer requires for full-time employment in accordance with Section 22138.5.

(4) Returns to full-time employment.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 136 (SB 2041); Stats 1997 ch 482 § 9 (SB 471); Stats 1998 ch 965 § 85 (AB 2765); Stats 1999 ch 939 § 44 (SB 1074); Stats 2000 ch 1025 § 20 (AB 816); Stats 2002 ch 375 § 7 (AB 2982); Stats 2003 ch 859 § 8 (SB 627); Stats 2005 ch 351 § 12 (AB 224), effective January 1, 2006; Stats 2007 ch 323 § 6 (AB 757), effective January 1, 2008; Stats 2009 ch 304 § 5 (SB 634), effective January 1, 2010; Stats 2010 ch 207 § 7 (AB 2260), effective January 1, 2011.

Former Sections: Former § 22713, similar to present Ed C § 22805, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 10.

Historical Derivation: Former Ed C § 22724, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 630 § 1, Stats 1981 ch 1023 § 1, Stats 1982 ch 279 § 3, ch 1428 § 1.4, Stats 1986 ch 369 § 3.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** deleting "of this system" after "who is a member"; **(b)** deleting "duties" after "to part time"; **(c)** substituting "have received if the member had been" for "receive if the member was"; and **(d)** substituting "compensation that the member would have received if the member had

been" for "salary that the member would have received if"; **(2)** substituted "to reduce the member's workload" for "of part–time employment" in subd (b)(1); **(3)** substituted subd (b)(2) for former subd (b)(2) which read: "(2) The member shall have been employed full–time in a position requiring membership in this system for at least 10 years of which the immediately preceding five years were full–time employment."; **(4)** amended subd (b)(3) by **(a)** substituting the first sentence for the former first sentence which read: "During the period immediately preceding a request for a reduction in workload, the employee shall have been employed full–time in a position requiring membership in this system for a total of at least five years without a break in service."; and **(b)** adding "However," at the beginning of the third sentence; **(5)** added "the" after "prior to" in subd (b)(4); **(6)** substituted "the reduced workload" for "part–time employment" in subd (b)(5); **(7)** substituted subd (b)(6) for former subd (b)(6) which read: "(6) The minimum part–time employment shall be the equivalent of one–half of the number of days of service required by the member's contract of employment during his or her final year of service in a full–time position."; **(8)** amended subd (b)(7) by substituting **(a)** "compensation" for "salary" wherever it appears; and **(b)** "earned had the member not opted to reduce his or her workload" for "be earning had he or she not elected to exercise the option of part–time employment"; **(9)** amended subd (c) by substituting **(a)** "a member's workload under this section, the employer" for "an employee's workload under this section, the district personnel responsible for the administration of this program,"; and **(b)** "member's eligibility" for "eligibility of the applicant"; and **(10)** substituted subd (e) for former subd (e) which read: "(e) The employer shall contribute to the Teachers' Retirement Fund an amount based upon the salary that would have been paid to the member had the member been employed full–time and at the rate specified by the board."

1997 Amendment: (1) Substituted ", in part, on final compensation determined from the compensation earnable the member would have been entitle to if" for "upon the compensation that the member would have received" after "based"; **(2)** added "at least" after "equal to" in subd (b)(6); **(3)** amended subd (b)(7) by **(a)** substituting "creditable" for "a" after "be paid"; **(b)** adding "creditable" after "share of the"; **(c)** substituting "been paid" for "earned"; and **(d)** substituting "reduced" for "opted to reduce"; **(4)** substituted the section for the former section which read: "(d) The member shall contribute to the Teachers' Retirement Fund the amount that would have been contributed had the member been employed full time"; **(5)** added **(a)** "creditable" after "upon the"; and **(b)** substituted "performed creditable service on a full–time basis" for "been employed full time" at the end; and **(6)** substituted "who participates in the reduced workload program" for "receiving credit" in subd (f).

1998 Amendment: (1) Added "of the Defined Benefit Program" in subd (a); **(2)** substituted "under the Defined Benefit Program" for "by the plan" in subd (b)(2); **(3)** added "subject to coverage under the Defined Benefit Program" in subd (d); and **(4)** amended subd (e) by **(a)** substituting "adopted by the board as a plan amendment with respect to the Defined Benefit Program" for "specified by the board"; and **(b)** adding "subject to coverage under the Defined Benefit Program".

1999 Amendment: Amended subd (b)(5) by **(1)** deleting "period of the" after "The" at the beginning; and **(2)** adding "shall be performed for a period of time, as specified in the regulations. The period of time specified in the regulations".

2000 Amendment: (1) Added "of full–time employment" in subd (b)(2); **(2)** deleted the former second sentence of subd (b)(3) which read: "However, time spent on a sabbatical or other approved leave of absence shall not be used in computing the five–year full–time service requirement prescribed by this subdivision."; and **(3)** added ", up to and including 10 years" in subd (b)(5).

2002 Amendment: (1) Substituted "may" for "shall" in the introductory clause of subd (b); **(2)** substituted "may" for "can" after "member and" in subd (b)(1); **(3)** amended subd (b)(3) by **(a)** substituting "may" for "shall" in the first and second sentences; and **(b)** adding the last sentence; and **(4)** substituted "may" for "shall" in the second sentence of subd (b)(5).

2003 Amendment: (1) Amended subd (b)(2) by **(a)** substituting "on a full–time basis" for "full time"; **(b)** substituting "and have a minimum of 10 years of credited service," for "for at least 10 years"; **(c)** adding "credited service for"; and **(d)** deleting "and have a minimum of 10 years of credited service" at the end; **(2)** amended the first sentence of subd (b)(3) by **(a)** substituting the comma for "and" after "sabbaticals"; and **(b)** substituting ", and unpaid absences from the performance of creditable service for personal reasons do not" for "may not" in the first sentence; **(3)** amended the second sentence of (b)(3) by **(a)** adding "be employed on a full–time basis to"; **(b)** adding "creditable service for"; and **(c)** substituting "school years" for "years of full–time creditable service"; **(4)** amended subd (c)(6) by **(a)** substituting "time the employer requires for full–time employment in accordance with Section 22138.5 pursuant to" for "full–time equivalent required by"; **(b)** substituting "last school year" for "final school year"; and **(c)** adding "preceding the reduction in workload"; **(5)** amended subd (c) by **(a)** adding the comma after "the employer"; and **(b)** substituting "State Teachers' Retirement Plan"

for "State Teachers' Retirement System"; and **(6)** amended subds (d) and (e) by **(a)** adding "For each school year the member's workload is reduced pursuant to this section,"; **(b)** substituting "if the member had performed" for "had the member performed"; and **(c)** adding "and if that service was".

2005 Amendment: Added subd (g).

2007 Amendment: (1) Added the second sentence in subd (b)(1); and **(2)** substituted "reached 55 years of age" for "reached the age of 55 years" in subd (b)(4).

2009 Amendment: (1) Added ", and as further specified in Sections 44922, 87483, and 89516" in subd (a); **(2)** substituted "prior to the reduction in workload. Additionally, the member shall have five years of" for ", including five years of credited service for" in subd (b)(2); and **(3)** added "from full-time employment" in the second sentence of subd (b)(3).

2010 Amendment: Added subd (h).

§ 22714. Credit for additional years to encourage retirement of certificated or academic employees (Retirement incentive; certificated or academic employees)

(a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action, determines pursuant to Section 44929 or 87488 that, because of impending curtailment of, or changes in, the manner of performing services, the best interests of the district or county office of education would be served by encouraging certificated employees or academic employees to retire for service and that the retirement will result in a net savings to the district or county office of education, an additional two years of service credit shall be granted under this part to a member of the Defined Benefit Program if all of the following conditions exist:

(1) The member is credited with five or more years of service credit and retires for service under Chapter 27 (commencing with Section 24201) during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period.

(2) (A) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund shall be made in a manner and a time period, not to exceed eight years, that is acceptable to the Teachers' Retirement Board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

(B) Regular interest shall be charged on the unpaid balance if the employer makes the transfer to the retirement fund in installments.

(3) The employer transmits to the retirement fund the administrative costs incurred by the system in implementing this section, as determined by the Teachers' Retirement Board.

(4) The employer has considered the availability of teachers or academic employees to fill the positions that would be vacated pursuant to this section.

(b) (1) The school district shall demonstrate and certify to the county superintendent that the formal action taken would result in a net savings to the district.

(2) The county superintendent shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 14502.1.

(3) The school district shall reimburse the county superintendent for all costs to the county superintendent that result from the certification.

(c) (1) The county office of education shall demonstrate and certify to the Superintendent of Public Instruction that the formal action taken would result in a net savings to the county office of education.

(2) The Superintendent of Public Instruction shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 14502.1.

(3) The Superintendent of Public Instruction may request reimbursement from the county office of education for all administrative costs that result from the certification.

(d) (1) The community college district shall demonstrate and certify to the chancellor's office that the formal action taken would result in a net savings to the district.

(2) The chancellor shall certify to the Teachers' Retirement Board that the result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 84040.5.

(3) The chancellor may request reimbursement from the community college district for all administrative costs that result from the certification.

(e) The opportunity to be granted service credit pursuant to this section shall be available to all members employed by the school district, community college district, or county office of education who meet the conditions set forth in this section.

(f) The amount of service credit shall be two years.

(g) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who subsequently reinstates shall forfeit the service credit granted under this section.

(h) Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who takes any job with the school district, community college district, or county office of education that granted the member the service credit less than five years after receiving the credit shall forfeit the ongoing benefit he or she receives from the additional service credit granted under this section.

(i) This section does not apply to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part within one year following the effective date of the formal action under subdivision (a), or if the member is not otherwise eligible to retire for service.

Added Stats 1994 ch 20 § 2 (SB 858), effective March 16, 1994. Amended Stats 1996 ch 634 § 137 (SB 2041); Stats 1998 ch 965 § 86 (AB 2765); Stats 1999 ch 939 § 45 (SB 1074); Stats 2003 ch 313 § 4 (AB 1207) (ch 313 prevails), ch 859 § 9 (SB 627); Stats 2004 ch 912 § 11 (AB 2233), ch 935 § 1 (AB 1852) (ch 935 prevails); Stats 2007 ch 323 § 7 (AB 757), effective January 1, 2008; Stats 2009 ch 249 § 3 (AB 654), effective January 1, 2010.

Former Sections: Former § 22714, similar to present Ed C § 22807, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 11.

Amendments

1996 Amendment: (1) Substituted "certificated employees or academic employees to retire for service" for "the retirement of certificated employees or academic employees" after "served by encouraging" in the introductory clause of subd (a); **(2)** amended subd (a)(2) by substituting **(a)** "transfers" for "transmits" after "The Employer" at the beginning of the first sentence; **(b)** "to equal" for "that equals" after "Teachers' Retirement Board" wherever it appears in the first sentence; **(c)** "not to" for "that shall not" after "time period" in the third sentence; **(d)** "is" for "are" after "years, that" in the third sentence; and **(e)** "transfer the required amount for" for "make the payment with respect to" in the fourth sentence; and **(3)** substituted "opportunity to be granted service credit" for "service credit made available" in subd (e).

1998 Amendment: (1) Substituted "under this part to a member of the Defined Benefit Program" for "to a member" near the end of the introductory clause of subd (a); **(2)** amended subd (a)(1) by **(a)** adding "for service under the provisions of Chapter 27 (commencing with Section 24201)"; and **(b)** deleting the former second sentence which read: "For the 1993–94 fiscal year, the retirement period shall begin on the date of the formal action

and shall end on June 30, 1994."; and **(3)** substituted "of the Defined Benefit Program who retires under this part for service under the provisions of Chapter 27 (commencing with Section 24201)" for "who retires" in subd (g).

1999 Amendment: (1) Substituted "credit shall be granted" for "shall be credited" near the end of subd (a); **(2)** amended subd (a)(2) by **(a)** substituting "pursuant to" for "under" before "this section" in the first sentence; **(b)** deleting "additional" after "receives after receipt of" the second time it appears and after "received without the" the second time it appears in the first sentence; and **(c)** substituting "Section 24415" for "Sections 24414 and 24415" in the second sentence; **(3)** substituted "subparagraph (B)" for "clause (B)" in subds (b)(2) and (d)(2); and **(4)** substituted "costs to" for "the costs of" in subd (b)(3).

2003 Amendment: (1) Amended subd (a) by deleting **(a)** "taken prior to January 1, 1999" after "formal action"; **(b)** "either" after "retirement will"; and **(c)** "result in a reduction of the number of certificated employees or academic employees as a result of declining enrollment; or result in the retention of certificated employees who are credentialed to teach in, or faculty who are qualified to teach in, teacher shortage disciplines, including, but not limited to, mathematics and science" after "county office of education"; **(2)** deleted "the provisions of" before "Chapter 27" in subd (a)(1); **(3)** substituted "and a time period, not to exceed eight" for ", and time period not to exceed four" in the third sentence of subd (a)(2); **(4)** amended subd (b)(1) by deleting **(a)** "either: (A)" after "result in"; and **(b)** "; (B) a reduction of the number of certificated employees as a result of declining enrollment, as computed pursuant to Section 42238.5; or (C) the retention of certificated employees who are credentialed to teach in teacher shortage disciplines" at the end; **(5)** amended subd (b)(2) by **(a)** substituting "the result" for "a result" in the first sentence; and **(b)** deleting the former last sentence which read: "A district that qualifies under subparagraph (B) of paragraph (1) shall also certify that it qualifies as a declining enrollment district as computed pursuant to Section 42238.5."; **(6)** amended subd (c)(1) by deleting **(a)** "either: (A)" after "result in"; and **(b)** "; (B) a reduction of the number of certificated employees as a result of declining enrollment; or (C) the retention of certificated employees who are credentialed to teach in teacher shortage disciplines" after "county office of education"; **(7)** substituted "the result" for "a result" in the first sentence of subd (c)(2); **(8)** amended subd (d)(1) by deleting **(a)** "either: (A)" after "result in"; and **(b)** "; (B) a reduction in the number of academic employees as a result of declining enrollment, as computed pursuant to subdivision (c) of Section 84701; or (C) the retention of faculty who are qualified to teach in teacher shortage disciplines" after "savings to the district"; **(9)** amended subd (d)(2) by **(a)** substituting "the result" for "a result" in the first sentence; and **(b)** deleting the former last sentence which read: "A community college district that qualifies under subparagraph (B) of paragraph (1) of subdivision (b) of this section shall also certify that it qualifies as a declining enrollment district as computed pursuant to subdivision (c) of Section 84701."; **(10)** deleted "the provisions of" before "Chapter 27" in subd (g); **(11)** added subds (h) and (i); **(12)** redesignated former subd (h) to be subd (j); and **(13)** substituted "This section does not apply" for "This section shall not be applicable" in subd (j).

2004 Amendment: (1) Substituted "subdivision (c) of Section 14502.1" for "subdivision (b) of Section 14502" at the end of subds (b)(2) and (c)(2); **(2)** deleted former subd (h) which read: "Any member of the Defined Benefit Program who retires under this part for service under Chapter 27 (commencing with Section 24201) with service credit granted under this section and who takes any job with any school district in the state less than one year after receiving the credit shall forfeit the ongoing benefit he or she receives from the additional service credit granted under this section."; **(3)** redesignated former subds (i) and (j) to be (h) and (i); and **(4)** amended subd (h) by **(a)** adding ", community college district, or county office of education"; and **(b)** deleting "age and" after "additional".

2007 Amendment: (1) Added the comma after **(a)** "to Section 44929 or 87488 that"; **(b)** "impending curtailment of"; and **(c)** "of, or changes in" in the introductory clause of subd (a); and **(2)** amended subd (i) by **(a)** substituting "part within one year following" for "part during a period extending one year beyond"; and **(b)** adding "under subdivision (a)" after "the formal action".

2009 Amendment: Added **(1)** subdivision designation (a)(2)(A); and **(2)** subd (a)(2)(B).

§ 22715. Credit for additional years to encourage retirement (Retirement incentive; state employees)

(a) Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interest of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this

section, an additional two years of service shall be credited under this part to members of the Defined Benefit Program, who are state employees, if the following conditions exist:

(1) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order specifying that period.

(2) (A) The appointing power, as defined in Section 18524 of the Government Code, transfers to the retirement fund an amount determined by the board to equal the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without the service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(B) Regular interest shall be charged on the unpaid balance if the employer makes the transfer to the retirement fund in installments.

(3) The appointing power determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the Department of Finance and to the Legislative Analyst, as to the specific economies that would be realized if the additional service credit toward retirement were granted.

(b) As used in this section, "member" means a state employee who is employed in a job classification, department, or other organizational unit designated by the appointing power, as defined in Section 18524 of the Government Code.

(c) The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement under this part and the date the member would be required to be retired because of age. The appointing power shall make the payment with respect to all eligible employees who retire pursuant to this section.

(d) Any member who qualifies under this section, upon subsequent reinstatement under this part, shall forfeit the service credit granted under this section.

(e) This section shall not be applicable to any member otherwise eligible if that member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

(f) The benefit provided by this section shall not be applicable to the employees of any appointing power until the Director of Finance approves the transmittal of funds by that appointing power or the Board of Regents or the Board of Trustees to the retirement fund pursuant to paragraph (2) of subdivision (a).

(g) The Director of Finance shall approve the transmittal of funds by the appointing power not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than any lesser time that the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy of the communication shall be transmitted to the chairperson of each appropriate policy committee.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 40 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 138 (SB 2041); Stats 1998 ch 965 § 87 (AB 2765); Stats 2009 ch 249 § 4 (AB 654), effective January 1, 2010.

Former Sections: Former § 22715, similar to present Ed C § 22807, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 12.

Historical Derivation: Former Ed C § 22731, as added Stats 1982 ch 680 § 1, amended Stats 1983 ch 1258 § 1, Stats 1986 ch 297 § 1.

Amendments

1994 Amendment: Substituted "reinstatement" for "reentry to the system" in subd (d).

1996 Amendment: (1) Amended the first sentence in subd (a)(2) by substituting **(a)** "transfers" for "transmits" after "of the Government Code,"; and **(b)** "to equal" for "that is equal to" after "by the board"; **(2)** substituted "would be realized if the additional service credit toward retirement were" for "will be realized were the additional service credit towards retirement" in subd (a)(3); **(3)** substituted "retire" for "retreat" in the second sentence of subd (c); and **(4)** substituted "granted" for "acquired" after "forfeit the service credit" in subd (d).

1998 Amendment: Added **(1)** "under this part" in the introductory clause of subd (a) and in subds (c) and (d); and **(2)** "of the Defined Benefit Program" in the introductory clause of subd (a).

2009 Amendment: (1) Added subdivision designation (a)(2)(A); **(2)** added subd (a)(2)(B); and **(3)** amended the first sentence of subd (g) by **(a)** adding "of the Legislature"; and **(b)** substituting "Chairperson of the Joint Legislative Budget Committee" for "chairperson of the Joint Legislative Budget Committee".

§ 22716. Effect of subsequent service on service credit granted under statute (Retirement incentive; CSU employees)

Notwithstanding any other provision of law, a member of the Defined Benefit Program upon any subsequent service under unpaid contract or any other unpaid basis with the trustees, shall not be required to forfeit the service credit granted under former Section 22732, as it read on June 29, 1993.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 139 (SB 2041); Stats 1998 ch 965 § 88 (AB 2765).

Former Sections: Former § 22716, relating to service on compensated leave of absence, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 99, effective April 29, 1977, operative April 30, 1977, and repealed Stats 1979 ch 787 § 13.

Historical Derivation: Former Ed C § 22732.1, as added Stats 1992 ch 589 § 1.

Amendments

1996 Amendment: Substituted "credit granted" for "credits acquired" after "forfeit the service".

1998 Amendment: Added "of the Defined Benefit Program".

§ 22717. Computation of service credit for accumulated and unused leave

(a) A member shall be granted credit at service retirement for each day of accumulated and unused sick leave days for which full salary is allowed to which the member was entitled on the member's final day of employment with the employer or employers subject to coverage by the Defined Benefit Program during the last school year in which he or she performed creditable service. The system shall accept certification from each employer with which the member has accumulated sick leave days for that period, provided this leave has not been transferred to another employer.

(b) The amount of service credit to be granted shall be determined by dividing the number of days of accumulated and unused sick leave days by the number of days of service the employer requires the member's class of employees to perform in a school year during the member's final year of creditable service subject to coverage by the Defined Benefit Program, which shall not be less than the minimum standard specified in Section 22138.5. The number of days shall not include school and legal holidays. In no event shall the divisor be less than 175. For members employed less than full time, the standards identified in Section 22138.5 shall be considered as the minimum full-time equivalent. For those standards identified in Section 22138.5 that are applicable to teachers or instructors and that are expressed only in terms of hours or instructional hours, the number of hours or instructional hours shall be divided by six to determine the number of days.

(c) When the member has made application for service retirement under this part, the employer shall certify to the board, within 30 days following the effective date of the member's service retire-

ment, the number of days of accumulated and unused sick leave days that the member was entitled to on the final day of employment. The board may assess a penalty on delinquent reports.

(d) This section shall be applicable to any person who retires on or after January 1, 1999.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 140 (SB 2041); Stats 1998 ch 1006 § 2 (AB 1102); Stats 1999 ch 939 § 46 (SB 1074); Stats 2012 ch 864 § 8 (AB 2663), effective January 1, 2013.

Former Sections: Former § 22717, similar to present Ed C § 22820, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 787 § 14, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22719, as enacted Stats 1976 ch 1010 § 2, amended Stats 1992 ch 1166 § 12.

Amendments

1996 Amendment: (1) Substituted subds (a) and (b) for former subds (a) and (b) which read:

"(a) A member shall be credited at service retirement for each day of accumulated and unused leave of absence for illness or injury for which full salary is allowed that the member was entitled to on the final day the member performed service for the school district or other employing agency by which the member was last employed in a position requiring membership in the system.

"(b) The number of years of service credit to be granted shall be determined by dividing the number of days of accumulated and unused leave of absence for illness or injury by the number of days of service required by the member's contract of employment during the final year of service in a position requiring membership in the system. In no event shall the divisor be less than 175.";

(2) amended subd (c) by substituting **(a)** "employer" for "school district or other employing agency" after "under this part, the"; and **(b)** "member was" for "employee is" after "or injury that the"; and **(3)** deleted "of the system" after "became a member" in subd (d).

1998 Amendment: Substituted subd (d) for former subd (d) which read: "(d) This section shall not be applicable to any person who became a member on or after July 1, 1980, whether or not the person was ever a member prior to that date."

1999 Amendment: (1) Substituted "Defined Benefit Program" for "plan" at the end of subd (a) and in the first sentence of subd (b); and **(2)** added the second, fourth, and fifth sentences of subd (b).

2012 Amendment: (1) Substituted "sick leave days" for "leave of absence for illness or injury" in the first sentence of subds (a) through (c); **(2)** amended the first sentence of subd (a) by **(a)** substituting "or employers" for "by which the member was last employed to perform creditable service"; and **(b)** adding "during the last school year in which he or she performed creditable service"; and **(3)** added the second sentence of subd (a).

§ 22717.5. Crediting of service retirement

(a) A member shall be credited at service retirement for each day of accumulated and unused leave of absence for education for which full salary is allowed on the member's final day of employment with the state.

(b) The amount of service credit to be granted shall be 0.004 years of service for each unused day of educational leave credit.

(c) When the member has made application for service retirement under this part, the employer shall certify to the board, within 30 days following the effective date of the member's service retirement, the number of days of accumulated and unused leave of absence for education that the member was entitled to on the final day of employment. The board may assess a penalty on delinquent reports.

(d) This section shall apply to eligible state employees in state bargaining units that have agreed to this section in a memorandum of understanding, or as authorized by the Director of Human Resources for classifications of state employees that are excluded from the definition of "state employee" by paragraph (c) of Section 3513 of the Government Code.

(e) The provisions of this section shall be effective for eligible members who retire directly from state employment on or after January 1, 2000.

Added Stats 2000 ch 402 § 3 (AB 649), effective September 11, 2000. Amended Stats 2012 ch 665 § 6 (SB 1308), effective January 1, 2013.

Editor's Notes—2011 Governor's Reorganization Plan No. 1 was submitted to the Legislature on June 9, 2011, and became effective September 9, 2011, pursuant to Gov C § 12080.5, and substantively operative July 1, 2012.

Stats 2012 ch 665 (SB 1308) enacts the statutory changes necessary to reflect the changes made by the Governor's Reorganization Plan No. 1 of 2011.

Amendments

2011 Amendment: Substituted "Department of Human Resources" for "Department of Personnel Administration" in subd (d).

2012 Amendment: Substituted "Director of Human Resources" for "Director of the Department of Personnel Administration" in subd (d).

§ 22718. Billing of school employers for service credit awarded for sick leave (Excess sick leave)

(a) The Teachers' Retirement Board shall bill school employers for service credit granted for unused excess sick leave under this part, subject to the following provisions:

(1) (A) In addition to the certification of sick leave days, the employer shall also certify the number of unused excess sick leave days.

(B) Excess sick leave days granted by an employer other than the member's last employer shall be deemed to be granted by the last employer and shall be included in the certification if the member was eligible to use those excess sick leave days while he or she was employed by the last employer. If, during the last year a member is employed to perform creditable service subject to coverage by the Defined Benefit Program, that member is employed by more than one employer, unused excess sick leave days shall be certified and paid for by the employer for the period in which the member was eligible to use those excess sick leave days.

(2) The billing shall be authorized only if the employer grants more than one day of sick leave per pay period of at least four weeks to members of the Defined Benefit Program.

(3) The employer shall be billed only for the present value of the unused excess sick leave days and any subsequent adjustments to the billing shall be billed or refunded, as appropriate, to the employer.

(4) (A) The employer shall remit the amount billed to the system with the certification required by Section 22717 within 30 days after the effective date of the member's retirement or within 30 days after the date the system has notified the employer that a certification must be made, whichever is later.

(B) If payment is not received within 30 days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(C) If the system has billed the employer for an additional amount, the employer shall remit the additional amount within 30 days after the date of the billing. If payment is not received for the additional amount within 30 days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

(b) If a school employer fails to pay a bill charged according to subdivision (a), the Teachers' Retirement Board may request the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, to reduce state apportionments to the school employer by an amount equal to the amount billed. The Superintendent or chancellor shall make the reduction, and if requested by the board, direct the Controller to reduce the amount transferred from the General Fund to Section A or Section B, as appropriate, of the State School Fund by an equal amount, which shall instead be transferred to the Teachers' Retirement Fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 141 (SB 2041); Stats 1998 ch 965 § 89 (AB 2765); Stats 1999 ch 939 § 47 (SB 1074); Stats 2012 ch 864 § 9 (AB 2663), effective January 1, 2013.

Former Sections: Former § 22718, similar to present Ed C § 22810, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 15.

Historical Derivation: (a) Former Ed C § 22720, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22720, as added Stats 1985 ch 1597 § 4.

Amendments

1996 Amendment: Amended subd (a) by substituting **(1)** "granted" for "awarded" after "for service credit" in the introductory clause; and **(2)** "to members of the plan" for "for members of the State Teachers' Retirement System" at the end of subd (1).

1998 Amendment: (1) Added "under this part" in the introductory clause of subd (a); and **(2)** substituted "Defined Benefit Program" for "plan" at the end of subd (a)(1).

1999 Amendment: (1) Amended the introductory clause of subd (a) by substituting **(a)** "bill" for "establish rules and regulations for the purpose of billing"; and **(b)** "subject to" for "including, but not limited to, both of"; **(2)** added subd (a)(1); **(3)** redesignated former subds (a)(1) and (a)(2) to be subds (a)(2) and (a)(3); **(4)** substituted "the unused excess sick leave days and any subsequent adjustments to the billing shall be billed or refunded, as appropriate, to the employer" for "sick leave days granted in excess of one day per pay period of at least four weeks" in subd (a)(3); **(5)** added subd (a)(4); and **(6)** deleted "the rules and regulations established pursuant to" after "according to" in the first sentence of subd (b).

2012 Amendment: (1) Added the second sentence of subd (a)(1)(B); and **(2)** substituted "Superintendent" for "superintendent" in the second sentence of subd (b).

§ 22719. Unused sick leave accrued after reinstatement

If the allowance of a retired member is terminated, the employer shall not restore sick leave days for which service credit was granted at retirement.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 41 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 142 (SB 2041); Stats 1998 ch 1006 § 3 (AB 1102).

Former Sections: Former § 22719, similar to present Ed C § 22717, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1992 ch 1166 § 12, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22725, as added Stats 1977 ch 36 § 415, amended Stats 1977 ch 474 § 1, Stats 1980 ch 244 § 1.5.

Amendments

1994 Amendment: (1) Substituted "is reinstated" for "returns to active service"; **(2)** substituted "service credit was given at retirement" for "retirement credit has been given"; **(3)** deleted "to membership in the system or" after "who reinstates"; **(4)** deleted "and subsequently retires" after "July 1, 1980,"; and **(5)** added "at a subsequent retirement".

1996 Amendment: Substituted the section for the former section which read: "If a retirant is reinstated, the employing school district or other employing agency shall not restore sick leave for which service credit was given at retirement. A retirant who reinstates on or after July 1, 1980, shall not receive service credit at a subsequent retirement for the unused sick leave accrued after reinstatement."

1998 Amendment: Deleted the former second sentence which read "A retired member whose retirement allowance is terminated on or after July 1, 1980, shall not receive service credit upon a subsequent retirement for any unused sick leave accrued after the retirement allowance is terminated."

§ 22720. Exclusion from final compensation (Exclusion of sick leave service benefits from final compensation)

The service credited pursuant to Section 22717 may not be used in the determination of final compensation, except as provided in Section 22134.5.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 143 (SB 2041); Stats 2004 ch 911 § 3 (SB 102).

Former Sections: Former § 22720, similar to present Ed C § 22718, was added Stats 1985 ch 1597 § 4 and repealed Stats 1993 ch 893 § 1.

Former § 22720, similar to present Ed C § 22718, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1985 ch 1597 § 3.

Historical Derivation: Former Ed C § 22721, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: "The benefits accorded pursuant to Section 22717 shall not be used in the calculation of final compensation under this system."

2004 Amendment: (1) Substituted "may not" for "shall not"; and **(2)** added ", except as provided in Section 22134.5".

§ 22721. Payment for accumulated sick leave

Except as provided in Section 22717, no service credit shall be granted under this part for any payment made for accumulated sick leave upon transfer from one employer to another, upon termination of service, upon retirement, or upon death. No contributions under this part shall be withheld from any such payments. Payments for accumulated sick leave shall be paid to the member by separate warrant and shall not be included in any payroll warrant issued to the member. The payments shall not be included in the determination of "final compensation" under this part. No continued leave of absence shall be granted a member solely for the purpose of allowing the member to receive compensation for accumulated sick leave for which the member could otherwise have elected to receive payment.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 144 (SB 2041); Stats 1998 ch 965 § 90 (AB 2765).

Former Sections: Former § 22721, similar to present Ed C § 22720, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22722, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Amended the first sentence by substituting **(a)** "service credit" for "credit toward retirement" after "Section 22717, no"; **(b)** "employer" for "district" after "transfer from one"; and **(c)** "retirement, or upon death" for "death, or retirement" at the end; **(2)** substituted "withheld from any such" for "taken from those" in the second sentence; **(3)** substituted the third sentence for the former third sentence which read: "Payments for accumulated sick leave shall not be included in any payroll warrant paid to the teacher but shall be paid by separate warrant."; and **(4)** substituted "determination of" for "computation for the purposes of determining" in the fourth sentence.

1998 Amendment: Added "under this part" wherever it appears.

§ 22724. Determination of excess sick leave days at time of retirement

(a) To determine the number of excess sick leave days to which a member is entitled when he or she retires, the employer shall deduct the days of sick leave used by the member from the member's accumulated and unused sick leave balance according to the following method:

(1) Sick leave usage shall first be deducted from the accumulated and unused sick leave balance existing on July 1, 1986.

(2) Sick leave usage shall next be deducted from basic sick leave days granted to the member by an employer after June 30, 1986.

(3) Sick leave usage shall then be deducted from any excess sick leave days granted to the member by an employer after June 30, 1986.

(b) Upon request from the board, the employer shall submit sick leave records of past years for audit purposes.

Added by Stats 1999 ch 939 § 48 (SB 1074).

Former Sections: Former § 22724, similar to present Ed C § 22713, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 630 § 1, Stats 1981 ch 1023 § 1, Stats 1982 ch 279 § 3, ch 1428 § 1.4, Stats 1986 ch 369 § 3, and repealed Stats 1993 ch 893 § 1.

CHAPTER 14. PERMISSIVE AND ADDITIONAL SERVICE CREDIT

§ 22800. Claims for creditable service; Corroboration; Affidavit

(a) Claims for permissive and additional service credit under this part shall be corroborated by a statement from the superintendent of schools or custodian of records of the employer for which the service was performed.

(b) Claims for creditable service under this part performed outside the United States or in federal schools within the United States shall be corroborated by a statement from the custodian of records.

(c) When the official records of the service have been destroyed, the claim may be corroborated by one or more affidavits of knowledge of the service, preferably by persons who served with the member at the time the service was performed.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 42 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 145 (SB 2041); Stats 1998 ch 965 § 91 (AB 2765).

Former Sections: Former § 22800, similar to present Ed C § 22905, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 25, Stats 1986 ch 717 § 4, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22701, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22900, as added Stats 1979 ch 787 § 23.

Amendments

1994 Amendment: Substituted "permissive and additional service credit' for "creditable service" in subd (a).

1996 Amendment: Substituted "employer for which" for "employing agency or public school where" after "or records of the" in subd (a).

1998 Amendment: Added "under this part" in subds (a) and (b).

§ 22801. Purchase of additional service credits; Computation of contributions; Cancellation of purchase (Permissive service)

(a) A member who requests to purchase additional service credit as provided in this chapter and Chapter 14.2 (commencing with Section 22820) shall pay, prior to retirement, all contributions with respect to that service at the contribution rate for additional service credit, adopted by the board as a plan amendment, in effect on the date of the request to purchase additional service credit. If the system is unable to inform the member or beneficiary of the amount required to purchase additional service credit prior to the effective date of the applicable allowance, the member or beneficiary may make the required payment within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later. The payment shall be paid in full before a member or beneficiary receives any adjustment in the appropriate allowance due because of that payment. Contributions shall be made in a lump sum, or in not more than 120 monthly installments, not to exceed ten years. No installment, except the final installment, shall be less than twenty-five dollars ($25).

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

(c) If the member is not employed to perform creditable service subject to coverage by the Defined Benefit Program on the date of the request to purchase additional service credit, the contributions shall be based upon the compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest, and additional regular interest shall be added to the contributions from July 1 of the subsequent year in which the member last performed credit-

able service subject to coverage by the Defined Benefit Program to 20 days after the date of the request.

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

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

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 146 (SB 2041); Stats 1997 ch 838 § 3 (SB 227); Stats 1998 ch 1076 § 5 (SB 2126); Stats 1999 ch 939 § 49 (SB 1074); Stats 2003 ch 859 § 10 (SB 627); Stats 2006 ch 655 § 14 (SB 1466), effective January 1, 2007; Stats 2009 ch 304 § 6 (SB 634), effective January 1, 2010.

Former Sections: Former § 22801, similar to present Ed C § 22451.5, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1 (ch 920 prevails), ch 920 § 5.

Historical Derivation: (a) Former Ed C §§ 22701, 22712, 22803, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22722, as added Stats 1977 ch 36 § 417, amended Stats 1977 ch 474 § 3.

(c) Former Ed C § 22726, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 474 § 2.

(d) Former Ed C § 22728, as added Stats 1977 ch 474 § 4.

(e) Former Ed C § 22802, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 100, Stats 1978 ch 380 § 34.

(f) Former Ed C § 22901, as added Stats 1979 ch 787 § 25, amended Stats 1982 ch 279 § 5, Stats 1985 ch 975 § 1, Stats 1990 ch 1201 § 1, Stats 1992 ch 1272 § 1.

Amendments

1996 Amendment: (1) Substituted "employed to perform creditable service subject to coverage by the plan at the time of the election" for "currently employed in a position requiring membership in this system" in subds (b) and (c); **(2)** designated the former second sentence in subd (c) to be subd (e); and **(3)** redesignated former subd (e) to be subd (f).

1997 Amendment: (1) Added ", adopted by the board as a plan amendment," near the end of subd (a); **(2)** added subd (e); and **(3)** redesignated former subds (e) and (f) to be subds (f) and (g).

1998 Amendment: Added the second and third sentences in subd (a).

1999 Amendment: (1) Added the second and third sentences of subd (a); **(2)** substituted "Defined Benefit Program" for "plan" in subds (b) and (c); and **(3)** added second through fourth sentences of subd (g).

2003 Amendment: (1) Added ", not to exceed ten years" in the fourth sentence of subd (a); and **(2)** substituted "may not be charged" for "shall not be charged" in the second sentence of subd (g).

2006 Amendment: Added subds (h) and (i).

2009 Amendment: (1) Amended the first sentence of subd (a) by **(a)** substituting "who requests to purchase" for "who elects to receive"; **(b)** adding "and Chapter 14.2 (commencing with Section 22820)"; and **(c)** substitut-

ing "on the date of the request to purchase additional service credit" for "at the time of election"; **(2)** substituted "on the date of the request to purchase additional service credit" for "at the time of the election" in subds (b) and (c); **(3)** added ", and additional regular interest shall be added to the contributions from July 1 of the subsequent year in which the member last performed creditable service subject to coverage by the Defined Benefit Program to 20 days after the date of the request" in subd (c); **(4)** substituted "paragraphs (7), (8), (9), and (10)" for "paragraphs (2), (6), (7), (8), and (9)" in subd (d); **(5)** substituted "paragraph (11)" for "paragraph (10)" in subd (e); **(6)** deleted former subd (f) which read: "(f) Regular interest shall be charged on all contributions from the end of the school year on which the contributions were based to the date of payment."; **(7)** redesignated former subds (g)-(i) to be subds (f)-(h); and **(8)** substituted "subdivision (g)" for "subdivision (h)" in subd (h).

§ 22801.5. Election of coverage by Defined Benefit Program; Contributions (State educational employees; 7/1/91 through 9/11/00)

(a) A member who elects pursuant to Section 22508.6 to have his or her state service subject to coverage by the Defined Benefit Program shall receive additional service credit for the time spent subject to coverage by the Public Employees' Retirement System between July 1, 1991, and the effective date of the election.

(b) A member described in subdivision (a) shall pay all contributions with respect to his or her state service as a member of the Public Employees' Retirement System at the contribution rate for additional service credit, adopted by the board as a plan amendment, in effect at the time of the election. Contributions shall be made in a lump sum or in not more than 120 monthly installments, not to exceed ten years. Payment shall be made or shall commence within 120 days after the date of the election. No installment, except the final installment, shall be less than twenty–five dollars ($25). The member may not be credited with any service pursuant to this section until the contributions have been paid in full.

(c) If the member is employed to perform creditable service at the time of the election, the contributions shall be based upon the compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

(d) If the member is not employed to perform creditable service at the time of the election, the contributions shall be based upon the compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest.

(e) The total amount of contributions due from the member under subdivision (b) shall be reduced by the amount received from the Public Employees' Retirement System pursuant to Section 20309.5 of the Government Code. Under no circumstances may the assets received from the Public Employees' Retirement System, pursuant to that section, be allocated or awarded to individual members or their spouses or beneficiaries.

Added by Stats 2000 ch 402 § 4 (AB 649), effective September 11, 2000. Amended by Stats 2003 ch 859 § 11 (SB 627).

Amendments

2003 Amendment: (1) Amended subd (b) by **(a)** adding ", not to exceed ten years" in the second sentence; and **(b)** substituting "may not be credited" for "shall not be credited" in the last sentence; and **(2)** substituted "may the assets" for "shall the assets" in the second sentence of subd (e).

§ 22802. Purchase of service credit by member previously excluded from membership in plan (Consolidation of benefits)

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

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

(2) Creditable service subject to coverage under the Cash Balance Benefit Program, excluding service credited pursuant to Section 26402, if the member is currently contributing to the Defined Benefit

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

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

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

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

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

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 147 (SB 2041); Stats 1998 ch 965 § 92 (AB 2765); Stats 2000 ch 1020 § 4 (AB 820); Stats 2001 ch 802 § 5 (SB 499); Stats 2009 ch 304 § 7 (SB 634), effective January 1, 2010.

Editor's Notes—Section 26402 of the Education Code, referred to in subd (a)(2) of this section, was repealed by its own terms, operative January 1, 2003.

Former Sections: Former § 22802, similar to present Ed C § 22801, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 100, effective April 29, 1977, operative April 30, 1977, Stats 1978 ch 380 § 34, and repealed Stats 1979 ch 787 § 20.

Historical Derivation: (a) Former Ed C § 22603.2, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22603.3, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 242 § 10.5.

(c) Former Ed C § 22903, as added Stats 1979 ch 787 § 29.

Amendments

1996 Amendment: (1) Designated the former introductory clause to be the introductory clause of subd (a); **(2)** substituted "the plan" for "this system" after "membership in" in the introductory clause of subd (a); **(3)** redesignated former subds (a)–(f) to be subds (a)(1)–(a)(6); **(4)** substituted "Service as a substitute" for "Substitute service" in subd (a)(1); **(5)** substituted subd (a)(2) for former subd (b) which read: "Part–time service excluded under Section 22604."; **(6)** added ", as it read on December 31, 1995" in subds (a)(3) and (a)(4); **(7)** substituted "subject to coverage by the plan" for "eligible for membership in this system" in subd (a)(5); **(8)** substituted "subject to coverage by the plan performed" for "performed in a position requiring membership in this system" in the first sentence in subd (a)(6); **(9)** designated the former third sentence in former subd (f) to be subd (b); and **(10)** added "the required contributions" in subd (b).

1998 Amendment: (1) Substituted "Defined Benefit Program" for "plan" in the introductory clause of subd (a); **(2)** substituted "under the Defined Benefit Program" for "by the plan" in subd (a)(5) and in the first sentence of subd (a)(6); and **(3)** amended subd (b) by adding **(a)** "under this part"; and **(b)** "under the Defined Benefit Program".

2000 Amendment: Amended subd (b) by **(1)** adding "all of" after "Program shall pay"; and **(2)** substituting "or the portion of that service for which the member elects to receive credit" for "such service".

2001 Amendment: (1) Added subd (a)(2); **(2)** redesignated former subds (a)(2)–(a)(6) to be subds (a)(3)–(a)(7); **(3)** added ", other than service credited under paragraph (2)" in subd (a)(3); and **(4)** added subd (c).

2009 Amendment: (1) Added ", other than a retired member," in the introductory clause of subd (a); **(2)** substituted "request to purchase service" for "elect to receive" in the introductory clause of subd (a) and in subd (c); **(3)** amended subd (a)(2) by **(a)** adding "is currently contributing to the Defined Benefit Program and" in the first sentence; and **(b)** substituting "requesting to purchase service" for "electing to receive" in the second sentence; **(4)** substituted "requests to purchase service" for "elects to receive" both times it appears in subd (b); and **(5)** amended subd (c) by **(a)** substituting "the request" for "the election"; and **(b)** adding "public".

§ 22803. Services for which member may elect to purchase credit

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

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

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

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

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

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

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

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

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

(9) Time spent on leave approved by an employer in this state as maternity or paternity leave, not to exceed 24 consecutive months, regardless of whether or not the leave was taken before or after the addition of this subdivision.

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 43 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 148 (SB 2041); Stats 1997 ch 838 § 4 (SB 227); Stats 1998 ch 1076 § 6 (SB 2126); Stats 1999 ch 939 § 50 (SB 1074); Stats 2005 ch 351 § 13 (AB 224), effective January 1, 2006; Stats 2006 ch 654 § 5 (SB 1465), effective January 1, 2007; Stats 2007 ch 323 § 8 (AB 757), effective January 1, 2008; Stats 2009 ch 304 § 8 (SB 634), effective January 1, 2010; Stats 2010 ch 207 § 8 (AB 2260), effective January 1, 2011.

Former Sections: Former § 22803, similar to present Ed C § 22801, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 21.

Historical Derivation: (a) Former Ed C §§ 22706, 22707, 22717, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22725.1, as added Stats 1977 ch 36 § 4.5 as Ed C § 22725, amended Stats 1977 ch 474 § 1, amended and renumbered by Stats 1978 ch 502 § 5.

(c) Former Ed C § 22902, as added Stats 1979 ch 787 § 27, amended Stats 1985 ch 975 § 2, Stats 1992 ch 1272 § 2.

Amendments

1994 Amendment: Amended subd (a)(9) by **(1)** substituting "12–month" for "24–month"; and **(2)** adding "as it read on the date leave was granted,".

1996 Amendment: (1) Amended subd (a)(5) by substituting **(a)** "to perform creditable service subject to coverage by the plan" for "in a position requiring membership in this system"; and **(b)** "employment to perform creditable service subject to coverage by the plan" for "a position requiring membership in this system"; and **(2)** added "the Cash Balance Plan under Part 14 (commencing with Section 26000) or" in subd (b).

1997 Amendment: (1) Added subd (a)(10); and **(2)** substituted "(10)" for "(9)" before ", inclusive" in subd (b).

1998 Amendment: Substituted "(11)" for "(10)" in subd (b).

1999 Amendment: (1) Amended subd (a)(5) by substituting **(a)** "under the Defined Benefit Program" for "by the plan" both times it appears; and **(b)** "job corps" for "service" after "prior to entering the"; and **(2)** amended subd (b) by substituting **(a)** "paragraphs (1) to (10)" for "paragraphs (1) to (11)"; and **(b)** "Cash Balance Benefit Program" for "Cash Balance Plan".

2005 Amendment: Substituted "state not covered by another public retirement system." for "state." in subd (a)(1) and "leave, approved by an employer in this state," for "leave" in subds (a)(6) and (a)(7).

2006 Amendment (1) Added subd (a)(6); **(2)** redesignated former subds (a)(6)–(a)(10) to be subds (a)(7)–(a)(11); and **(3)** substituted "paragraphs (1) to (11)" for "paragraphs (1) to (10)" in subd (b).

2007 Amendment: Substituted "on leave approved by an employer in this state as maternity or paternity leave, not to exceed 24 consecutive months," for "on an approved maternity or paternity leave of two years or less in duration," in subd (a)(9).

2009 Amendment: (1) Substituted ", other than a retired member, may request to purchase service" for "may elect to receive" in the introductory clause of subd (a); **(2)** substituted "the University of California or California State University that is" for "a publicly supported and administered university or college in this state" in subd (a)(1); **(3)** substituted "after meeting the requirements of Section 44969" for ", after July 1, 1956" in subd (a)(7); **(4)** substituted subd (a)(10) for former subd (a)(10) which read: "(10) Time spent on an approved leave, up to four months in any 12-month period, for family care or medical leave purposes, as defined by Section 12945.2 of the Government Code, as it read on the date leave was granted, excluding maternity and paternity leave."; and **(5)** added "public" before "retirement system" in subd (b).

2010 Amendment: Substituted "a total of 12 workweeks" for "four months" in subd (a)(10).

§ 22804. When war with foreign power exists

For the purposes of this chapter, war with a foreign power exists under any of the following conditions:

(a) Whenever Congress has declared war and peace has not been formally restored.

(b) Whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared.

(c) Whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22804, similar to present § 22901, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 26, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: (a) Former § 22712, as enacted Stats 1976 ch 1010 § 2.
(b) Former § 22906, as added Stats 1979 ch 787 § 33.

§ 22805. Credit for military or Red Cross services

(a) A member may request to receive credit under this part for time served in the active military service of the United States or of this state, including active service in any uniformed auxiliary to any branch of that military service authorized as an auxiliary by Congress or the Legislature, or in the full-time paid service of the American Red Cross prior to September 1957, if both of the following conditions exist:
(1) The time served was during war with any foreign power or during other national emergency, or in time of peace if the member was drafted for that service by the United States government.
(2) The member was employed to perform creditable service subject to coverage under the Defined Benefit Program within one year prior to entering that service. Time included under this section shall be considered as served in the state in which the member was last employed before entering that service.
(b) Time during which the member was absent without compensation for other cause, on leave or otherwise, shall not be included.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 149 (SB 2041); Stats 1998 ch 965 § 93 (AB 2765); Stats 1999 ch 939 § 51 (SB 1074); Stats 2009 ch 304 § 9 (SB 634), effective January 1, 2010.

Former Sections: Former § 22805, similar to present Ed C § 22902, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: (a) Former Ed C § 22713, as enacted Stats 1976 ch 1010 § 2.
(b) Former Ed C § 22900, as enacted Stats 1976 ch 1010 § 2.
(c) Former Ed C § 22907, as added Stats 1979 ch 787 § 34.

Amendments

1996 Amendment: Substituted "to perform creditable service subject to coverage by the plan" for "in a position requiring membership in this system" in the first sentence of subd (a)(2).
1998 Amendment: Added "under this part" near the beginning of subd (a).
1999 Amendment: Substituted **(1)** "Congress or the Legislature" for "the United States Congress or the California State Legislature" in subd (a); and **(2)** "under the Defined Benefit Program" for "by the plan" in the first sentence of subd (a)(2).
2009 Amendment: (1) Substituted "request" for "elect" in the introductory clause of subd (a); and **(2)** deleted the comma after "on leave" in subd (b).

§ 22806. Credit for military or Merchant Marine service

(a) A member who is a state employee who retired on or after December 31, 1981, and who was at retirement a state employee may elect to receive credit under this part, of not to exceed four years, for time served of not less than one year, prior to membership in the Defined Benefit Program, in the armed forces of the United States or in the Merchant Marine of the United States prior to January 1, 1950. Service credit shall not be granted if that service terminated with a discharge under dishonorable conditions. The service credit to be accorded pursuant to this section for that service shall be on the

basis of one year of credit for each five years of credited service, but shall not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent service. A member electing to receive credit under this part for that service shall have been credited with at least 10 years of service on the date of election or the date of retirement.

(b) An election by a member with respect to service credit under this section may be made only while the member is in state or university employment, and a retired member shall have retired immediately following service as a member who was at retirement a state employee. The retirement allowance of a member who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(c) A member who elects to become subject to this section shall pay all reasonable administrative costs and contributions, sufficient to cover the total employer and employee cost plus interest of the military service credit, at rates to be determined by the board. The amount shall be contributed in lump sum or by installments over the period and subject to those minimum payments as may be prescribed by regulations of the board. Payments for administrative costs shall be credited to the current appropriation for support of the board and available for expenditure by the board to fund positions deemed necessary by the board to implement this section.

(d) The board has no duty to locate or notify any member or to provide the name or address of any member, agency, or entity for the purpose of notifying those persons.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 150 (SB 2041); Stats 1998 ch 965 § 94 (AB 2765).

Former Sections: Former § 22806, similar to present Ed C § 22907, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 520 § 2, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22907.2, as added Stats 1988 ch 370 § 1.

Amendments

1996 Amendment: (1) Amended subd (a) by deleting **(a)** "or a retirant" after "is a state employee" in the first sentence; and **(b)** "or a retirant" after "A member" in the last sentence; **(2)** amended subd (b) by substituting **(a)** "retired member" for "retirant" after "university employment, and a" in the first sentence; and **(b)** "member" for "retirant" after "retirement allowance of a" in the second sentence; **(3)** deleted "or retirant" after "A member" at the beginning of subd (c); and **(4)** substituted "member" for "retirant" wherever it appears in subd (d).

1998 Amendment: Amended subd (a) by **(1)** adding "under this part" in the first and last sentences; **(2)** substituting "membership in the Defined Benefit Program" for "entering this system" in the first sentence; and **(3)** deleting "a" after "electing to receive" in the last sentence.

§ 22807. Credit for time served during extension of military service

(a) A member of the Defined Benefit Program who voluntarily requests or agrees to an extension of his or her original term of enlistment, service, or tour of duty shall not receive credit under this part for time served during the extension of military service after December 31, 1958.

(b) In no event shall a member receive credit for more than four years of military service performed after June 30, 1998, except where otherwise authorized in accordance with Chapter 14.5 (commencing with Section 22850).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 680 § 1 (SB 1877); Stats 1998 ch 965 § 95 (AB 2765).

Former Sections: Former § 22807, similar to present Ed C § 22906, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former § 22908, as added Stats 1979 ch 787 § 35.

(b) Former §§ 22714, 22715, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "June 30, 1998, except where otherwise authorized in accordance with Chapter 14.5 (commencing with Section 22850)" for "June 30, 1968".

1998 Amendment: Amended subd (a) by adding **(1)** "of the Defined Benefit Program"; and **(2)** "under this part".

§ 22808. Contributions exemption (Military service)

A member of the Defined Benefit Program shall not be required to pay contributions under this part to receive credit for service under Section 22805 under any of the following conditions:

(a) The service was performed after September 15, 1940, and the member returned to employment subject to coverage under the Defined Benefit Program prior to March 19, 1948.

(b) The service was performed prior to January 1, 1950, and the member was continuously performing the service prior to that date and returned to employment subject to coverage under the Defined Benefit Program within six months following the termination of the service.

(c) The service was performed prior to September 14, 1978, and the member entered that service after December 31, 1949, and returned to employment subject to coverage under the Defined Benefit Program within six months following the termination of the service.

(d) The service was performed prior to January 1, 1992, and the member entered that service after August 1, 1990, and retired or returned to employment subject to coverage under the Defined Benefit Program and earned additional service credit within six months following the termination of that service or within six months after the completion of any period of rehabilitation offered by the United States government, excluding rehabilitation solely for educational purposes. Notwithstanding Section 22250, 22251, or 22253, employers of members subject to this section shall not be required to make the contributions required by Chapter 16 (commencing with Section 22950).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 151 (SB 2041); Stats 1998 ch 965 § 96 (AB 2765).

Former Sections: Former § 22808, relating to local retirement system member transferring to state system, and excess contributions, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1978 ch 870 § 7, operative July 1, 1979.

Historical Derivation: (a) Former Ed C §§ 22902–22904, as enacted Stats 1976 ch 1010 § 2.

(b) Former Ed C § 22909, as added Stats 1979 ch 787 § 36, amended Stats 1991 ch 543 § 8.

Amendments

1996 Amendment: Substituted **(1)** "employment subject to coverage by the plan" for "a position requiring membership in this system" wherever it appears; and **(2)** "employers of members subject to this section" for "the school districts, community college districts, or other agencies employing those members" in the second sentence of subd (d).

1998 Amendment: (1) Amended the introductory clause by adding **(a)** "of the Defined Benefit Program"; and **(b)** "under this part"; and **(2)** substituted "under the Defined Benefit Program" for "by the plan" in subds (a)–(d).

§ 22809. Credit for service performed in war relocation center

A member of the Defined Benefit Program may elect to receive credit under this part for teaching service performed within and outside of this state in a war relocation center administered by the Wartime Civil Control Administration if all of the following conditions exist:

(a) By reason of the member's Japanese ancestry the member was placed in a war relocation center prior to becoming a member of the Defined Benefit Program.

(b) The member earned compensation for service in a teaching capacity in the relocation center.

(c) The member possessed a valid California teaching credential issued by the State Department of Education or had a bachelor's degree in education from a California postsecondary institution.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 152 (SB 2041); Stats 1998 ch 965 § 97 (AB 2765).

Former Sections: Former § 22809, similar to present Ed C § 22908, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 101, effective April 29, 1977, operative April 30, 1977, Stats 1982 ch 279 § 4, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 22905, as added Stats 1979 ch 787 § 32.

(b) Former Ed C § 22705.5, as added Stats 1978 ch 486 § 1.

Amendments

1996 Amendment: Substituted **(1)** "becoming a member of the plan" for "entering membership in this system" at the end of subd (a); and **(2)** "earned" for "received" in subd (b).

1998 Amendment: (1) Amended the introductory clause by adding **(a)** "of the Defined Benefit Program"; and **(b)** "under this part"; and **(2)** substituted "Defined Benefit Program" for "plan" in subd (a).

§ 22810. Election to receive credit for services performed prior to July 1, 1944 in certain locations other than California

(a) Any member of the Defined Benefit Program, who was a member of the program on June 30, 1944, may elect to receive credit under this part for the following service performed prior to July 1, 1944, in other states, territories, or possessions of the United States, or in Canada:

(1) Service in a teaching position that in this state would be subject to coverage under the Defined Benefit Program.

(2) Service in a teaching position in a publicly supported and administered university or college.

(3) Service in a teaching position with the Civilian Conservation Corps or in an Indian school supported and administered by the United States government.

(4) Service in a publicly supported residential school for the deaf or the blind.

(b) In no event shall the member receive credit for this service if the member has received or is eligible to receive credit for the same service in another retirement system.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 153 (SB 2041); Stats 1998 ch 965 § 98 (AB 2765).

Former Sections: Former § 22810, relating to tax–sheltered annuity contributions, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1978 ch 870 § 8, operative July 1, 1979.

Historical Derivation: (a) Former Ed C § 22904, as added Stats 1979 ch 787 § 31.

(b) Former Ed C § 22718, as enacted Stats 1976 ch 1010 § 2, operative April 30, 1977.

Amendments

1996 Amendment: Amended subd (a) by substituting **(1)** "the plan" for "this system" after "was a member of" in the introductory clause; and **(2)** "be subject to coverage by the plan" for "require membership in this system" in subd (a)(1).

1998 Amendment: (1) Amended the introductory clause of subd (a) by **(a)** adding "of the Defined Benefit Program"; **(b)** substituting "program" for "plan"; and **(c)** adding "under this part"; and **(2)** substituted "under the Defined Benefit Program" for "by the plan" in subd (a)(1).

§ 22811. Transfer of funds from eligible retirement plans into Teachers'Retirement Fund

Pursuant to terms and conditions established by the board, members may transfer funds from eligible retirement plans into the Teachers' Retirement Fund to purchase service credit or redeposit pre-

viously refunded contributions pursuant to this chapter, Chapter 14.2 (commencing with Section 22820), Chapter 14.5 (commencing with Section 22850), and Chapter 19 (commencing with Section 23200), to the extent that the transfer is allowable under, and is completed in a manner prescribed by, applicable federal and state law and any related regulations.

Added by Stats 2001 ch 803 § 7 (SB 501).

CHAPTER 14.2. OUT-OF-STATE SERVICE CREDIT

§ 22820. Right to purchase out-of-state service credit; Procedure; Limits on use of service purchased

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Added Stats 1997 ch 569 § 2 (SB 1027), operative January 1, 1999. Amended Stats 1998 ch 1076 § 7 (SB 2126); Stats 1999 ch 939 § 52 (SB 1074); Stats 2001 ch 803 § 8 (SB 501); Stats 2003 ch 859 § 12 (SB 627), operative July 1, 2004; Stats 2006 ch 654 § 6 (SB 1465), effective January 1, 2007; Stats 2007 ch 513 § 2 (AB 1432), effective January 1, 2008; Stats 2009 ch 304 § 10 (SB 634), effective January 1, 2010.

Historical Derivation: Former Ed C § 22707, as added Stats 1993 ch 893 § 2.

Amendments

1998 Amendment: Amended subd (f) by substituting **(1)** "purchase" for "purchased" after "The credited service"; and **(2)** "Sections 24001 and 24101" for "Sections 23801, 23804, 23851, 23854, 24001, 24101, and 24201".

1999 Amendment: Substituted **(1)** "Cash Balance Benefit Program" for "Cash Balance Plan" in the second sentence of subd (a); **(2)** "under the Defined Benefit Program" for "in this plan" in subd (c)(1); **(3)** "the Defined

Benefit Program" for "this plan" in subd (c)(2); and **(4)** "service credit purchased" for "credited service purchase" in subd (f).

2001 Amendment: (1) Deleted former subd (d) which read: "(d) Contributions made to a plan qualified under Section 403(b) of the Internal Revenue Code may not be used to purchase credit for out–of–state service."; and **(2)** redesignated former subds (e) and (f) to be subds (d) and (e).

2003 Amendment: (1) Substituted "The member may not" for "In no event shall the member" in the second sentence of subd (a); **(2)** deleted "or 10 years, whichever is less" at the end of subd (b); and **(3)** substituted "may not be used" for "shall not be used" in subds (d) and (e).

2005 Amendment: (1) Added "any of the following:" in subd (a); **(2)** added subdivision designations (a)(1) and (a)(2); **(3)** substituted the period for ", or for" in subd (a)(1); **(4)** added subds (a)(3) and (a)(4); and **(5)** redesignated former subds (a)–(e) to be subds (b)–(f).

2006 Amendments (1) Substituted subd (a) for former subd (a) which read: "(a) A member, other than a retired member, may elect to purchase out-of-state service credited in a public retirement system for service covering public education in another state or territory of the United States or by the United States for its citizens. The member may not receive credit for this service if the member has credit or is eligible to receive credit for the same service in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security."; **(2)** substituted "performed by the member in a position described in subdivision (a)" for "credited to the member in the out of state retirement system" in subd (b); and **(3)** added subd (c)(4).

2007 Amendment: (1) Added "any of the following:" in subd (a); **(2)** added subdivision designations (a)(1) and (a)(2); **(3)** substituted the period for ", or for" in subd (a)(1); **(4)** added subds (a)(3) and (a)(4); and **(5)** redesignated former subds (a)-(e) to be subds (b)-(f).

2009 Amendment: (1) Amended the introductory clause of subd (a) by **(a)** substituting "request to purchase" for "elect to purchase credit for"; and **(b)** adding "credit"; and **(2)** amended subd (c) by **(a)** substituting "credit" for "for which"; and **(b)** deleting "credit" after "purchase".

§ 22821. Submission of request to purchase (Out-of-state service credit)

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

Added Stats 1997 ch 569 § 2 (SB 1027), operative January 1, 1999. Amended Stats 1998 ch 965 § 99 (AB 2765); Stats 2009 ch 304 § 11 (SB 634), effective January 1, 2010.

Editor's Notes—For operative date, see Ed C § 22825.
Historical Derivation: Former Ed C § 22707, as added Stats 1993 ch 893 § 2.

Amendments

1998 Amendment: Added "pursuant to this chapter".
2009 Amendment: Substituted "request" for "election".

§ 22822. Time for request of purchase

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

Added Stats 1997 ch 569 § 2 (SB 1027), operative January 1, 1999. Amended Stats 2009 ch 304 § 12 (SB 634), effective January 1, 2010.

Editor's Notes—For operative date, see Ed C § 22825.
Historical Derivation: Former Ed C § 22707, as added Stats 1993 ch 893 § 2.

Amendments

2009 Amendment: Substituted **(1)** "A request" for "An election"; and **(2)** "out-of-state service credit" for "credit for out-of-state service".

§ 22823. Time and manner of payment of contributions for out-of-state service credits

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

Added Stats 1997 ch 569 § 2 (SB 1027), operative January 1, 1999. Amended Stats 1998 ch 965 § 100 (AB 2765); Stats 1999 ch 939 § 53 (SB 1074); Stats 2003 ch 859 § 13 (SB 627); Stats 2006 ch 655 § 15 (SB 1466), effective January 1, 2007; Stats 2008 ch 494 § 1 (AB 2390), effective January 1, 2009; Stats 2009 ch 304 § 13 (SB 634), effective January 1, 2010.

Editor's Notes—For operative date, see Ed C § 22825.
Historical Derivation: Former Ed C § 22707, as added Stats 1993 ch 893 § 2.

Amendments

1998 Amendment: (1) Substituted "Defined Benefit Program" for "plan" at the end of subd (a); and **(2)** added "pursuant to this chapter" in subd (b)(1).

1999 Amendment: (1) Substituted "pay all contributions with respect to that service at the contribution rate for additional service credit adopted by the board as a plan amendment, in effect at the time of election" for "contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the Defined Benefit Program" in subd (a); and **(2)** amended subd (b)(2) by adding **(a)** "or beneficiary" both times it appears"; and **(b)** "working" after "30".

2003 Amendment: (1) Added ", prior to retirement," in subd (a); **(2)** added the last sentence of subd (b)(2); and **(3)** added ", not to exceed ten years" in the first sentence of subd (c).

2006 Amendment: Added subds (e) and (f).

2008 Amendment: (1) Substituted "purchase out-of-state credit shall pay" for "receive credit for out-of-state service as provided in this chapter shall pay" near the beginning of subd (a); and **(2)** deleted "pursuant to this chapter" after "out-of-state service" in subd (b)(1).

2009 Amendment: (1) Deleted subdivision designation (a); **(2)** substituted "requests to purchase" for "elects to purchase"; **(3)** substituted "service credit pursuant to Section 22820" for "credit"; **(4)** substituted "on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801" for "at the time of election"; and **(5)** deleted former subds (b)-(f) which read: "(b)(1) Any payment that a member may make to the system to obtain credit for out-of-state service shall be paid in full prior to the effective date of a family, survivor, disability, or retirement allowance."(2) If the system is unable to inform the member or beneficiary of the amount required to purchase out-of-state service prior to the effective date of the applicable allowance, the member or beneficiary may make payment in full within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later. The payment shall be paid in full before a member or beneficiary may receive any adjustment in the appropriate allowance due because of that payment."(c) Contributions for out-of-state service credit shall be made in a lump sum, or in not more than 120 monthly installments, not to exceed ten years. No installment, except the final installment, shall be less than twenty-five dollars ($25)."(d) Regular interest shall be charged on the monthly unpaid balance if the member makes installment payments."(e) If the payment described in subdivision (a) is not received at the system's headquarters office, as described in Section 22375, within 120 days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for out-of-state service based on the payments that were made or the member may request a return of his or her payments."(f) If the election to purchase out-of-state service is canceled as described in subdivision (e), the member may, prior to the effective date of his or her retirement, elect to purchase out-of-state service pursuant to this section."

§ 22824. Conflict with Internal Revenue Code (Internal Revenue Code Section 415)

No provision of this chapter shall apply to the extent it would require any action to be taken that would create a conflict with Section 415 of the Internal Revenue Code of 1968 (Title 26 of the United States Code).

Added by Stats 1997 ch 569 § 2 (SB 1027), operative January 1, 1999.

Historical Derivation: Former Ed C § 22707, as added Stats 1993 ch 893 § 2.

§ 22825. Operative date of chapter

This chapter shall become operative on January 1, 1999.

Added by Stats 1997 ch 569 § 3 (SB 1027), operative January 1, 1999.

Historical Derivation: Former Ed C § 22707, as added Stats 1993 ch 893 § 2.

§ 22826. Purchase of credit for nonqualified service; Payment of contributions

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

(b) A member who requests to purchase nonqualified service credit as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the plan with respect to the Defined Benefit Program in effect on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801.

Added Stats 1998 ch 1076 § 8 (SB 2126). Amended Stats 1999 ch 939 § 54 (SB 1074); Stats 2003 ch 859 § 14 (SB 627); Stats 2006 ch 655 § 16 (SB 1466), effective January 1, 2007; Stats 2009 ch 304 § 14 (SB 634), effective January 1, 2010.

Amendments

1999 Amendment: (1) Substituted "Defined Benefit Program" for "plan" in subd (a); and **(2)** added "with respect to the Defined Benefit Program" in subd (b).

2003 Amendment: Added ", not to exceed ten years" in the first sentence of subd (c).

2006 Amendment: Added subds (e) and (f).

2009 Amendment: (1) Amended subd (a) by substituting (a) ", other than a retired member, may request to purchase" for "may elect to receive"; and (b) "nonqualified service credit" for "credit for nonqualified service"; **(2)** amended subd (b) by **(a)** substituting "requests to purchase nonqualified service credit" for "elects to receive credit for nonqualified service"; and **(b)** adding "in effect on the date of the request, in accordance with subdivisions (a), (f), (g), and (h) of Section 22801"; **(3)** deleted former subds (b)(1) and (b)(2) which read: "(1) Payment that a member may make to the system to obtain credit for nonqualified service shall be paid in full prior to the effective date of a family, survivor, disability, or retirement allowance."(2) If the system is unable to inform the member of the amount required to purchase nonqualified service prior to the effective date of the applicable allowance, the member may make payment in full within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later."; and **(4)** deleted former subds (c)-(f) which read: "(c) Contributions for nonqualified service credit shall be made in a lump sum or in not more than 120 monthly installments, not to exceed ten years. No installment, except the final installment, shall be less than twenty-five dollars ($25)."(d) Regular interest shall be charged on the monthly unpaid balance if the member makes installment payments."(e) If the payment described in subdivision (a) is not received at the system's headquarters office, as described in Section 22375, within 120 days of the due date, the election pursuant to this section shall be canceled. The member shall receive credit for nonqualified

service based on the payments that were made or the member may request a return of his or her payments."(f) If the election to purchase nonqualified service is canceled as described in subdivision (e), the member may, prior to the effective date of his or her retirement, elect to purchase nonqualified service pursuant to this section."

§ 22827. Purchase credit for out-of-state service

(a) A member who retired for service between June 1, 2007, and December 31, 2007, inclusive, may elect to purchase credit for out-of-state service for either of the following:

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

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

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

(c) The amount of service for which a member may purchase credit may not exceed the number of years of service performed by the member in a position described in subdivision (a) prior to that member's effective retirement date.

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

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

Added Stats 2008 ch 494 § 2 (AB 2390), effective January 1, 2009.

§ 22828. Time and manner of request to purchase out-of-state service credit

A request to purchase out-of-state service credit pursuant to Section 22827 must be received, as provided in Section 22375, no later than June 30, 2009.

Added Stats 2008 ch 494 § 3 (AB 2390), effective January 1, 2009.

§ 22829. Time and manner of payment of contributions for out-of-state service credits requested pursuant to § 22827; Cancellation

(a) This section applies only to a member who elects to receive out-of-state service credit pursuant to Section 22827.

(b) The member shall pay all contributions with respect to that service at the contribution rate for additional service credit adopted by the board as a plan amendment in effect at the time of election.

(c) Contributions shall be based upon the member's age at the date of the election and upon compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest.

(d) Any payment that a member may make to the system to obtain credit for out-of-state service shall be paid in full before a member or beneficiary may receive any adjustment in the appropriate allowance due date because of that payment.

(e) The system shall make any appropriate adjustments to the member's benefit allowance to reflect the purchase of additional service retroactive to the effective date of retirement.

(f) Contributions for out-of-state service credit shall be made in a lump sum.

(g) If the payment election described in subdivision (b) is not received at the system's headquarters office, as described in Section 22375, within 30 days of receiving a bill for this purchase from the system, the election shall be canceled.

(h) If the election to purchase out-of-state service is canceled as described in subdivision (g), the member may, prior to June 30, 2009, make a new election to purchase out-of-state service pursuant to this section.

Added Stats 2008 ch 494 § 4 (AB 2390), effective January 1, 2009.

CHAPTER 14.5. MILITARY SERVICE

§ 22850. Legislative intent; Definitions

(a) The Legislature hereby declares its intent to provide benefits under this part to reemployed members who have been absent from a position of employment subject to coverage under the Defined Benefit Program to perform service in the uniformed services of the United States in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code).

(b) The system shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(c) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, and a period for which a member is absent from a position of employment for the purpose of an examination to determine the fitness of the member to perform any duty.

(d) "Uniformed services" means the Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full–time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

(e) Except as provided in Section 22851, no benefit shall accrue during the period of service in the uniformed services if the member does not return to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code.

Added by Stats 1996 ch 680 § 2 (SB 1877). Amended by Stats 1998 ch 965 § 101 (AB 2765).

Amendments

1998 Amendment: Amended subd (a) by **(1)** adding "under this part"; and **(2)** substituting "subject to coverage under the Defined Benefit Program" for "covered by the plan".

§ 22851. Calculation of benefits for member returning to same employer; Payment of member contributions

The right to pension benefits under this part of a member who dies or who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, and is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be determined under this section.

(a) (1) A reemployed or deceased member shall be treated as not having incurred a break in service by reason of that member's eligible period or periods of service in the uniformed services.

(2) (A) Each eligible period of service served by a member in the uniformed services shall, upon return to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, or upon death, be deemed to constitute service with the employer or employers toward plan vesting and eligibility for membership in the Defined Benefit Program.

(B) In cases of death during qualified military service, service shall be calculated under Section 22853.5 and shall be used exclusively for plan vesting and eligibility for membership purposes. Service that is deemed to the member in this way shall not be used for benefit calculations based on service credit balances.

(3) A member who returns to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall not be entitled to

any benefits under this part in respect of service in the uniformed services to which the member would not otherwise have been entitled had the member remained continuously employed and not undertaken such service in the uniformed services.

(b) For purposes of calculating benefits, a member who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall be entitled to service credit under this part for the eligible period of service in the uniformed services upon his or her payment of the member contributions required under Section 22901 that otherwise would have been due for such period of service had the member remained continuously employed and not undertaken such service in the uniformed services. No such payment of member contributions may exceed the amount the member would have been required to contribute under this part had the member not served in the uniformed services and had remained continuously employed by the employer throughout the eligible period of service in the uniformed services. If a member fails to remit the member contributions that would have been required under Section 22901 in respect of the eligible period of service in the uniformed services no service credit shall be provided under this part for the period to which the omitted contributions relate.

(c) Any payment of member contributions to the Defined Benefit Program in this section shall be made by the member during the period beginning with the date of return to employment and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any payment of member contributions to the Defined Benefit Program in this section by a member who returned to employment prior to January 1, 1997, and qualifies for benefits in accordance with the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Secs. 4301 to 4335, incl.) shall be made by the member during the period beginning with the date of notification of eligibility by the employer to the system and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any subsequent request to purchase this service shall be subject to the provisions of Chapter 14 (commencing with Section 22800). If all contributions due under this part are not paid to the plan with respect to the Defined Benefit Program within the specified repayment period and in accordance with subdivision (b) of Section 22851 the contributions shall be returned to the member at the end of the repayment period. Interest on member contributions made for the eligible period of service in the uniformed services shall not be credited under this part until after the contributions due are paid and then only prospectively to the member's account in accordance with Section 22216.

Added Stats 1996 ch 680 § 2 (SB 1877). Amended Stats 1998 ch 965 § 102 (AB 2765); Stats 2011 ch 703 § 4 (SB 349), effective January 1, 2012.

Amendments

1998 Amendment: (1) Added "under this part" wherever it appears; **(2)** substituted "Defined Benefit Program" for "plan" in subd (a)(2) and the first two times it appears in subd (c); **(3)** substituted "system" for "plan" after "employer to the" in the second sentence of subd (c); and **(4)** added "with respect to the Defined Benefit Program" in the fourth sentence of subd (c).

2011 Amendment: (1) Added "dies or who" in the first paragraph; **(2)** added "reemployed or deceased" in subd (a)(1); **(3)** added subdivision designation (a)(2)(A); **(4)** added ", or upon death," in subd (a)(2)(A); **(5)** added subd (a)(2)(B); and **(6)** amended the second sentence of subd (c) by **(a)** adding "federal"; and **(b)** substituting "(38 U.S.C. Secs. 4301 to 4335, incl.)" for "of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code),".

§ 22852. Employer's liability for contributions

(a) An employer reemploying a member of the Defined Benefit Program with service subject to the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be liable to the plan for the employer contributions under this part, provided that employer was

the last employer employing the member immediately prior to the period served by the member in the uniformed services.

(b) For purposes of determining the amount of that liability under this part and any obligation to the plan with respect to the Defined Benefit Program, interest shall not be included in the liability to the plan.

(c) Subject to subdivision (e), the employer shall pay the employer contributions for the eligible period of service in the uniformed services that would have been required under Sections 22950 and 22951 had the member remained continuously employed during that period of eligible service in the uniformed services.

(d) The employer shall not be liable for employer contributions under this part for the eligible period of service in the uniformed services to the extent that the member fails to remit the member contributions for that period.

(e) The employer shall provide information regarding the reemployment of a member who is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code on a form prescribed by the system within 30 days of the date of reemployment.

(f) Employers shall remit to the plan with respect to the Defined Benefit Program the employer contributions required under subdivision (c) within 60 working days of the date the system notifies the employer of the amount of contributions due with respect to the member who elects to remit the member contributions for the eligible period of service in the uniformed services.

(g) If the employee does not comply with subdivision (b) of Section 22851 within the time period specified, the employer contributions that were remitted for that period shall be adjusted pursuant to Section 23008.

Added by Stats 1996 ch 680 § 2 (SB 1877). Amended by Stats 1998 ch 965 § 103 (AB 2765); Stats 2004 ch 183 § 59 (AB 3082).

Amendments

1998 Amendment: (1) Added "of the Defined Benefit Program" in subd (a); **(2)** added "under this part" wherever it appears; **(3)** added "with respect to the Defined Benefit Program" in subd (b); **(4)** amended subd (e) by substituting **(a)** "The employer shall provide information regarding the reemployment of" for "Any employer who reemploys"; and **(b)** "United State Codes on a form prescribed by the system within 30 days of the date of" for "United States Code, shall, within 30 days after the date of the reemployment, provide information as required by the board, on a form provided by the plan, notifying the plan of the"; and **(5)** substituted "with respect to" for "in respect of" in subd (f).

2004 Amendment: Substituted **(1)** "contributions for that period" for "contributions for such period" at the end of subd (d); and **(2)** "United States Code" for "United State Codes" in subd (e).

§ 22853. Computation of employee's compensation earnable

For purposes of computing an employer's contributions for the eligible period of service or the member's contributions under this part, the employee's compensation earnable during the period shall be computed as follows:

(a) The compensation earnable the member would have received for the eligible period of service.

(b) In the event the compensation earnable is not reasonably certain, the employer's contributions and member's contributions shall be based on the member's average compensation earnable during the 12–month period immediately preceding the eligible period of service in the uniformed services or, if shorter, the period of employment immediately preceding that period of service.

Added by Stats 1996 ch 680 § 2 (SB 1877). Amended by Stats 1998 ch 965 § 104 (AB 2765).

Amendments

1998 Amendment: Added "under this part" in the introductory clause.

§ 22853.5. Computation of service credit of deceased member

For purposes of computing service to award to members who die during qualified military service, service shall be computed as follows:

(a) The service credit the member would have received for the eligible period of service through the beginning of the period of qualified military leave through the date of death.

(b) In the event the service credit earnable is not reasonably certain, vesting credit shall be based on the member's average service credit earned during the 12-month period immediately preceding the eligible period of service in the uniformed services or, if shorter, the period of employment immediately preceding that period of service.

Added Stats 2011 ch 703 § 5 (SB 349), effective January 1, 2012.

§ 22854. Rights of reemployed member absent for more than five years

A reemployed member who has been absent from a position of employment subject to coverage under the Defined Benefit Program to perform service in the uniformed services, pursuant to Section 22850, for a period in excess of five years shall not be entitled to service credit or credit for plan vesting purposes under this part, except where the service in the uniformed services has exceeded five years for the following reasons:

(a) The member is required to serve beyond five years to complete an initial period of obligated service.

(b) The member was unable to obtain orders releasing the member from a period of service in the uniformed services before the expiration of the five–year period and that inability was through no fault of the member.

(c) The member served in the uniformed services as required pursuant to Section 270 of Title 10 of the United States Code, Section 502(a) or 503 of Title 32 of the United States Code, or to fulfill additional training requirements determined and certified in writing by the Secretary of Defense, to be necessary for professional development, or for completion of skill training or retraining.

(d) The member is ordered to do any of the following:

(1) Ordered to or retained on active duty under Section 672(a), 672(g), 673, 673(b), 673(c), or 688 of Title 10 of the United States Code or under Section 331, 332, 359, 360, 367, or 712 of Title 14 of the United States Code.

(2) Ordered to or retained on active duty, other than for training, under any provision of law during a war or during a national emergency declared by the President or the Congress.

(3) Ordered to active duty, other than for training, in support, as determined by the secretary concerned, of an operational mission for which personnel have been ordered to active duty under Section 673(b) of Title 10 of the United States Code.

(4) Ordered to active duty in support, as determined by the secretary concerned, of a critical mission or requirement of the uniformed services.

(5) Called into federal service as a member of the National Guard under Chapter 15 (commencing with Section 331) of Title 10 of the United States Code or under Section 3500 or 8500 of Title 10 of the United States Code.

Added by Stats 1996 ch 680 § 2 (SB 1877). Amended by Stats 1998 ch 965 § 105 (AB 2765); Stats 2004 ch 183 § 60 (AB 3082).

Amendments

1998 Amendment: Amended the introductory clause of the section by **(1)** substituting "subject to coverage under the Defined Benefit Program" for "covered by the plan"; and **(2)** adding "under this part".

2004 Amendment: Substituted "United States Code" for "United StatEd Code" at the end of subd (d)(3).

§ 22855. Factors triggering disqualification for benefits

A member of the Defined Benefit Program shall have no right to the benefits under this part otherwise accorded under this chapter in respect of service in the uniformed services upon the occurrence of any of the following events:

(a) A separation of the member from the uniformed service with a dishonorable or bad conduct discharge.

(b) A separation of the member from the uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the secretary concerned.

(c) A dismissal of the member permitted under Section 1161(a) of Title 10 of the United States Code.

(d) A dropping of the member from the rolls pursuant to Section 1161(b) of Title 10 of the United States Code.

Added by Stats 1996 ch 680 § 2 (SB 1877). Amended by Stats 1998 ch 965 § 106 (AB 2765).

Amendments

1998 Amendment: Amended the introductory clause of the section by adding **(1)** "of the Defined Benefit Program"; and **(2)** under this part".

§ 22856. Effect of adverse tax consequences

No provision of this chapter shall apply to the extent it would require any action to be taken that would cause the plan or its members under this part to incur adverse tax consequences under the Internal Revenue Code of 1986 (Title 26 of the United States Code).

Added by Stats 1996 ch 680 § 2 (SB 1877). Amended by Stats 1998 ch 965 § 107 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

CHAPTER 15. EMPLOYEE CONTRIBUTIONS

§ 22900. Consent for deductions

By accepting employment to perform creditable service, a person consents to make contributions pursuant to Section 22901 for service and compensation credited under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 154 (SB 2041); Stats 1998 ch 965 § 108 (AB 2765); Stats 2000 ch 1025 § 21 (AB 816); Stats 2001 ch 803 § 9 (SB 501).

Former Sections: Former § 22900, similar to present Ed C § 22800, was added Stats 1979 ch 787 § 23, and repealed Stats 1993 ch 893 § 1.

Former § 22900, similar to present Ed C § 22805, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 22.

Historical Derivation: Former Ed C § 22800.5, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted the section for the former section which read: "Acceptance of employment in a position requiring membership in the system is consent to have deductions from salary taken for the system."

1998 Amendment: Substituted "under the Defined Benefit Program" for "by the plan".

2000 Amendment: Substituted the section for the former section which read: "Acceptance of employment to perform creditable service subject to coverage under the Defined Benefit program is consent to have contributions deducted from compensation."

2001 Amendment: Added "to perform creditable service".

§ 22901. Contributions to retirement fund

(a) Each member of the Defined Benefit Program shall contribute to the retirement fund an amount equivalent to 8 percent of the member's creditable compensation.

(b) Notwithstanding Section 22905, any member contributions for service performed during the 2010-11 school year with a service period ending after December 31, 2010, shall be credited pursuant to subdivision (a).

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 155 (SB 2041); Stats 1997 ch 482 § 13 (SB 471); Stats 1998 ch 965 § 109 (AB 2765); Stats 2010 ch 207 § 9 (AB 2260), effective January 1, 2011.

Former Sections: Former § 22901, similar to present Ed C § 22801, was added Stats 1979 ch 787 § 25, amended Stats 1982 ch 279 § 5, Stats 1985 ch 975 § 1, Stats 1990 ch 1201 § 1, effective September 24, 1990, Stats 1992 ch 1272 § 1, and repealed Stats 1993 ch 893 § 1.

Former § 22901, relating to payment of unpaid contributions for military or Red Cross service, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 24.

Historical Derivation: Former Ed C § 22804, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 26.

Amendments

1996 Amendment: Substituted "the plan" for "this system".

1997 Amendment: Added "creditable" after "member's"

1998 Amendment: Substituted "Defined Benefit Program" for "plan".

2010 Amendment: Added **(1)** subdivision designation (a); and **(2)** subd (b).

§ 22901.3. Normal rate of contribution for state employees

(a) Notwithstanding Section 22901, the normal rate of contribution for a "state employee," as defined in subdivision (c) of Section 3513 of the Government Code, who is a member of the Defined Benefit Program, may be established by a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code. The memorandum of understanding shall be controlling without further legislative action, except that if the provisions of the memorandum of understanding require the expenditure of funds, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

(b) The Director of Human Resources may establish the normal rate of contribution for a state employee who is a member of the Defined Benefit Program who is excepted from the definition of "state employee" in subdivision (c) of Section 3513 of the Government Code, and an officer or employee of the executive branch of state government who is not a member of the civil service. The normal rate of contribution shall be the same for all members identified in this subdivision. The contribution rate shall be effective the beginning of the pay period indicated by the Director of Human Resources but shall be no earlier than the beginning of the pay period following the date the board receives notification.

Added Stats 2002 ch 14 § 7 (SB 728), effective March 21, 2002. Amended Stats 2012 ch 665 § 7 (SB 1308), effective January 1, 2013.

Editor's Notes—2011 Governor's Reorganization Plan No. 1 was submitted to the Legislature on June 9, 2011, and became effective September 9, 2011, pursuant to Gov C § 12080.5, and substantively operative July 1, 2012.

Stats 2012 ch 665 (SB 1308) enacts the statutory changes necessary to reflect the changes made by the Governor's Reorganization Plan No. 1 of 2011.

Amendments

2011 Amendment: Substituted "Department of Human Resources" for "Department of Personnel Administration" in the first and last sentences of subd (b).

2012 Amendment: Substituted "Director of Human Resources" for "Director of the Department of Personnel Administration" both times it appears in subd (b).

§ 22901.5. Crediting to account [Repealed]

Added Stats 2000 ch 74 § 45 (AB 1509). Amended Stats 2000 ch 1021 § 29 (AB 2700), repealed January 1, 2011 by its own terms. The repealed section related to crediting to account.

§ 22902. Computation of members' accumulated contributions

Members' accumulated retirement contributions and those other contributions required for credited service under this part shall be in the amounts required based on rates of contribution applicable for the years included in that period.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 110 (AB 2765).

Former Sections: Former § 22902, similar to present Ed C § 22803, was added Stats 1979 ch 787 § 27, amended Stats 1985 ch 975 § 2, Stats 1992 ch 1272 § 2, and repealed Stats 1993 ch 893 § 1.

Former § 22902, similar to present Ed C § 22909, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 26.

Historical Derivation: Former § 22805, as enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Added "under this part".

§ 22903. Pick–up of employee contributions towards retirement

Notwithstanding Sections 22901, 22956, and 23000, each school district, community college district, county board of education, and county superintendent of schools, may pick up, for the sole purpose of deferring taxes, as authorized by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the contributions required to be paid under this part by a member of the Defined Benefit Program, provided that the contributions are deducted from the creditable compensation of the member.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 44 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 156 (SB 2041); Stats 1997 ch 482 § 14 (SB 471); Stats 1998 ch 965 § 111 (AB 2765).

Former Sections: Former § 22903, similar to present Ed C § 22802, was added Stats 1979 ch 787 § 29 and repealed Stats 1993 ch 893 § 1.

Former § 22903, similar to present Ed C § 22808, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 28.

Historical Derivation: Former Ed C § 23000.1, as added Stats 1985 ch 1532 § 2.

Amendments

1994 Amendment: Added ", provided that the contributions are deducted from the salary of the member" at the end of the section.

1996 Amendment: Substituted "plan" for "State Teachers' Retirement System" after "made by members of the".

1997 Amendment: Substituted **(1)** "contributions required to be paid by a member" for "the employee's contributions toward retirement made by members"; before "all of the plan"; and **(2)** "creditable compensation" for "salary" near the end.

1998 Amendment: (1) Added "under this part"; and **(2)** substituted "Defined Benefit Program" for "plan".

§ 22904. Pick–up of member contributions by state through salary reduction program

Notwithstanding any other provision of law, the state may pick up all or a portion of the contributions required to be paid under this part by a state employee who is a member of the Defined Benefit Program, provided that the contributions are deducted from the creditable compensation of the member. The pickup of member contributions shall be through a salary reduction program pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)). These contributions shall be reported as employer–paid member contributions, and shall be credited to the account of the member.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 45 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 157 (SB 2041); Stats 1997 ch 482 § 15 (SB 471); Stats 1998 ch 965 § 112 (AB 2765).

Former Sections: Former § 22904, similar to present Ed C § 22810, was added Stats 1979 ch 787 § 31 and repealed Stats 1993 ch 893 § 1.

Former § 22904, similar to present Ed C § 22909, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 787 § 30.

Historical Derivation: Former Ed C § 23000.5, as added Stats 1985 ch 236 § 1.

Amendments

1994 Amendment: Added **(1)** ", provided that the contributions are deducted from the salary of the member" at the end of the first sentence; and **(2)** "of 1986 (26 U.S.C.A. Sec. 414(h)(2)" in the second sentence.

1996 Amendment: Amended the first sentence by **(1)** deleting "normal" after "or a portion of the"; and **(2)** substituting "plan" for "State Teachers' Retirement System" after "is a member of the".

1997 Amendment: Substituted "creditable compensation" for "salary" in the first sentence.

1998 Amendment: Amended the first sentence by **(1)** adding "under this part"; and **(2)** substituting "Defined Benefit Program" for "plan".

§ 22905. Contributions to be credited to Defined Benefit and Defined Benefit Supplement accounts; Pretax and posttax contributions (Operative date contingent)

(a) Member contributions pursuant to Section 22901, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Member and employer contributions, exclusive of contributions pursuant to Section 22951, on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for creditable service that exceeds one year in a school year.

(2) Compensation that is consistent with subdivision (b) of Section 22119.2.

(3) Compensation that is payable for a specified number of times as limited by law, a collective bargaining agreement, or an employment agreement.

(c) A member may not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program, except as provided in subdivision (d), nor may a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Member and employer contributions pursuant to paragraph (1) of subdivision (b) under the Defined Benefit Supplement Program shall be credited to the accounts of members as of July 1 each year following a determination by the system under the provisions of this part that those contributions should be credited to the Defined Benefit Supplement Program. Any other contributions under the Defined Benefit Supplement Program pursuant to paragraph (2) or (3) of subdivision (b), shall be credited to the individual account of the member upon receipt by the system. Contributions to a member's Defined Benefit Supplement account shall be identified separately from the member's contributions credited under the Defined Benefit Program.

(e) The provisions of this section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

Added Stats 2000 ch 1021 § 31 (AB 2700), operative date contingent. Amended Stats 2002 ch 115 § 2 (SB 1318) (ch 115 prevails), effective July 5, 2002, operative date contingent, ch 375 § 8 (AB 2982); Stats 2003 ch 859 § 15 (SB 627); Stats 2011 ch 703 § 6 (SB 349), effective January 1, 2012.

Former Sections: Former § 22905, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 2000 ch 1021 § 30, Stats 2002 ch 115 § 1, effective July 5, 2002, operative term contingent, and repealed, operative January 1, 2004, by its own terms.

Former § 22905, similar to present Ed C § 22809, was added Stats 1979 ch 787 § 32, and repealed Stats 1993 ch 893 § 1.

Amendments

2002 Amendment: Amended subd (a) by substituting **(1)** the comma for "and" after "Section 22901"; and **(2)** "Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909" for "Section 22903 and 22904".

2003 Amendment: (1) Amended subd (c) by substituting **(a)** "may not make" for shall not make"; and **(b)** "nor may a member" for "nor shall a member"; and **(2)** amended subd (d) by **(a)** adding "pursuant to paragraph (1) of subdivision (b)" in the first sentence; **(b)** substituting "July 1" for "June 30" in the first sentence; and **(c)** adding the second sentence.

2011 Amendment: Added ", exclusive of contributions pursuant to Section 22951," in the introductory clause of subd (b).

Historical Derivation: (a) Former § 22800, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 25, Stats 1986 ch 717 § 4.

(b) Former § 22905, as added Stats 1993 ch 893 § 2, amended Stats 2000 ch 1021 § 30, Stats 2002 ch 115 § 1.

§ 22906. Contributions for service for which no credit may be granted; Refund

A member's contributions that were made with respect to service that was erroneously credited under the Defined Benefit Program shall be returned to the member if the contributions for that service cannot be credited under the Defined Benefit Supplement Program pursuant to this part.

Added by Stats 2000 ch 74 § 47 (AB 1509), ch 1021 § 33 (AB 2700).

Former Sections: Former § 22906, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1996 ch 634 § 158, Stats 1998 ch 965 § 113, and repealed Stats 2000 ch 74 § 46, ch 1021 § 32.

Former § 22906, similar to present Ed C § 22804, was added Stats 1979 ch 787 § 33 and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22807, as enacted Stats 1976 ch 1010 § 2.

§ 22907. Adjustments due to change in recorded birth date

Accumulated retirement contributions credited under this part to the account of a member whose date of birth is changed in the records of the system after December 31, 1979, shall be adjusted to the proper amount based on the correct birth date by either of the following methods:

(a) A refund of the excess contributions plus credited interest from the end of the school year in which contributions were overpaid because of the incorrect birth date.

(b) Payment by the member of the contributions due to the plan under this part plus regular interest from the end of the school year in which the contributions were underpaid to the date of payment.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 159 (SB 2041); Stats 1998 ch 965 § 114 (AB 2765).

Former Sections: Former § 22907, similar to present Ed C § 22805, was added Stats 1979 ch 787 § 34, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 22806, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 520 § 2.

Amendments

1996 Amendment: (1) Added "retirement" after "Accumulated" at the beginning of the introductory clause; and **(2)** substituted "plan" for "system" after "contributions due the" in subd (b).

1998 Amendment: (1) Added "under this part" in the introductory clause; and **(2)** substituted "to the plan under this part" for "the plan" in subd (b).

§ 22908. Annuity deposit contributions for additional benefits

(a) Subject to rules prescribed by the board, any member may elect to make annuity deposit contributions for the purpose of providing additional retirement income. However, on and after January 1, 1983, the system shall not accept any annuity deposit contributions.

(b) Accumulated annuity deposit contributions may be withdrawn as provided in Section 23107.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 22908, similar to present § 22807, was added Stats 1979 ch 787 § 35, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 22809, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 101, Stats 1982 ch 279 § 4.

§ 22909. Payment of contributions by employer

(a) Notwithstanding Sections 22901, 22956, and 23000, an employer may pay all or a portion of the contributions required to be paid by a member of the Defined Benefit Program. Where the member is included in a group or class of employment, the payment shall be for all members in the group or class of employment. The payments shall be credited to member accounts pursuant to Section 22905. The employer shall report contributions to the system as if the member and the employer were paying the contributions in accordance with this part, notwithstanding this section. For purposes of this chapter, the member's contributions shall be considered to be the percentage of the member's creditable compensation that would have been paid pursuant to this chapter, notwithstanding this section. Notwithstanding Section 22119.2, contributions paid pursuant to this section may not be included in creditable compensation.

(b) Nothing in this section shall be construed to limit the authority of an employer to periodically increase, reduce, or eliminate the payment by the employer of all or a portion of the contributions required to be paid by members of the Defined Benefit Program, as authorized by this section.

(c) This section shall only apply to an employer that is picking up members' contributions pursuant to Section 22903 or 22904.

Added by Stats 2002 ch 115 § 3 (SB 1318), effective July 5, 2002.

Former Sections: Former § 22909, similar to present Ed C § 22808, was added Stats 1979 ch 787 § 36, amended Stats 1991 ch 543 § 8, and repealed Stats 1993 ch 893 § 1.

CHAPTER 16. EMPLOYER AND STATE CONTRIBUTIONS

§ 22950. Monthly contributions

(a) Employers shall contribute monthly to the system 8 percent of the creditable compensation upon which members' contributions under this part are based.

(b) From the contributions required under subdivision (a), there shall be deposited in the Teachers' Retirement Fund an amount, determined by the board, that is not less than the amount, determined in an actuarial valuation of the Defined Benefit Program pursuant to Section 22311.5, necessary to finance the liabilities associated with the benefits of the Defined Benefit Program over the funding period adopted by the board, after taking into account the contributions made pursuant to Sections 22901, 22951, and 22955.

(c) The amount of contributions required under subdivision (a) that is not deposited in the Teachers' Retirement Fund pursuant to subdivision (b) shall be deposited directly into the Teachers' Health Benefits Fund, as established in Section 25930, and shall not be deposited into or transferred from the Teachers' Retirement Fund.

(d)(1) Notwithstanding subdivisions (b) and (c), there may be deposited into the Teachers' Retirement Program Development Fund, as established in Section 22307.5, from the contributions required under subdivision (a), an amount determined by the board, not to exceed the limit specified in paragraph (2).

(2) The balance of deposits into the Teachers' Retirement Program Development Fund, minus the subsequent transfer of funds, with interest, into the Teachers' Retirement Fund pursuant to subdivision (e) of Section 22307.5, shall not exceed 0.01 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which member's contributions to the Defined Benefit Program are based.

(3) The deposits described in this subdivision shall not be deposited into, or transferred from, the Teachers' Retirement Fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 160 (SB 2041); Stats 1997 ch 482 § 16 (SB 471); Stats 1998 ch 965 § 115 (AB 2765); Stats 2000 ch 1032 § 1 (SB 1435); Stats 2001 ch 159 § 60 (SB 662); Stats 2006 ch 780 § 2 (AB 2462), effective January 1, 2007; Stats 2007 ch 130 § 55 (AB 299), effective January 1, 2008.

Historical Derivation: (a) Former Ed C § 23400, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 894 § 6.

(b) Former Ed C § 23400, as added Stats 1979 ch 282 § 11.

Amendments

1996 Amendment: Substituted "Employers" for "The school districts and other agencies employing members of the State Teachers' Retirement System" at the beginning.

1997 Amendment: Substituted "creditable compensation" for "salaries".

1998 Amendment: Added "under this part".

2000 Amendment: (1) Designated the former section to be subd (a); **(2)** substituted "system" for "Teachers' Retirement Fund" in subd (a); and **(3)** added subds (b) and (c).

2001 Amendment: Substituted "an" for "a" after "amount, determined in" in subd (b).

2006 Amendment: Added subd (d).

2007 Amendment: Amended subd (d)(2) by **(1)** substituting "Teachers' Retirement Program Development Fund" for "Teachers' Retirement Development Fund"; and **(2)** adding "to" after "Teachers' Retirement Fund pursuant".

Notes of Decisions

Decisions Under Former Ed C § 23400

Ed. Code, § 23401 et seq. (continuing appropriation of funds from General Fund to Teachers' Retirement Fund), do not violate the "one item" requirement of Cal. Const. art. IV, § 12, subd. (d), even though they were part of a measure appropriating money to multiple public entities in addition to the retirement fund, since the single purpose of the measure which included § 23401 et seq. was the restructuring of the public finance of local public entities in response to the enactment of Proposition 13 (Cal. Const., art XIIIA). An appropriation addressing the debt expense of unfunded pension liability was reasonably germane to this general purpose. In the circumstances presented by the adoption of Proposition 13, there was no constitutional flaw in enacting one complex appropriation measure which financed the services which were financially impaired. California Teachers Assn. v. Cory (1984, Cal App 3d Dist) 155 Cal App 3d 494, 202 Cal Rptr 611, 1984 Cal App LEXIS 2002.

Ed. Code, § 23401 et seq. (continuing appropriation of funds from General Fund to Teachers' Retirement Fund), imply a legislative intent to grant private rights of contract, since pension rights come within the domain of contracts, and since an offering of pension rights in return for employee services expresses an element of exchange and thereby implies that the rights will be private rights. It is a matter of indifference whether the consideration furnished by teachers runs to the state; what is essential is that reciprocal consideration is furnished to someone. Accordingly, a contract was established when the promise to permanently fund the retirement system embodied in § 23401 et seq. was accepted by teachers by initial or continued employment. California Teachers Assn. v. Cory (1984, Cal App 3d Dist) 155 Cal App 3d 494, 202 Cal Rptr 611, 1984 Cal App LEXIS 2002.

A legislative intent to grant contractual rights can be implied from a statute if it contains an unambiguous element of exchange of consideration by a private party for consideration offered by the state. Once an implied contract is demonstrated, it is of equal dignity with an express contract for purposes of the prohibition against impairment of contractual obligations. California Teachers Assn. v. Cory (1984, Cal App 3d Dist) 155 Cal App 3d 494, 202 Cal Rptr 611, 1984 Cal App LEXIS 2002.

§ 22951. Contribution of percentage of members' monthly salary (Sick leave service credit)

In addition to any other contributions required by this part, employers shall, on account of liability for benefits pursuant to Section 22717, contribute monthly to the Teachers' Retirement Fund 0.25 percent of the creditable compensation upon which members' contributions under this part are based.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 161 (SB 2041); Stats 1997 ch 482 § 17 (SB 471); Stats 1998 ch 965 § 116 (AB 2765), ch 967 § 2 (AB 2804), effective September 29, 1998; Stats 2000 ch 1025 § 22 (AB 816).

Historical Derivation: Former Ed C § 23400.1, as added Stats 1985 ch 1597 § 5, amended Stats 1990 ch 876 § 1.

Amendments

1996 Amendment: Substituted "employers" for "the school districts and other agencies employing members of the State Teachers' Retirement System" after "by this part,".

1997 Amendment: Substituted "creditable compensation" for "salaries".

1998 Amendment: Added ", on account of liability for benefits pursuant to Section 22717,". (As amended Stats 1998 ch 967, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

2000 Amendment: Added "under this part".

§ 22951.5. Increase in contribution rate (Supplemental Benefit Maintenance Account)

In addition to any other contributions required by this part, if the board determines that the Supplemental Benefit Maintenance Account will not have sufficient funds to make the maximum payment under this part pursuant to Section 24417, the board may increase the employer contribution rate as provided in Section 24416.

Added by Stats 1997 ch 939 § 2 (SB 1026). Amended by Stats 1998 ch 965 § 117 (AB 2765).

Amendments

1998 Amendment: Added "under this part" after "payment".

§ 22954. Continuous appropriation

(a) Notwithstanding Section 13340 of the Government Code, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund.

(b) Except as reduced pursuant to subdivision (c), the total amount of the appropriation for each year shall be equal to 2.5 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments authorized by Section 24415, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5.

(c) Beginning with the 2008-09 fiscal year, the appropriation in subdivision (b) shall be reduced in accordance with the following schedule:

2008–09	$66,386,000
2009–10	$70,000,000
2010–11	$71,000,000
2011–12 and each fiscal year thereafter	$72,000,000

(d) Transfers made to the Supplemental Benefit Maintenance Account, pursuant to subdivision (a) shall be made on October 15 and April 15 of each fiscal year with each payment to be 50 percent of the annual appropriation.

(e) Notwithstanding subdivision (d), for the 2010-11 fiscal year only, the transfer that would have been made pursuant to subdivision (d) on October 15, 2010, shall be made on November 15, 2010, and the transfer that would have been made pursuant to subdivision (d) on April 15, 2011, shall be made on March 14, 2011.

(f) The board may deduct from the annual appropriation made pursuant to this section an amount necessary for the administrative expenses of Section 24415.

(g) It is the intent of the Legislature in enacting this section to establish the supplemental payments pursuant to Section 24415 as vested benefits pursuant to a contractually enforceable promise to make annual contributions from the General Fund to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in order to provide a continuous annual source of revenue for the purposes of making the supplemental payments under Section 24415.

Added Stats 2000 ch 1021 § 35 (AB 2700). Amended Stats 1st Ex Sess 2003–2004 ch 6 § 2 (SB 20X), effective May 5, 2003, operative date contingent; Stats 3rd Ex Sess 2007–2008 ch 6 § 1 (AB 8XXX), effective February 16, 2008; Stats 2008 ch 751 § 5 (AB 1389), effective September 30, 2008; Stats 2009–2010 8th Ex Sess ch 1 § 1 (AB 5XXXXXXXX), effective March 1, 2010; Stats 2010 ch 713 § 2 (AB 1624), effective October 8, 2010.

Editor's Notes—This section, as amended by Stats 2009-2010 8th Ex Sess ch 1 § 1, effective March 1, 2010 until October 8, 2010, read: "(a) Notwithstanding Section 13340 of the Government Code, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund.

"(b) Except as reduced pursuant to subdivision (c), the total amount of the appropriation for each year shall be equal to 2.5 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments authorized by Section 24415, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5.

"(c) Beginning with the 2008–09 fiscal year, the appropriation in subdivision (b) shall be reduced in accordance with the following schedule:

"2008-09 ..... $66,386,000
"2009-10 ..... $70,000,000
"2010-11 ..... $71,000,000
"2011-12 and each fiscal year thereafter $72,000,000

"(d) Transfers made to the Supplemental Benefit Maintenance Account, pursuant to subdivision (a) shall be made on October 15 and April 15 of each fiscal year with each payment to be 50 percent of the annual appropriation.

"(e) The board may deduct from the annual appropriation made pursuant to this section an amount necessary for the administrative expenses of Section 24415.

"(f) It is the intent of the Legislature in enacting this section to establish the supplemental payments pursuant to Section 24415 as vested benefits pursuant to a contractually enforceable promise to make annual contributions from the General Fund to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in order to provide a continuous annual source of revenue for the purposes of making the supplemental payments under Section 24415."

Former Sections: Former § 22954, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1997 ch 482 § 19, Stats 1998 ch 965 § 119, and repealed Stats 1998 ch 1006 § 4.

Historical Derivation: Former Ed C § 23400.4, as added Stats 1989 ch 115 § 3.

Amendments

2003 Amendment (ch 6x1): (1) Designated the former second sentence of subd (a) to be subd (b); **(2)** added the second sentence of subd (b); and **(3)** redesignated former subds (b)–(d) to be subds (c)–(e).

2008 Amendment (ch 6x3): (1) Deleted "commencing July 1, 2003," after "Government Code," in subd (a); **(2)** deleted the last sentence in subd (b) which read: "However, for the 2003–04 fiscal year only, that appropriation is reduced by five hundred million dollars ($500,000,000)."; **(3)** added subd (c); **(4)** redesignated former subds (c) and (d) to be subds (d) and (e); and **(5)** deleted former subd (e) which read: "(e) This section shall become operative on July 1, 2003, if the revenue limit cost–of–living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2004.".

2008 Amendment (ch 751): (1) Amended subd (b) by adding **(a)** "Except as reduced pursuant to subdivision (c),"; and **(b)** ", as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5"; **(2)** added subd (c); **(3)** redesignated former subds (c)–(e) to be subds (d)–(f); and **(4)** substituted "shall be made on November 1 and April 1 of each fiscal year" for ", for the 2008-09 fiscal year, shall be made on November 1, 2008" in subd (d).

2010 Amendment (ch 1x8): Substituted "October 15 and April 15 of each fiscal year with each payment to be 50 percent of the annual appropriation" for "November 1 and April 1 of each fiscal year" in subd (d).

2010 Amendment (ch 713): (1) Added subd (e); and **(2)** redesignated former subds (e) and (f) to be subds (f) and (g).

Notes of Decisions

1. Generally

Both the plain language of Ed C § 22954 and the legislative history indicate that Assem. Bill. No. 1102 contractually obligates the State to make an annual contribution of 2.5 percent of creditable compensation into the California Teachers' Retirement Fund's Supplemental Benefit Maintenance Account (SBMA), and reducing the income stream available to pay the supplemental benefits by $500 million through Senate Bill 20 (SB 20) increases the risk to California State Teachers' Retirement System members that the SBMA funds will be insufficient to make the supplemental benefit payments in the future. Because SB 20 does not compensate the members for this increased risk or provide a comparable new advantage in place of the $500 million, SB 20 impairs the contractual rights bestowed by Assem. Bill. No. 1102 in violation of the state and federal constitutions. Teachers' Retirement Bd. v. Genest (2007, 3d Dist) 154 Cal App 4th 1012, 65 Cal Rptr 3d 326, 2007 Cal App LEXIS 1438, review denied Teachers' Retirement Board v. Genest (2007, Cal.) 2007 Cal. LEXIS 13040.

§ 22954.1. Quadrennial evaluation; Report to Legislature on system's ability to provide purchasing power protection; Appropriation (Inoperative July 1, 2036; Repealed January 1, 2037) (Supplemental Benefit Maintenance Account)

(a) Consistent with a process it establishes pursuant to subdivision (e), the board shall periodically adopt an actuarial projection regarding the ability of the system to continue providing, over a term to be established by the board, the purchasing power protection that is, at the time of the projection, being provided from the funds of the Supplemental Benefit Maintenance Account.

(b) If the board, in adopting the actuarial projection described in subdivision (a), determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be more than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be sustainable over that term from these contributions and other sources of income.

(c) If the board, in adopting the actuarial projection described in subdivision (a), determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be less than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be sustainable over that term from these contributions and other sources of income.

(d) It is the intent of the Legislature that the board shall adopt the projections and determinations described in subdivisions (a), (b), and (c) pursuant to its powers and responsibilities under Section 17 of Article XVI of the California Constitution, including, but not limited to, the board's fiduciary responsibility to the system's participants and their beneficiaries and the board's sole and exclusive power to provide for actuarial services of the system. Therefore, in its adoption of the projections and determinations required in subdivisions (a), (b), and (c), the board may utilize any actuarial assumptions, methods, and standards that it deems appropriate to determine the level of purchasing power protection benefits that it expects can be sustained over the term established by the board by funds of the Supplemental Benefit Maintenance Account.

(e) The board shall determine the frequency and timing of its adoption of the actuarial projection described in subdivision (a) in regulations that it adopts pursuant to subdivision (e) of Section 24415.5.

(f) The board shall promptly provide to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the Senate Committee on Public Employment and Retirement and the Assembly Committee on Public Employees, Retirement and Social Security, and the Legislative Analyst a summary of its actuarial projections and other determinations, as adopted pursuant to subdivisions (a), (b), and (c). The report shall include a description of any adjustments of benefits made pursuant to Section 24415.5.

Added Stats 1st Ex Sess 2003–2004 ch 6 § 3 (SB 20X), effective May 5, 2003, operative until July 1, 2036. Amended Stats 2008 ch 751 § 6 (AB 1389), effective September 30, 2008.

Amendments

2008 Amendment: Substituted the section for the former section which read:

"(a) Beginning in 2006, and every four years thereafter, the board shall, based on an actuarial valuation approved by the board, report to the Legislature and the Director of Finance regarding the anticipated ability of the system to provide the purchasing power protection contemplated by Chapter 840 of the Statutes of 2001 during each year until June 30, 2036. The actuarial valuation shall take into consideration all expected contributions to the Supplemental Benefit Maintenance Account, expected expenditures from the account, and expected investment returns.

"(b) On July 30 of the calendar year following any calendar year in which the board, as a result of the quadrennial valuation required by subdivision (a), reports that the funds in the Supplemental Benefit Maintenance Account will be insufficient in any fiscal year before July 1, 2036, to provide the purchasing power protection contemplated by Chapter 840 of the Statutes of 2001, there is hereby appropriated from the General Fund to the Controller the amount necessary to provide that purchasing power protection, as determined by the actuary, taking into consideration all expected contributions to the Supplemental Benefit Maintenance Account, expected expenditures from the account, and expected investment returns, and subject to the limitation in subdivision (c). The amount appropriated pursuant to this section shall be transferred by the Controller to the Supplemental Benefit Maintenance Account upon certification of the amount by the Director of Finance.

"(c) The aggregate amount of funds appropriated pursuant to subdivision (b) is limited to an amount equal to five hundred million dollars ($500,000,000) adjusted by the actual rate of return on funds in the Supplemental Benefit Maintenance Account from July 1, 2003, after taking into account any amount previously appropriated pursuant to subdivision (b). In calculating this limit, the sum of five hundred million dollars ($500,000,000) shall be treated as an initial principal amount, and this amount shall be adjusted at the end of each fiscal year based on the actual investment return of the Supplemental Benefit Maintenance Account during the preceding fiscal year and shall be reduced by any amounts appropriated pursuant to subdivision (b) as of the date of the transfer.

"(d) This section shall become inoperative on July 1, 2036, and, as of January 1, 2037, is repealed, unless a later enacted statute that is enacted before January 1, 2037, deletes or extends the dates on which it becomes inoperative and is repealed."

Notes of Decisions

1. Generally

Ed C § 22954.1 merely substitutes an obligation to make a fixed payment with a conditional promise to make a deferred payment for a limited period of time. The replacement of an express obligation to pay a fixed sum of money with a promise to pay the sum if one proves one needs it and, even then, only if one needs it before a specific date, is not a comparable new advantage. Teachers' Retirement Bd. v. Genest (2007, 3d Dist) 2007 Cal App LEXIS 1438.

§ 22954.5. Additional appropriations for Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund

(a) In addition to the amounts appropriated for transfer to the Supplemental Benefit Maintenance Account in Section 22954, there is hereby appropriated from the General Fund to the Controller for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund the following amounts in each of the specified fiscal years, as follows:

2009-10	$56,979,949
2010-11	$56,979,949
2011-12	$56,979,949
2012-13	$56,979,949

(b) It is the intent of the Legislature that the annual Budget Act for each of the fiscal years described in subdivision (a) display the amounts listed above in Item 1920-011-0001 as an informational item, along with other estimated amounts required to be transferred from the General Fund to the Teachers' Retirement Fund pursuant to Sections 22954 and 22955. In the reports, calculations, and schedules that the system submits pursuant to Section 22955.5 for the purpose of informing the Department of Finance, the Legislature, and the Controller of the state's appropriations pursuant to Sections 22954 and 22955 in each of the fiscal years listed in subdivision (a), the system shall also include the amounts appropriated for transfer to the Supplemental Benefit Maintenance Account in subdivision (a). Upon appropriation, the amounts listed in subdivision (a) may be transferred on or after July 1 in each of the fiscal years indicated.

(c) The appropriation in subdivision (a) fulfills the intent of the Legislature described in Chapter 59 of the Statutes of 2008 to pay interest on the judgment in the case of Teachers' Retirement Board v. Genest and Chiang, Sacramento County Superior Court Case No. 03CS01503.

Added Stats 2008 ch 751 § 8 (AB 1389), effective September 30, 2008.

Former Sections: Former § 22954.5, relating to reduction in contributions, was added Stats 1997 ch 939 § 3 and repealed Stats 2008 ch 751 § 7, effective September 30, 2008.

§ 22955. Transfer to retirement fund (Continuous appropriation)

(a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 2003, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.017 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5, and shall be divided into four equal payments. The payments shall be made on, or the following business day after, July 1, October 1, December 15, and April 15 of each fiscal year.

(b) Notwithstanding Section 13340 of the Government Code, commencing October 1, 2003, a continuous appropriation, in addition to the appropriation made by subdivision (a), is hereby annually made from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 0.524 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5, and shall be divided into four equal quarterly payments. The percentage shall be adjusted to reflect the contribution required to fund the normal cost deficit or the unfunded obligation as determined by the board based upon a recommendation from its actuary. If a rate increase is required, the adjustment may be for no more than 0.25 percent per year and in no case may the transfer made pursuant to this subdivision exceed 1.505 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based. At any time when there is neither an unfunded obligation nor a normal cost deficit, the percentage shall be reduced to zero. The funds transferred pursuant to this subdivision shall first be applied to eliminating on or before June 30, 2027, the unfunded actuarial liability of the fund identified in the actuarial valuation as of June 30, 1997.

(c) For the purposes of this section, the term "normal cost deficit" means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22311 and the total of the member contribution rate required under Section 22901 and the employer contribution rate required under Section 22950, and shall exclude (1) the portion for unused sick leave service credit granted pursuant to Section 22717, and (2) the cost of benefit increases that occur after July 1, 1990. The contribution rates prescribed in Section 22901 and Section 22950 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the creditable compensation upon which member contributions under this part are based to determine the dollar amount of the normal cost deficit for the year.

(d) Pursuant to Section 22001 and case law, members are entitled to a financially sound retirement system. It is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.

(e) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the contractual obligations determined by the court in California Teachers' Association v. Cory, 155 Cal.App.3d 494.

(f) Subdivision (b) shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or change in contribution rate under this part that occurs after July 1, 1990.

(g) The provisions of this section shall be construed and implemented to be in conformity with the judicial intent expressed by the court in California Teachers' Association v. Cory, 155 Cal.App.3d 494.

(h) This section shall become operative on July 1, 2003, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001-02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2004.

Added Stats 2000 ch 1021 § 37 (AB 2700), operative date contingent. Amended Stats 2008 ch 751 § 9 (AB 1389), effective September 30, 2008; Stats 2009–2010 8th Ex Sess ch 1 § 2 (AB 5XXXXXXXX) (ch 1 prevails), effective March 1, 2010; Stats 2010 ch 207 § 10 (AB 2260), effective January 1, 2011.

Former Sections: Former § 22955, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1997 ch 482 § 20, Stats 1998 ch 967 § 4, effective September 29, 1998, Stats 1999 ch 939 § 55, Stats 2000 ch 1021 § 36, and repealed, January 1, 2005, by its own terms.

Amendments

2008 Amendment: Substituted **(1)** "as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5" for "to be calculated on October 1" in subd (a); and **(2)** "as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5," for "to be calculated annually on October 1" in the second sentence of subd (b).

2010 Amendment: (1) Amended the second sentence of subd (a) by deleting **(a)** "and" after "contributions are based,"; and **(b)** "quarterly" after "into four equal"; and **(2)** added the last sentence of subd (a).

§ 22955.5. "Creditable compensation"

(a) For purposes of Sections 22954 and 22955, "creditable compensation" shall include only creditable compensation for which member contributions are credited under the Defined Benefit Program.

(b) On or after October 1 and on or before October 25 of each year, beginning in 2008, the board shall calculate the total amount of creditable compensation for the fiscal year that ended on the immediately preceding June 30. For the purpose of informing the Department of Finance and the Legislature of the amount of the state' s appropriations pursuant to Sections 22954 and 22955 in the next fiscal year, the system shall immediately submit a report that includes this calculation to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst.

(c) After submission of the report described in subdivision (b), on or before the April 15 after submission of the report described in subdivision (b), the system shall notify the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst of any revisions in its calculation of the total amount of creditable compensation for the fiscal year that ended on the immediately preceding June 30.

(d) The last revised calculation submitted pursuant to subdivision (c) on or before April 15 of each year or, if no such revised calculation is submitted, the calculation in the report submitted pursuant to subdivision (b) shall be the calculation of creditable compensation upon which the state's appropriations pursuant to Sections 22954 and 22955 will be based in the next fiscal year. On or after April 15 and on or before May 1 of each year, the system shall submit to the Controller a copy of this calculation, along with a requested schedule of transfers to be made pursuant to the appropriations in Sections 22954 and 22955 in the next fiscal year beginning on the next July 1. The system shall also provide a copy of this schedule to the Director of Finance and the Legislative Analyst.

Added Stats 2000 ch 1021 § 38 (AB 2700). Amended Stats 2008 ch 751 § 10 (AB 1389), effective September 30, 2008.

Amendments

2008 Amendment: (1) Designated the former section to be subd (a); and **(2)** added subds (b)-(d).

§ 22956. Allocation of employer and state contributions

Employer and state contributions made to the plan pursuant to this part for service credited under the Defined Benefit Program shall not be credited to the individual member accounts. These contributions shall be held in the reserves of the plan to finance the employers' share of the cost of all benefits payable under the plan with respect to the Defined Benefit Program. Under no circumstances shall these employer and state contributions be allocated or awarded to individual members, their spouses, or beneficiaries.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 164 (SB 2041); Stats 1998 ch 965 § 120 (AB 2765); Stats 2000 ch 1025 § 23 (AB 816).

Historical Derivation: (a) Former Ed C § 23404, as enacted Stats 1976 ch 1010 § 2.
(b) Former Ed C § 23404, as added Stats 1979 ch 282 § 11.

Amendments

1996 Amendment: (1) Substituted "plan" for "system" wherever it appears; **(2)** substituted "under the plan" for "by the system" at the end of the second sentence; and **(3)** deleted "retirants," after "individual members," in the third sentence.

1998 Amendment: (1) Amended the first sentence by **(a)** adding "under this part"; **(b)** substituting "Defined Benefit Program" for "plan"; and **(c)** substituting "member accounts" for "accounts of the members of the plan" at the end; and **(2)** added "with respect to the Defined Benefit Program" in the second sentence.

2000 Amendment: (1) Amended the first sentence by **(a)** substituting "pursuant to this part for service credited under" for "under this part are to finance the employer obligation for all members of"; and **(b)** deleting "and, therefore," after "Program"; and **(2)** substituted "these employer and state for "employer" in the last sentence.

CHAPTER 17. EMPLOYER COLLECTION AND REPORTING PROCEDURES

§ 23000. Mandatory deductions and payments

Each employer shall deduct from the creditable compensation of members employed by the employer the member contributions required by this part and shall remit to the system those contributions plus the employer contributions required by this part and Section 44987.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 165 (SB 2041); Stats 1997 ch 482 § 21 (SB 471).

Former Sections: Former § 23000, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1980 ch 244 § 3, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted the section for the former section which read: "The governing board of each school district, the county superintendent of schools, the county auditor, and any other employing department or agency shall deduct from the salary of employee members of this system the contributions required by this part and shall pay to the system those contributions plus the employer contributions required by this part and Section 44987."

1997 Amendment: Substituted **(1)** "creditable compensation of members" for "salary of members of the plan" after "deduct from the"; and **(2)** "system" for "plan" after "remit to the".

§ 23001. Requisitions for contributions

Each county superintendent, district superintendent, chancellor of a community college district, or other employing agency that reports directly to the system shall draw requisitions for contributions required by Sections 22901 and 22950 in favor of the State Teachers' Retirement System, and the requisitions, when allowed and signed by the county auditor, shall constitute a warrant against the county treasury. The county superintendent, district superintendent, chancellor of a community college district, or other employing agency thereupon shall forward the warrants to the board in the system's headquarters office, as established pursuant to Section 22375. The amounts received shall be deposited immediately in the State Treasury to the Teachers' Retirement Fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 166 (SB 2041); Stats 2000 ch 1025 § 24 (AB 816); Stats 2005 ch 351 § 14 (AB 224), effective January 1, 2006.

Former Sections: Former § 23001, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "Each" for "The" before "county superintendent" at the beginning of the first sentence.

2000 Amendment: (1) Substituted ", district superintendent, chancellor of a community college district, or other employing agency that reports directly to the system shall draw" for "shall draw his or her" in the first sentence; and **(2)** added ", district superintendent, chancellor of a community college district, or other employing agency" in the second sentence.

2005 Amendment: Substituted "the system's headquarters office, as established pursuant to Section 22375." for "Sacramento.".

§ 23002. When contributions are due and payable and delinquent

Member and employer contributions required by this part and Section 44987 are due in the office of the system five working days immediately following the period covered by the monthly report upon which the compensation earned during the period is being reported and from and upon which the contributions are due. Payments shall be delinquent on the sixth working day thereafter and regular interest on delinquent payments shall begin to accrue as of that day. The board shall authorize estimated payments of not less than 95 percent of the contributions due, and, in that case, the balance of contributions payable shall be due in the office of the system no more than 15 working days following the period covered by the monthly report upon which the contributions are based. This additional payment shall be delinquent on the 16th working day thereafter, and regular interest shall begin to accrue as of that day.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1997 ch 482 § 22 (SB 471).

Former Sections: Former § 23002, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 931 § 1, effective September 20, 1978, Stats 1980 ch 244 § 4, Stats 1982 ch 279 § 6 and repealed Stats 1993 ch 893 § 1.

Amendments

1997 Amendment: Substituted "compensation" for "salaries" before "earned" in the first sentence.

§ 23002.5. Contributions for year–round or continuous school programs

Member and employer contributions from school districts conducting a year–round school operation or a continuous school program shall be reported as part of the school year in which the service began.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 23002.1, as added Stats 1990 ch 560 § 6.

§ 23003. Assessment of penalties; Interest charges

(a) If a county superintendent of schools or employing agency or school district or community college district that reports directly to the system fails to make payment of contributions as provided in Section 23002, the board shall, in accordance with regulations, assess penalties.

(b) The board shall, in accordance with regulations, charge regular interest on any delinquent contributions under this part.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1998 ch 965 § 121 (AB 2765); Stats 1999 ch 939 § 56 (SB 1074); Stats 2009 ch 249 § 5 (AB 654), effective January 1, 2010.

Former Sections: Former § 23003, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1982 ch 279 § 7, and repealed Stats 1993 ch 893 § 1.

Amendments

1998 Amendment: Substituted "under this part until the contributions have been received by" for "until they have been paid to" in subd (b).

1999 Amendment: (1) Amended subd (a) by **(a)** substituting "or" for "other than a" after "employing agency"; and **(b)** adding "that reports directly to the system"; and **(2)** deleted "until the contributions have been received by the system" at the end of subd (b).

2009 Amendment: Substituted "shall, in accordance with regulations," for "may" in subds (a) and (b).

§ 23004. Monthly reports

The county superintendent of schools or employing agency shall, or a school district or community college district may, with approval of the board, submit a report monthly to the system containing information as the board may require in the administration of the plan. That monthly report shall be submitted electronically in an encrypted format provided by the system that ensures the security of the transmitted member data.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 167 (SB 2041); Stats 1999 ch 939 § 57 (SB 1074); Stats 2006 ch 655 § 17 (SB 1466), effective January 1, 2007.

Former Sections: Former § 23004, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "plan" for "system" after "administration of the".
1999 Amendment: Substituted **(1)** "shall, or a school district or" for "other than a school district or a county or"; and **(2)** "may, with approval of the board, submit" for "shall make".
2006 Amendment: (1) Deleted "such" after "the system containing"; and **(2)** added the last sentence.

§ 23005. When monthly reports are due and delinquent

Monthly reports are due in the office of the system 30 calendar days immediately following the month in which the compensation being reported under this part was earned, and are delinquent 15 calendar days immediately thereafter.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1997 ch 482 § 23 (SB 471); Stats 1998 ch 965 § 122 (AB 2765).

Former Sections: Former § 23005, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1997 Amendment: Substituted "compensation" for "salary" after "which the".
1998 Amendment: Added "under this part".

§ 23006. Assessment of penalties for late or unacceptable reports

(a) If a county superintendent of schools or employing agency or school district or community college district that reports directly to the system, submits monthly reports, as specified by Section 23004, late, as defined in Section 23005, or in unacceptable form, the board shall, in accordance with regulations, assess penalties.
(b) The board shall, in accordance with regulations, assess penalties, based on the sum of the employer and employee contributions required under this part by the report, for late or unacceptable submission of reports, at a rate of interest equal to the regular interest rate.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1998 ch 965 § 123 (AB 2765); Stats 1999 ch 939 § 58 (SB 1074); Stats 2009 ch 249 § 6 (AB 654), effective January 1, 2010; Stats 2011 ch 703 § 7 (SB 349), effective January 1, 2012.

Former Sections: Former § 23006, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 102, effective April 29, 1977, operative April 30, 1977, Stats 1982 ch 279 § 8, and repealed Stats 1993 ch 893 § 1.

Amendments

1998 Amendment: Added "under this part" in subd (b).

1999 Amendment: Amended subd (a) by **(1)** substituting "or" for "other than a" after "employing agency"; and **(2)** adding "that reports directly to the system,".

2009 Amendment: (1) Substituted ", as specified by Section 23004, late, as defined in Section 23005," for "late" in subd (a); **(2)** substituted "shall, in accordance with regulations," for "may" in subds (a) and (b); and **(3)** added the comma after "by the report" in subd (b).

2011 Amendment: Deleted "or a fee of five hundred dollars ($500), whichever is greater" at the end of subd (b).

Cross References: Payment of expenses, necessary for compliance with this section, from county general fund: Ed C § 1510.

§ 23007. Failure of county superintendent to make payment of assessments

If any county superintendent, district superintendent, chancellor of a community college district, or other employing agency that reports directly to the system fails to make payment of any assessment by the board, the Controller shall, upon order of the board, withhold subsequent payments from the State School Fund to the county for deposit in the county school service fund or, upon the request of a county superintendent of schools to the county auditor, he or she shall withhold payments to a school district for deposit in the district general fund until the contributions and report are received in acceptable form in the office of the system and the board directs the Controller to make those payments, less the amount of the assessments to the county that would have been paid had no payments been withheld. The Controller shall then pay to the system the amount of the assessments withheld for deposit in the State Treasury to the Teachers' Retirement Fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 2012 ch 864 § 10 (AB 2663), effective January 1, 2013.

Former Sections: Former § 23007, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

2012 Amendment: (1) Amended the first sentence by **(a)** substituting "If any county superintendent, district superintendent, chancellor of a community college district, or other employing agency that reports directly to the system fails" for "Should any county superintendent fail"; and **(b)** adding the comma after "those payments"; and **(2)** substituted "then pay" for "thereupon pay" in the second sentence.

§ 23008. Adjustment for incorrect contributions; Penalty

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

(b) The board shall, in accordance with regulations, assess penalties for late or improper adjustments pursuant to Section 23006. These penalties shall be no more than the regular interest as defined in Section 22162. The penalty so assessed shall be deemed interest earned in the year in which it was received.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 507 § 3 (AB 2647); Stats 1996 ch 634 § 169 (SB 2041); Stats 1997 ch 482 § 24 (SB 471); Stats 2000 ch 1025 § 25 (AB 816); Stats 2009

ch 249 § 7 (AB 654), effective January 1, 2010; Stats 2010 ch 207 § 11 (AB 2260), effective January 1, 2011.

Former Sections: Former § 23008, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 314 § 1, Stats 1980 ch 244 § 5, and repealed Stats 1993 ch 893 § 1.

Amendments

1994 Amendment: Added "and any refunds shall be made to the member within the same time period by the employing agency" at the end of subd (a).

1996 Amendment: (1) Substituted "plan" for "system" after "paid to the" in subd (a), and after "reimburse the" in the first sentence of subd (c); **(2)** substituted "Section 22162" for "Section 22142" in the second sentence of subd (b); and **(3)** amended the first sentence of subd (c) by adding **(a)** "from the plan" after "disburses funds"; and **(b)** "erroneous" after "amount of the".

1997 Amendment: (1) Amended subd (a) by substituting **(a)** "system" for "plan" after "paid to the"; and **(b)** "payment of creditable compensation" for "salary plan"; **(2)** added "pursuant to Section 23006" in subd (b); and **(3)** amended the first sentence of subd (c) by substituting **(a)** "the Teacher's Retirement Fund" for "the plan"; and **(b)** "retirement fund" for "plan" after "reimburse the".

2000 Amendment: (1) Added "on a monthly report," in subd (a); **(2)** added ", district superintendent, chancellor of a community college district," in subds (a) and (c); and **(3)** substituted "who submitted the report, within 60 days after discovery or" for "on a monthly report within 60 days of discovery or of" in subd (a).

2009 Amendment: Substituted **(1)** "shall, in accordance with regulations," for "may" in the first sentence of subd (b); and **(2)** "Teachers' Retirement Fund" for "Teacher's Retirement Fund" in the first sentence of subd (c).

2010 Amendment: Deleted former subd (c) which read: "(c) If a required report contains erroneous information and the system, acting in good faith, disburses funds from the Teachers' Retirement Fund based on that information, the county superintendent, district superintendent, chancellor of a community college district, or other employing agency who submitted the report shall reimburse the retirement fund in full for the amount of the erroneous disbursement. Reimbursement shall be made immediately upon notification by the system."

§ 23009. Adjustment with interest

The board, if in the interest of the plan, may, in connection with adjustments to the required contributions referred to in Section 23008, receive or make payments directly from or to the member or beneficiary with interest.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 170 (SB 2041).

Former Sections: Former § 23009, similar to present Ed C § 24615, was added Stats 1979 ch 520 § 3 and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23008.1, as added Stats 1978 ch 314 § 2.

Amendments

1996 Amendment: Substituted "plan" for "system" after "interest of the".

§ 23010. Appeal of assessed penalties or interest

A person or entity that reports directly to the system that is assessed penalties or interest pursuant to Section 23003, 23006, or 23008 may appeal the assessed penalties or interest subject to the appeals process established pursuant to Section 22219.

Added Stats 2009 ch 249 § 8 (AB 654), effective January 1, 2010.

Former Sections: Former § 23010, similar to present Ed C §24616, was added Stats 1976 ch 1010 § 2, amended Stats 1977 ch 659 § 7, Stats 1979 ch 373 § 66, and repealed Stats 1993 ch 893 § 1.

CHAPTER 18. REFUND OF CONTRIBUTIONS

§ 23100. Payment on certain terminations (Contributions to be refunded)

(a) Upon termination of employment, a member may elect to be paid, pursuant to this part, each of the following:

(1) The member's accumulated retirement contributions made after June 30, 1935.

(2) The member's accumulated annuity deposit contributions.

(3) An amount equal to the balance of credits in the member's Defined Benefit Supplement account.

(b) Accumulated retirement contributions and accumulated annuity deposit contributions shall include credited interest through the date of payment.

(c) Accumulated retirement contributions shall be reduced by the amount of retirement or disability benefits paid to a member pursuant to this part.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 2000 ch 74 § 48 (AB 1509); Stats 2011 ch 703 § 8 (SB 349), effective January 1, 2012.

Former Sections: Former § 23100, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 977 ch 36 § 103, effective April 29, 1977, operative April 30, 1977, Stats 1978 ch 870 § 11, operative July 1, 1979, Stats 1979 ch 520 § 4, Stats 1986 ch 717 § 5, and repealed Stats 1993 ch 893 § 1.

Amendments

2000 Amendment: (1) Amended the introductory clause of subd (a) by **(a)** adding ", disability,"; and **(b)** substituting "each" for "both"; **(2)** added "member's" in subds (a)(1) and (a)(2); **(3)** added subd (a)(3); and **(4)** amended subd (b) by adding **(a)** "retirement"; and **(b)** "and accumulated annuity deposit contributions shall".

2011 Amendment: (1) Substituted "termination of employment, a member may elect to be paid" for "the termination of a member's employment by any cause other than death, disability, or retirement there shall be paid to the member" in the introductory clause of subd (a); and **(2)** added subd (c).

§ 23101. Forfeiture of rights to service credit benefit

(a) When a member's accumulated retirement contributions are refunded, as provided in Section 23100, all rights to benefits pertaining to the service credit represented by those contributions under this part are forfeited. Those rights and benefits, based upon service performed prior to refund, shall not be restored until the member has redeposited the total of the refunded accumulated retirement contributions, and paid the regular interest thereon as provided in Chapter 19 (commencing with Section 23200).

(b) In addition to the rights and benefits described in subdivision (a), any beneficiary designation made by a member pursuant to Chapter 20 (commencing with Section 23300) and Chapter 28 (commencing with Section 24300) under this part shall be invalidated upon the refund of the member's accumulated retirement contributions.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 171 (SB 2041); Stats 1998 ch 965 § 124 (AB 2765); Stats 2011 ch 703 § 9 (SB 349), effective January 1, 2012.

Former Sections: Former § 23101, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Amended the first sentence by substituting **(a)** "accumulated retirement contributions are refunded" for "contributions are returned to him or her" near the beginning; and **(b)** "credit" for "credits" after "to the service"; and **(2)** added "accumulated retirement" after "of the refunded" in the second sentence.
1998 Amendment: Added "under this part" in the first sentence.
2011 Amendment: Added **(1)** subdivision designation (a); and **(2)** subd (b).

§ 23102. Certification of termination of employment

Prior to the system paying a refund of accumulated retirement contributions under this part, the employer shall certify that the member's employment has been terminated unless the employment was terminated 12 months or more prior to the date the member signed the refund application.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 172 (SB 2041); Stats 1998 ch 965 § 125 (AB 2765); Stats 2000 ch 1025 § 26 (AB 816).

Former Sections: Former § 23102, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "accumulated retirement contributions, the employer" for "contributions, the employer or superintendent of schools".
1998 Amendment: Added "under this part".
2000 Amendment: Added "unless the employment was terminated 12 months or more prior to the date the member signed the refund application"

§ 23103. Request for refund

Refunds to a member shall be made upon request of the member on a properly executed form prescribed by the system, or may be made without a request if it is determined by the board that the member's employment is permanently terminated and the member does not have enough credited service under the Defined Benefit Program to qualify for service retirement under this part.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 173 (SB 2041); Stats 1998 ch 965 § 126 (AB 2765); Stats 2011 ch 703 § 10 (SB 349), effective January 1, 2012.

Former Sections: Former § 23103, relating to deduction of administrative expenses, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "plan" for "system" after "service under the".
1998 Amendment: Substituted "credited service under the Defined Benefit Program to qualify for service retirement under this part" for "service under the plan to qualify for receipt of a retirement benefit".
2011 Amendment: (1) Added "on a properly executed form prescribed by the system"; and **(2)** substituted "is determined by" for "appears to".
Historical Derivation: Former § Ed C 23105, as enacted Stats 1976 ch 1010 § 2.

§ 23104. Mailing and cancellation of warrant refunding contributions

(a) Deposit in the United States mail of an initial warrant drawn as directed by the member as a refund of contributions upon termination of employment, and addressed to the address directed by the member, constitutes a return of the member's accumulated retirement contributions under this part.

(b) If the member has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the member's accumulated retirement contributions under this part.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's headquarters office, as established pursuant to Section 22375, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified plan or the trustee returns the amount of the qualified refund and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's headquarters office, as established pursuant to Section 22375, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 932 § 2 (AB 2550), ch 933 § 50 (AB 3171), effective September 27, 1994, operative until January 1, 1995, § 50.5 (AB 3171), effective September 27, 1994, operative January 1, 1995; Stats 1996 ch 634 § 174 (SB 2041); Stats 1998 ch 965 § 127 (AB 2765); Stats 2005 ch 351 § 15 (AB 224), effective January 1, 2006; Stats 2011 ch 703 § 11 (SB 349), effective January 1, 2012.

Former Sections: Former § 23104, relating to withdrawal of tax–sheltered contributions, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1978 ch 870 § 12, operative July 1, 1979.

Amendments:

1994 Amendment (§ 50): (1) Amended subd (a) by substituting **(a)** "as directed by the" for "in favor of a"; and **(b)** "address directed by the member, constitutes a return of the member's accumulated" for "latest address on file for the member, shall constitute a return of the member"; **(2)** added subd (b); **(3)** redesignated former subd (b) to be subd (c); and **(4)** amended subd (c) by substituting **(a)** "For refunds not involving direct trustee–to–trustee transfers, if the member returns the total gross distribution amount to the system's office" for "If a person to whom the warrant is mailed returns the warrant to the system's office for cancellation,"; and **(b)** "restored" for "reinstated" after "person shall be".

1994 Amendment (§ 50.5): Added subd (d).

1996 Amendment: (1) Added "retirement" after "accumulated" in subd (a) and both times it appears in subd (b); **(2)** added "in Sacramento" after "the system's office" in subds (c) and (d); and **(3)** substituted "as a member of the plan" for "to membership" after "shall be restored" in subds (c) and (d).

1998 Amendment: (1) Added "under this part" wherever it appears; and **(2)** substituted "Defined Benefit Program" for "plan" in subd (d).

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento" in subds (c) and (d).

2011 Amendment: (1) Substituted "26 U.S.C. Sec. 402" for "26 U.S.C.A. Sec. 402" in subd (b); and **(2)** added "or the trustee returns the amount of the qualified refund" in subd (d).

Historical Derivation: Former Ed C § 23101.5, as added Stats 1981 ch 124 § 27.

§ 23106. Refund or crediting of service in another system

If a member ceases to be entitled to credit for service in the Defined Benefit Program because the member has become entitled to credit for that service in another retirement system supported wholly or in part by funds of the United States government, or any state government or political subdivision thereof, the member is entitled to a refund of the accumulated retirement contributions made during the period for which he or she is entitled to credit in the other retirement system.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 175 (SB 2041); Stats 1998 ch 965 § 128 (AB 2765).

Former Sections: Former § 23106, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted **(1)** "the plan because the member" for "this system because he or she" after "for service in"; and **(2)** "the member" for "he or she" after "subdivision thereof,".

1998 Amendment: Substituted "Defined Benefit Program" for "plan".

§ 23107. Refund of accumulated annuity deposits

Any member of the Defined Benefit Program without terminating membership in the program and upon making application on forms provided by the system shall be paid a refund of the accumulated annuity deposit contributions under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 176 (SB 2041); 1998 ch 965 § 129 (AB 2765).

Former Sections: Former § 23107, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "contributions" for "contribution" after "annuity deposit".

1998 Amendment: Added **(1)** "of the Defined Benefit Program"; **(2)** "in the program"; and **(3)** under this part".

CHAPTER 19. REDEPOSIT OF CONTRIBUTIONS

§ 23200. Redeposit of contributions

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 177 (SB 2041); Stats 1997 ch 569 § 3 (SB 1027); Stats 1998 ch 965 § 130 (AB 2765); Stats 2000 ch 1020 § 5 (AB 820), operative July 1, 2001; Stats 2009 ch 304 § 15 (SB 634), effective January 1, 2010.

Former Sections: Former § 23200, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 520 § 5, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Amended subd (a) by **(1)** substituting "plan, the person" for "system he or she" after "member of the" in the first sentence; **(2)** adding "retirement" after "all accumulated" in the second sentence; and **(3)** deleting the former third sentence which read: "The redeposit shall also include the amount deducted for administration expense under Section 23105."

1997 Amendment: Added subd (c).

1998 Amendment: Amended subd (a) by **(1)** substituting "Defined Benefit Program" for "plan"; and **(2)** addign "under this part" at the end.

2000 Amendment: (1) Amended subd (a) by adding **(a)** "or is subject to Section 23201"; and **(b)** "all or a portion of"; **(2)** substituted "all or a portion of" for "a sum equal to" in subd (c); and **(3)** added subd (d).

2009 Amendment: (1) Substituted "request" for "elect" in subd (a); **(2)** deleted former subd (b) which read: "(b) For time prior to July 1, 1944, regular interest shall be at 2½ percent compounded annually."; **(3)** redesignated former subds (c) and (d) to be subds (b) and (c); and **(4)** substituted "requests" for "elects" in subd (c).

§ 23201. Receipt of other retirement allowance (Right to redeposit)

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 178 (SB 2041); Stats 1998 ch 1077 § 2 (SB 610); Stats 1999 ch 939 § 59 (SB 1074); Stats 2000 ch 1020 § 6 (AB 820), operative July 1, 2001; Stats 2009 ch 304 § 16 (SB 634), effective January 1, 2010.

Former Sections: Former § 23201, similar to present Ed C § 23203, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23203, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 520 § 6, Stats 1980 ch 244 § 6.

Amendments

1996 Amendment: Amended the first sentence by **(1)** substituting "retirement contributions were refunded and who has received, or will qualify to receive" for "contributions were refunded to him or her and who has received, or will qualify for the receipt of" after "whose accumulated"; **(2)** adding "retirement" after "redeposit the accumulated"; and **(3)** substituting "to perform creditable service subject to coverage by the plan" for "in a position requiring membership in this system" at the end.

1998 Amendment: Amended the first sentence by **(1)** adding "county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code,"; and **(2)** substituting "under the Defined Benefit Program" for "by the plan" at the end.

1999 Amendment: (1) added ", who wishes to establish concurrent membership,"; **(2)** substituted "one or more of the retirement systems defined in Section 22115.2," for "the Public Employees' Retirement System, the University of California Retirement System, the Legislators' Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco City and County Employees' Retirement System"; and **(3)** deleted the former last sentence which read: "A person who elects to redeposit pursuant to this section shall not receive credit for service that might otherwise be creditable under Section 22810."

2000 Amendment: Added "all or a portion of".

2009 Amendment: Substituted "request" for "elect".

§ 23202. Time of election to redeposit; Consideration as election to repay; Cancellation when not received; Election after cancellation

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

(c) If any payment due because of this election is not received at the system's headquarters office, as established pursuant to Section 22375, 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 returned.

(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 returned, in accordance with Section 23200 and all the laws, rules, and regulations pertaining thereto.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 179 (SB 2041); Stats 1997 ch 569 § 4 (SB 1027); Stats 1998 ch 965 § 131 (AB 2765); Stats 2000 ch 1020 § 7 (AB 820), operative July 1, 2001; Stats 2005 ch 351 § 16 (AB 224), effective January 1, 2006.

Former Sections: Former § 23202, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1990 ch 1201 § 2, effective September 24, 1990, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Substituted "member's retirement" for "retirement of the member" at the end of subd (a); **(2)** added "accumulated retirement" wherever it appears in subd (b); **(3)** substituted "system's office in Sacramento" for "Sacramento office of the system" in subd (c); and **(4)** substituted "If the election is cancelled, the member may at any time prior to the effective date of retirement" for "In the event of cancellation of the election the member may at any time prior to the date of the retirement of the member" in subd (d).

1997 Amendment: Added "under the provision of this chapter" at the end of subd (b).

1998 Amendment: (1) Added "under this part" at the end of subd (a) and in subd (d); and **(2)** substituted "canceled" for "cancelled" in subd (d).

2000 Amendment: (1) Amended subd (b) by **(a)** adding ", up to but not exceeding the amount required to restore the total service credit refunded,"; and **(b)** substituting "provisions" for "provision"; and **(2)** substituted ", the member shall receive credit for the payments made under the election or, at the request of the member, those payments" for "any payments made under the election" in subd (c).

2005 Amendment: (1) Deleted "refunded" before "accumulated" in subd (b); **(2)** added "returned to the member" before "shall be" in subd (b); **(3)** substituted "returned," for "refunded," every time it appeared in the section; **(4)** substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento" in subd (c); and **(5)** substituted "returned." for "refunded." in subd (c).

§ 23203. Redeposit of refunded accumulated retirement contributions

(a) A member who elects to redeposit refunded accumulated retirement contributions shall pay, prior to retirement, all contributions and interest as determined under Section 23200.

(b) If the system is unable to inform the member or beneficiary of the amount required to redeposit the refunded accumulated retirement contributions prior to the effective date of the applicable allowance, the member or beneficiary may make the required payment within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later. The payment shall be paid in full before a member or beneficiary receives any adjustment in the appropriate allowance due because of that payment.

(c) Redeposit of refunded accumulated retirement contributions shall be made in one sum, or in not more than 120 monthly installments, not to exceed ten years, provided that no installment, except the final installment, is less than twenty–five dollars ($25).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 180 (SB 2041); Stats 1998 ch 965 § 132 (AB 2765), ch 1076 § 9 (SB 2126); Stats 2003 ch 859 § 16 (SB 627); Stats 2004 ch 912 § 12 (AB 2233).

Former Sections: Former § 23203, similar to present Ed C § 23201, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 520 § 6, Stats 1980 ch 244 § 6, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23201, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "Redeposit of refunded" for "Repayment of withdrawn"

1998 Amendment: Substituted "120" for "60" after "not more than". (As amended Stats 1998 ch 1076, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

2003 Amendment: (1) Added subds (a) and (b); **(2)** redesignated the former section to be subd (c); and **(3)** amended subd (c) by **(a)** adding ", not to exceed ten years"; and **(b)** substituting "is less than" for "shall be less than".

2004 Amendment: Substituted "redeposit the refunded accumulated retirement contributions" for "purchase additional service credit" in the first sentence of subd (b).

CHAPTER 20. BENEFICIARY DESIGNATION

§ 23300. Designation of beneficiary

(a) A member of the Defined Benefit Program may designate a beneficiary to receive benefits payable under this part upon the member's death. A beneficiary designation may not be made in derogation of a community property interest of a nonmember spouse, as defined by Section 25000.9, with respect to service or contributions credited under this part, unless the nonmember spouse has previously obtained an alternative order pursuant to Section 2610 of the Family Code.

(b) A member's beneficiary designation for benefits payable under the Defined Benefit Program, including a designation made pursuant to Section 24300 or 24300.1, shall also apply to benefits payable under the Defined Benefit Supplement Program. A beneficiary designation shall be in writing on a form prescribed by the system and executed by the member.

(c) A beneficiary designation shall not be valid unless it is received in the system's headquarters office, as established pursuant to Section 22375, prior to the member's death.

(d) A member may change or revoke a beneficiary designation at any time by making a new designation pursuant to this section.

(e) This section is not applicable to the designation of an option beneficiary or an annuity beneficiary under this part.

(f) An option beneficiary may designate a death beneficiary who would, upon the death of the option beneficiary, be entitled to receive the option beneficiary's accrued monthly allowance.

Added by Stats 2000 ch 74 § 50 (AB 1509), ch 1025 § 28.5 (AB 816). Amended by Stats 2003 ch 859 § 17 (SB 627); Stats 2004 ch 912 § 13 (AB 2233); Stats 2005 ch 351 § 17 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 18 (SB 1466), effective January 1, 2007.

Former Sections: Former § 23300, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1996 ch 634 § 181, Stats 1998 ch 965 § 133, and repealed Stats 2000 ch 74 § 49, ch 1025 § 27.

Former § 23300, similar to present Ed C § 24500, was added Stats 1988 ch 380 § 1, amended Stats 1992 ch 1166 § 13, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Former § 23300, relating to purpose of article, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1987 ch 1452 § 137.

Historical Derivation: Former Ed C § 23702, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 107, Stats 1986 ch 717 § 8, Stats 1988 ch 542 § 3, Stats 1992 ch 163 § 69.

Amendments

2003 Amendment: (1) Amended the second sentence of subd (a) by **(a)** deleting "nonmember spouse's" after "derogation of a"; **(b)** adding "of a nonmember spouse, as defined by Section 25000.9,"; and **(c)** adding the comma after "under this part"; and **(2)** substituted "may" for "shall" in subds (c) and (e).

2004 Amendment: Substituted **(1)** "system and executed by the member" for "system, executed by the member, and witnessed by two witnesses who are not designated as a beneficiary for benefits payable under either the Defined Benefit Program or the Defined Benefit Supplement Program" at the end of subd (b); and **(2)** "is not" for "may not be" in subd (e).

2005 Amendment: Substituted "shall" for "may" and "system's headquarters office, as established pursuant to Section 22375, " for "office of the system in Sacramento" in subd (c).

2006 Amendment: Added "or 24300.1" after "pursuant to Section 24300" in subd (b).

§ 23301. Designation of other beneficiaries

A corporation, trust, eleemosynary, parochial institution, or public entity may be designated as a beneficiary under this part. However, they may not be designated as option beneficiaries.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 134 (AB 2765).

Former Sections: Former § 23301, similar to present § 24501, was added Stats 1988 ch 380 § 1 and repealed Stats 1993 ch 893 § 1.

Former § 23301, relating to application to Los Angeles Unified School District Retirement System, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1987 ch 1452 § 137.

Historical Derivation: Former § 23702.5, as added Stats 1981 ch 124 § 28.

Amendments

1998 Amendment: Added "under this part" in the first sentence.

§ 23302. Full discharge of liability

Payment under this part to a beneficiary designated in the form on file in the system at the date of death by a warrant drawn prior to any claim under community property rights shall constitute full discharge of any and all liability of the board, system, and plan by reason of the member's death.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 182 (SB 2041); Stats 1998 ch 965 § 135 (AB 2765).

Former Sections: Former § 23302, similar to present Ed C § 24502, was added Stats 1988 ch 380 § 1 and repealed Stats 1993 ch 893 § 1.

Former § 23302, relating to market value of securities, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1987 ch 1452 § 137.

Historical Derivation: Former Ed C § 23708, as enacted Stats 1976 ch 1010 § 2, amended Stats 1986 ch 717 § 13.

Amendments

1996 Amendment: Substituted ", system, and plan" for "and system" after "liability of the board".

1998 Amendment: Added "under this part".

§ 23303. Payment of funeral expenses

(a) If the whereabouts of the designated beneficiary cannot be determined, or if the beneficiary is the estate of the deceased person, the board may pay to the undertaker who conducted the funeral, or to any person who, or any organization that, has paid the undertaker from funds owned by the person or organization, in its discretion all or a portion of any amount payable under this part, but not to exceed the funeral expenses of the deceased person, or the portion of the expenses paid by the person or organization, as evidenced by the sworn itemized statement of the undertaker, person, or organization and by any other documents the board may require.

(b) The payment shall be in full and complete discharge and acquittance of the board, system, and plan up to the amount paid.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 183 (SB 2041); Stats 1998 ch 965 § 136 (AB 2765).

Former Sections: Former § 23303, similar to present Ed C § 24504, was added Stats 1988 ch 380 § 1 and repealed Stats 1993 ch 893 § 1.

Former § 23303, relating to mitigating conflicts, partial transfer and stocks eligible for transfer, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1987 ch 1452 § 137.

Historical Derivation: Former Ed C § 23709, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** substituting "If the whereabouts of the designated" for "The board, if the whereabouts of the nominated" at the beginning; **(b)** adding "the board" after "estate of the de-

ceased person,"; and **(c)** substituting "plan" for "system" after "payable under the"; and **(2)** substituted ", system, and plan" for "and system" in subd (b).

1998 Amendment: Substituted "this part" for "the plan" after "payable under" in subd (a).

§ 23304. Payment to estate in absence of beneficiary designation

If no beneficiary designation is in effect on the date of death, any benefit payable under this part shall be paid to the estate of the member. Payment pursuant to the board's determination in good faith upon evidence satisfactory to it of the existence, identity or other facts relating to entitlement of persons under this section shall constitute a complete discharge and release of the system and plan from liability for the benefit.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 51 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 184 (SB 2041); Stats 1998 ch 965 § 137 (AB 2765).

Former Sections: Former § 23304, similar to present Ed C § 24503, was added Stats 1988 ch 380 § 1 and repealed Stats 1993 ch 893 § 1.

Former § 23304, relating to effect of a net realized loss from transfer of assets, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1987 ch 1452 § 137.

Historical Derivation: Former Ed C § 23701, as added Stats 1977 ch 36 § 419, amended Stats 1978 ch 502 § 6, Stats 1986 ch 717 § 6.

Amendments

1994 Amendment: (1) Added "or retirant" at the end of the first sentence; and **(2)** deleted "of" after "complete discharge" in the second sentence.

1996 Amendment: (1) Deleted "or retirant" after "of the member" at the end of the first sentence; and **(2)** added "and plan" after "release of the system" in the second sentence.

1998 Amendment: Added "under this part" in the first sentence.

CHAPTER 21. PRE-1972 BENEFITS

§ 23400. Reduction of disability retirement allowance (Earnings limitation)

(a) If, prior to attaining the age of 55 years, a person who is entitled to receive a retirement allowance because of his or her retirement for disability prior to July 1, 1972, engages in a gainful occupation, the board shall reduce the portion of his or her monthly retirement allowance that is not provided by his or her accumulated contributions, to an amount, which when added to the compensation earned monthly by him or her, does not exceed the amount of the compensation that would be earnable by a person holding the same or an equal position as or to that which he or she held at the time of his or her retirement, and in the same salary step or rating, or if no such position then exists, the compensation earnable immediately prior to its abolition.

(b) If his or her earnings are further altered, the board shall further alter that portion of his or her retirement allowance to the lower of the following amounts:

(1) The amount of that portion of his or her retirement allowance as it would be if not reduced under this section.

(2) An amount that, when added to the compensation earned by him or her, equals the amount of the compensation that would be earnable by a person holding the same or an equal position as or to that which he or she held at the time of his or her retirement, and in the same salary step or rating, or if no such position then exists, the compensation earnable immediately prior to its abolition.

(c) For purposes of this section, the retirement allowance subject to adjustment is the unmodified allowance irrespective of the option elected.

(d) When he or she attains the age of 55 years, his or her retirement allowance shall be made equal to the amount it would be if not reduced under this section, and may not again be modified under this section. Section 24015 does not apply to those persons affected by this section.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23400, similar to present § 22950, was added Stats 1979 ch 282 § 11, effective July 24, 1979, and repealed Stats 1993 ch 893 § 1.

Former § 23400, similar to present § 22950, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 894 § 6, effective September 17, 1977, operation contingent (see Stats 1977 ch 894 § 85), and repealed Stats 1979 ch 282 § 10, effective July 24, 1979.

Historical Derivation: Former § 23906, as enacted Stats 1976 ch 1010 § 2.

§ 23401. Medical Examinations (Continuing qualification)

The board may require any member who retired for disability, prior to July 1, 1972, and who has not attained 58 years of age, to undergo a medical examination. If the examination, together with other available information, shows to the satisfaction of the board that the member is no longer disabled, the retirement allowance shall be terminated. Should any member retired for disability refuse to submit to medical examination, as provided in this section, the disability retirement allowance shall be terminated and all rights of the member in the disability retirement allowance shall be revoked.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 185 (SB 2041).

Former Sections: Former § 23401, relating to appropriation from General Fund to State Teachers' Retirement Fund, was added Stats 1979 ch 282 § 11, effective July 24, 1979, and repealed Stats 1990 ch 460 § 1, effective July 31, 1990.

Former § 23401, relating to tax levy to provide funds for contribution, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 105, effective April 29, 1977, operative April 30, 1977, ch 37 § 6, effective April 29, 1977, operative April 30, 1977, ch 894 § 7, effective September 17, 1977, operation contingent (see Stats 1977 ch 894 § 85), and repealed Stats 1979 ch 282 § 10, effective July 24, 1979.

Historical Derivation: Former Ed C § 23908, as enacted Stats 1976 ch 1010 § 2, amended Stats 1992 ch 1167 § 11.

Amendments

1996 Amendment: Substituted **(1)** "member who retired for disability" for "disability retirant who retired" in the first sentence; and **(2)** the second and third sentences for the former second and third sentences which read: "If the examination, together with other available information, shows to the satisfaction of the board that he or she is no longer disabled, his or her retirement allowance shall cease, and he or she shall be reinstated to membership in the system. Should any retirant refuse to submit to medical examination, as provided in this section, payments to the retirant under disability retirement shall be discontinued and all rights of the retirant in the disability retirement allowance shall be revoked."

§ 23402. Continuation of certain death benefits

Benefits payable on account of deaths that occurred prior to July 1, 1972, and provided under former Section 14193, as it read prior to July 1, 1972, shall be continued. Former Sections 14195 and 14196 as they read prior to that date shall continue to apply to these payments.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23402, similar to present § 22955, was added Stats 1979 ch 282 § 11, effective July 24, 1979, and repealed Stats 1993 ch 893 § 1.

Former § 23402, relating to state contributions, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 282 § 10, effective July 24, 1979.

Historical Derivation: Former § 23814, as enacted Stats 1976 ch 1010 § 2.

§ 23403. Continuation of certain survivor benefits

Survivor benefits payable on account of deaths that occurred prior to July 1, 1972, shall be continued in the amounts and under the conditions stated in former Sections 14186 and 14189, as they read prior to July 1, 1972.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 52 (AB 3171), effective September 27, 1994.

Former Sections: Former § 23403, relating to transfer of amounts to the Teachers' Retirement Fund, was added Stats 1979 ch 282 § 11, effective July 24, 1979, as § 24303, renumbered by Stats 1980 ch 244 § 12, and repealed Stats 1991 ch 83 § 2, effective June 30, 1991.

Former § 23403, relating to state appropriations, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 282 § 10, effective July 24, 1979.

Historical Derivation: Former § 23812, as enacted Stats 1976 ch 1010 § 2.

Amendments

1994 Amendment: Substituted "former Sections 14186 and 14189" for "Sections 23804 and 23811".

§ 23404. Credits on termination of retirement allowance

Upon termination of the retirement allowance that began to accrue prior to July 1, 1972, the member's individual account shall be credited with amounts that are the actuarial equivalents at that time, as based on the disabled life, where retirement had been for disability, or on the active life where the retirement had been for service of the allowance and annuities being paid from accumulated retirement contributions, accumulated annuity deposit contributions, or accumulated tax–sheltered annuity con-

tributions. These credited amounts shall not exceed the amount of his or her accumulated contributions as they were in those accounts at the date of retirement.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23404, similar to present § 22956, was added Stats 1979 ch 282 § 11, effective July 24, 1979, and repealed Stats 1993 ch 893 § 1.

Former § 23404, similar to present § 22956, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1979 ch 282 § 10, effective July 24, 1979.

Historical Derivation: Former § 23915, as enacted Stats 1976 ch 1010 § 2.

CHAPTER 21.5. ELECTION OF DISABILITY AND DEATH BENEFIT COVERAGE

§ 23700. Effective date of new survivor benefit and disability retirement programs; Purpose of chapter

(a) New survivor benefit and disability retirement programs that are provided under the Defined Benefit Program pursuant to Chapter 23 (commencing with Section 23850) and Chapter 26 (commencing with Section 24100), are effective as of October 16, 1992. All members of the Defined Benefit Program with an effective date of membership in the program on or after October 16, 1992, shall be covered by these survivor benefit and disability retirement programs under this part.

(b) The purpose of this chapter is to set forth the criteria for granting certain members of the Defined Benefit Program, as defined in Section 23702, the opportunity to elect to either retain coverage under the current family allowance and disability allowance programs pursuant to Chapter 22 (commencing with Section 23800), and Chapter 25 (commencing with Section 24001) or to be covered under the survivor benefit and disability retirement programs.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 186 (SB 2041); Stats 1998 ch 965 § 138 (AB 2765).

Former Sections: Former § 23700, relating to designating estate as beneficiary in event beneficiary had not been designated, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1977 ch 36 § 557, effective April 29, 1977, operative April 30, 1977.

Historical Derivation: Former Ed C § 22250, as added Stats 1992 ch 1166 § 7.

Amendments

1996 Amendment: Substituted "plan" for "system" after "certain members of the" in subd (b).

1998 Amendment: (1) Amended subd (a) by adding **(a)** "under the Defined Benefit Program"; **(b)** "of the Defined Benefit Program"; **(c)** "in the program" in the second sentence; and **(d)** "under this part" at the end; and **(2)** substituted "Defined Benefit Program" for "plan" in subd (b).

§ 23701. Time for election of disability and death benefit programs

(a) The election of disability and death benefit programs shall be made during the 180–day period commencing on October 16, 1992, and ending on April 13, 1993. All elections made during this period shall be effective as of October 16, 1992.

(b) If a member has made an election and subsequently becomes disabled or dies, the benefits shall be paid under the elected program provisions as though the election had been executed on October 16, 1992.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23701, similar to present § 23304, was added Stats 1977 ch 36 § 419, effective April 29, 1977, operative April 30, 1977, amended Stats 1978 ch 502 § 6, Stats 1986 ch 717 § 6, repealed Stats 1993 ch 893 § 1 (ch 920 prevails), amended Stats 1993 ch 920 § 6, and repealed Stats 1994 ch 933 § 53, effective September 27, 1994.

Former § 23701, relating providing for succession to payments, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1977 ch 36 § 558, effective April 29, 1977, operative April 30, 1977.

§ 23702. Eligibility to make irrevocable election

(a) All members in the Defined Benefit Program on October 15, 1992, who are not receiving a disability allowance or a retirement allowance with an effective date prior to October 16, 1992, shall be

eligible to make an irrevocable election, pursuant to this chapter, to retain coverage under either the disability allowance and family allowance programs or to have coverage under the disability retirement and survivor benefits programs.

(b) The member's eligibility to participate in the election shall be based on the member's status in the Defined Benefit Program on October 15, 1992, only, and not on prior or subsequent events.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 54 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 187 (SB 2041); Stats 1999 ch 939 § 60 (SB 1074).

Former Sections: Former § 23702, similar to present Ed C § 23300, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 107, effective April 29, 1977, operative April 30, 1977, Stats 1986 ch 717 § 8, Stats 1988 ch 542 § 3, effective August 23, 1988, Stats 1992 ch 163 § 69, operative January 1, 1994, and repealed Stats 1993 ch 893 § 1.

Amendments

1994 Amendment: Substituted "benefits" for "benefit" near the end of subd (a).

1996 Amendment: Substituted **(1)** "plan" for "State Teachers' Retirement System" before "on October 15, 1992" in subd (a); and **(2)** "in the plan" for "with the system" after "member's status" in subd (b).

1999 Amendment: Substituted **(1)** "in the Defined Benefit Program" for "of the plan" in subd (a); and **(2)** "Defined Benefit Program" for "plan" in subd (b).

§ 23703. Requirements of election of coverage

A member's election of disability or death benefit coverage shall meet all of the following requirements:

(a) The member is eligible to participate in the election pursuant to Section 23702.

(b) The election is filed on a form provided by the system.

(c) Except as provided in Section 23704, the election document contains the signature of the spouse of the member, unless the member declares, in writing, under penalty of perjury, that one of the following conditions exists:

(1) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(2) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(3) The member and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.

(4) The member is not married.

(5) The current spouse has no identifiable community property interest in future benefits.

(d) The election document is signed and dated during the 180–day election period specified in Section 23701.

(e) The signatures of the member and the member's spouse on the election document are witnessed by a third party who is at least 18 years of age.

(f) The election document is received in the system's office in Sacramento within 30 days after the date of signature, but no later than May 1, 1993.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 55 (AB 3171), effective September 27, 1994.

Former Sections: Former § 23703, relating to the revocation of a beneficiary designation, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 108, effective April 29, 1977, operative April 30, 1977, Stats 1978 ch 502 § 7, and repealed Stats 1986 ch 717 § 9.

Historical Derivation: Former § 22253, as added Stats 1992 ch 1166 § 7, amended Stats 1993 ch 219 § 72.

Amendments

1994 Amendment: Substituted "Part 5 (commencing with Section 1500)" for "Chapter 2 (commencing with Section 1600) of Part 5" in subd (c)(3).

§ 23704. Refusal of spouse to sign election document

If a spouse refuses to sign the election document, the member may bring an action in court to enforce the spousal signature requirement or to waive the spousal signature requirement. Either party may bring an action pursuant to Section 1101 of the Family Code to determine the rights of the party.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23704, relating to beneficiary designations, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 109, effective April 29, 1977, operative April 30, 1977, and repealed Stats 1986 ch 717 § 10.
Historical Derivation: Former § 22253.5, as added Stats 1992 ch 1166 § 7, amended Stats 1993 ch 219 § 73.

§ 23705. Acknowledgment notice

After receipt of a member's election document, the system shall mail an acknowledgement notice to the member that indicates the member's choice of disability and death benefit programs. If the member does not agree with the system's recording of his or her election choice, the member has 30 days from the date of the acknowledgement notice to notify the system in writing.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23705, relating to beneficiary designations, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1986 ch 717 § 11.
Historical Derivation: Former § 22254, as added Stats 1992 ch 1166 § 7.

§ 23706. Failure to file election

(a) Failure to file an election pursuant to this chapter shall be deemed to be an election to retain coverage under the disability allowance and family allowance programs.
(b) Failure to meet all of the requirements for submitting an election pursuant to this chapter shall be deemed to be a failure to file an election.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23706, relating to thirty–day waiting period, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1978 ch 277 § 1.
Historical Derivation: Former § 22255, as added Stats 1992 ch 1166 § 7.

CHAPTER 22. ACTIVE DEATH BENEFITS: FAMILY ALLOWANCE

§ 23800. Application of chapter; "Members"

(a) This chapter governs the eligibility provisions, benefit provisions, allowance computations, and related provisions for the benefits payable under this part with respect to the Defined Benefit Program upon the death of eligible members. "Members," as used in this chapter, means all members who were receiving a disability allowance on October 15, 1992, and all persons who were members of the plan under this part on October 15, 1992, who were not receiving an allowance and who did not elect, pursuant to Chapter 21.5 (commencing with Section 23700), to be covered under Chapter 23 (commencing with Section 23850).

(b) This chapter also contains three sections related to survivor benefits payable on account of deaths that occurred prior to July 1, 1972.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 56 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 188 (SB 2041); Stats 1998 ch 965 § 139 (AB 2765); Stats 2000 ch 1025 § 29 (AB 816).

Former Sections: Former § 23800, similar to the present section, was added Stats 1992 ch 1166 § 17, effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 1144 prevails), amended Stats 1993 ch 1144 § 3, and repealed Stats 1994 ch 933 § 57, effective September 27, 1994.

Former § 23800, similar to present Ed C § 23801, was added Stats 1981 ch 124 § 30 and repealed Stats 1992 ch 1166 § 16, effective September 29, 1992.

Former § 23800, similar to present Ed C § 23801, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 110, effective April 29, 1977, operative April 30, 1977, Stats 1978 ch 870 § 13, operative July 1, 1979, Stats 1979 ch 520 § 8, and repealed Stats 1981 ch 124 § 29.

Amendments

1994 Amendment: (1) Added subdivision designation (a); **(2)** amended subd (a) by substituting **(a)** "did not elect" for "elected" after "1992, who"; and **(b)** "be covered under Chapter 19.5 (commencing with Section 23850)" for "retain coverage under the death benefit provisions of this chapter" at the end; and **(3)** added subd (b).

1996 Amendment: Amended the second sentence in subd (a) by substituting **(1)** "receiving a disability allowance" for "disabilitants"; **(2)** "plan on October 15, 1992, who were not receiving an allowance and who" for "system on October 15, 1992, who"; and **(3)** "Chapter 23" for "Chapter 19.5".

1998 Amendment: Added "under this part" both times it appears in subd (a).

2000 Amendment: Amended the first sentence of subd (a) by **(1)** adding "provisions" after "eligibility"; **(2)** deleting "death" after "provisions for the"; and **(3)** adding "with respect to the Defined Benefit Program".

§ 23801. Payment of benefits

(a) A death payment of no less than five thousand dollars ($5,000) shall be paid to the beneficiary upon receipt of proof of death of a member who had one or more years of credited service, including service deemed to the member under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851, at least one of which had been earned subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which creditable compensation is paid.

(2) While disabled, if the disability had been continuous from the last day for which creditable compensation had been paid.

(3) Within four months after termination of creditable service or termination of employment, whichever occurs first.

(4) Within four months after termination of a disability allowance if no service was performed after the termination.

(5) Within 12 months of the last day for which creditable compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability.

(6) While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 24208.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt any adjusted amount as a plan amendment.

(d) A beneficiary may waive his or her right to the death payment in accordance with the requirements established by the system.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 58 (AB 3171), effective September 27, 1994; Stats 1998 ch 965 § 140 (AB 2765); Stats 2010 ch 207 § 12 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 12 (SB 349), effective January 1, 2012.

Former Sections: Former § 23801, similar to the present section, was added Stats 1992 ch 1166 § 20, effective September 29, 1992, repealed Stats 1993 ch 893 § 2 (ch 1144 prevails), amended Stats 1993 ch 1144 § 3.5, and repealed Stats 1994 ch 933 § 59, effective September 27, 1994.

Former § 23801, similar to present Ed C § 23802, was added Stats 1981 ch 124 § 32, amended Stats 1986 ch 717 § 14, and repealed Stats 1992 ch 1166 § 19, effective September 29, 1992.

Former § 23801, similar to present Ed C § 23802, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1976 ch 1011 § 22, and repealed Stats 1981 ch 124 § 31.

Historical Derivation: (a) Former Ed C § 23800, as added Stats 1981 ch 124 § 30.

(b) Former Ed C § 23800, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 110, Stats 1978 ch 870 § 13, Stats 1979 ch 520 § 8.

(c) Former Ed C § 23801, as enacted Stats 1976 ch 1010 § 2, amended Stats 1976 ch 1011 § 22.

(d) Former Ed C § 23802, as enacted Stats 1976 ch 1010 § 2, amended Stats 1980 ch 244 § 8.

(e) Former Ed C § 23803, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 111.

Amendments

1994 Amendment: (1) Substituted subd (a)(1) for former subd (a)(1) which read: "(1) While in active employment."; **(2)** substituted subd (a)(3) for former subd (a)(3) which read: "(3) Within four months after terminating employment."; and **(3)** added subd (d).

1998 Amendment: Added **(1)** "no less than" in subd (a); and **(2)** "and adopt any adjusted amount as a plan amendment" in subd (c).

2010 Amendment: Added "creditable" in subds (a)(1)-(a)(3) and (a)(5).

2011 Amendment: (1) Amended the introductory clause of subd (a) by **(a)** adding "including service deemed to the member under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851,"; and **(b)** substituting "earned" for "performed"; **(2)** deleted "or military service" at the end of subd (a)(5); and **(3)** added subd (a)(6).

§ 23802. Components of payment (Refund upon death of member)

(a) Upon receipt of proof of death of a member who has no preretirement option in effect, and who either does not meet the eligibility requirements set forth in Section 23804, or meets the eligibility requirements set forth in Section 23804 but has no eligible survivors for a family allowance as specified in Section 23805 or 23806, there shall be paid to the beneficiary both of the following:

(1) The accumulated retirement contributions after July 1, 1935.

(2) The accumulated annuity deposit contributions.

(b) Accumulated contributions include credited interest through the date of payment.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 2011 ch 703 § 13 (SB 349), effective January 1, 2012.

Former Sections: Former § 23802, similar to the present section, was added Stats 1992 ch 1166 § 22, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Former § 23802, relating to priority of payments, was added Stats 1981 ch 124 § 34 and repealed Stats 1992 ch 1166 § 21, effective September 29, 1992.

Historical Derivation: (a) Former § 23800, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 110, Stats 1978 ch 870 § 13, Stats 1979 ch 520 § 8.

(b) Former § 23801, as added Stats 1981 ch 124 § 32, amended Stats 1986 ch 717 § 14.

(c) Former § 23802, as added Stats 1992 ch 1166 § 22.

Amendments

2011 Amendment: Amended the introductory clause of subd (a) by adding **(1)** "either does not meet the eligibility requirements set forth in Section 23804, or meets the eligibility requirements set forth in Section 23804 but"; and **(2)** "as specified in Section 23805 or 23806".

§ 23803. Time of payment (Exception to Probate Code)

Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, or any other provision of law, death payments and return of contributions pursuant to Sections 23801 and 23802, if any, may be requested by the beneficiary and paid by the system as soon as practicable after receipt of proof of death.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23803, similar to the present section, was added Stats 1992 ch 1166 § 23, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Former § 23803, similar to present § 23801, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 111, effective April 29, 1977, operative April 30, 1977, and repealed Stats 1981 ch 124 § 35.

Historical Derivation: (a) Former § 23800.1, as added Stats 1988 ch 462 § 1.

(b) Former § 23803, as added Stats 1992 ch 1166 § 23.

§ 23804. Payment of family allowance; Conditions

(a) A family allowance is payable upon the death of an active member or a disabled member who was receiving a disability allowance that began to accrue after June 30, 1972.

(b)(1) For the family allowance to be payable upon the death of the member, all of the following conditions shall be met at the time of death:

(A) Death occurred after June 30, 1972.

(B) A preretirement election of an option is not in effect.

(C) The provisions for the death payment under this part have been met.

(2) In addition to the conditions specified in paragraph (1), at least one–half year of credited service had been performed subsequent to the end of the last break, if a break in service of more than one year had occurred.

(3) In addition to the conditions specified in paragraph (1), at least one year of credited service had been performed subsequent to the last reinstatement date, if reinstated from service or disability retirement.

(c) The family allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(d) The family allowance may be terminated, if all eligible beneficiaries formally waive their rights in accordance with the requirements established by the system.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 60 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 189 (SB 2041).

Former Sections: Former § 23804, similar to the present section, was added Stats 1981 ch 124 § 37 and repealed Stats 1993 ch 893 § 1.

Former § 23804, similar to the present section, was enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 112, Stats 1979 ch 520 § 9, Stats 796 § 1, Stats 1981 ch 714 (ch 124 prevails), and repealed Stats 1981 ch 124 § 6.

Historical Derivation: (a) Former Ed C § 23804, as Stats 1981 ch 124 § 37.

(b) Former Ed C § 23804, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 112, Stats 1979 ch 520 § 9, ch 796 § 1.

Amendments

1994 Amendment: Added "service or disability" in subd (b)(3).

1996 Amendment: Substituted **(1)** "an active member or a disabled member" for "a member or a disabilitant" in subd (a); **(2)** "the" for "a" after "upon the death of" in the introductory clause of subd (b)(1); and **(3)** "shall be paid" for "is" in subd (c).

§ 23805. Priority of payment of family allowance

A family allowance is payable in the amount and to the specified persons in the following order of priority:

(a) To the deceased member's surviving spouse who has financial responsibility for at least one dependent child, an amount equal to 40 percent of the member's final compensation or the disabled member's projected final compensation plus 10 percent of the member's final compensation or the disabled member's projected final compensation for each child, up to a maximum allowance of 90 percent.

(b) If there is no surviving spouse or upon the death of the surviving spouse, to each dependent child, an amount equal to 10 percent of the deceased member's final compensation or the disabled member's projected final compensation, up to a maximum allowance of 50 percent. If there are more than five dependent children, they shall share equally in the maximum allowance of 50 percent.

(c) To the surviving spouse at 60 years of age or over if there is no dependent child, a monthly allowance equal to the amount that would have been payable to the spouse as beneficiary under Option 3 pursuant to Section 24300, as that section read on December 31, 2006, that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, computed on the member's projected final compensation and projected service to normal retirement age. The allowance payable under this subdivision shall be increased by application of the benefit improvement factor for time that elapses between the date the member would have attained normal retirement age and the date the family allowance under this subdivision begins to accrue. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of service credit for unused sick leave credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d) If there is no surviving spouse or dependent child, to the dependent parent, 60 years of age or over, a monthly allowance equal to the amount that would have been payable to the dependent parent as beneficiary under Option 3 pursuant to Section 24300, as that section read on December 31, 2006, that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, computed on the member's projected final compensation and projected service to normal retirement age. The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the

inclusion of service credit for unused sick leave and the calculation of that service credit shall be determined pursuant to Section 22717. If there are two dependent parents, only one family allowance shall be payable under this subdivision and that allowance shall be computed on the assumption that the younger parent is the option beneficiary and the allowance shall be divided equally for as long as there are two dependent parents. Thereafter, the full allowance shall be payable to the surviving dependent parent.

(e) The surviving spouse or dependent parent may elect to begin receiving the family allowance payable under subdivision (c) or (d) immediately upon the later of the death of the member or when there is no dependent child, or to defer receipt of the allowance to the date the surviving spouse or dependent parent attains 60 years of age. If allowance payments commence prior to the date the surviving spouse or dependent parent attains 60 years of age, the allowance payable shall be actuarially reduced.

(f) If there is no dependent child, a surviving spouse or dependent parent or parents may elect, prior to receipt of the first payment under subdivision (c) or (d), to receive the member's accumulated retirement contributions in a lump sum subject to a reduction for any disability allowance or family allowance payments previously made.

(g)(1) The allowance calculated under this section shall not include either of the following:

(A) The increase in the percentage of final compensation pursuant to Section 24203.5.

(B) The increase in the monthly allowance pursuant to Section 24203.6.

(2) This subdivision does not constitute a change in, but is declaratory of, the existing law.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 62 (AB 3171), effective September 27, 1994; Stats 1995 ch 524 § 1 (AB 1441); Stats 1996 ch 1165 § 15 (AB 3032); Stats 1998 ch 965 § 140.5 (AB 2765); Stats 2006 ch 655 § 19 (SB 1466), effective January 1, 2007; Stats 2007 ch 323 § 9 (AB 757), effective January 1, 2008.

Former Sections: Former § 23805, similar to present Ed C § 23810, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 520 § 10, Stats 1992 ch 1166 § 23.5, effective September 29, 1992, and repealed Stats 1993 ch 983 § 1.

Historical Derivation: Former Ed C § 23804.3, as added Stats 1981 ch 124 § 38, amended Stats 1987 ch 330 § 9.

Amendments

1994 Amendment: (1) Amended subd (c) by adding **(a)** "years of age" after "60"; and **(b)** the last sentence; and **(2)** amended subd (d) by **(a)** substituting "child" for "children" near the beginning; **(b)** adding the third sentence; and **(c)** substituting "only one" for "a single" near the beginning of the fourth sentence.

1995 Amendment: (1) Amended subd (c) by **(a)** substituting "age 60 years or over if there is no child, an allowance equal to the amount that would have been payable to the spouse as beneficiary under Option 3 as provided in Section 24300," for "60 years of age or over without children, an amount equal to Option 3 as provided under this part" after "surviving spouse at"; **(b)** substituting "allowance" for "benefit" before "calculation shall"; **(c)** adding "service" after "shall include"; **(d)** substituting "or disabilitant as of the date of his or her" for "as of the date of the member's" after "to the member"; and **(e)** substituting "inclusion of service credit for unused sick leave credit and the calculation of that" for "use of sick leave and the calculation of" before "service credit shall"; **(2)** amended subd (d) by **(a)** substituting the first, second, and third sentences for the former first, second, and third sentences which read: "If there is no surviving spouse or child upon the member's or disabilitant's death, to the dependent parent age 60 years or over, an amount equal to Option 3 as provided under this part computed on the member's or disabilitant's projected final compensation and projected service to normal retirement age. The benefit calculation shall include credit for the unused sick leave that had accrued to the member as of the date of the member's death. Eligibility for the use of sick leave and the calculation of service credit shall be determined pursuant to Section 22717."; **(b)** adding "payable under this subdivision and that allowance shall be" after "allowance shall be" in the fourth sentence; **(c)** adding "option" after "parent is the"; and **(d)** adding "full" before "allowance shall be" in the last sentence; **(3)** added subd (e); **(4)** redesignated former subd (e) to be subd (f); and **(5)** amended subd (f) by substituting **(a)** "is no child who qualifies under Section 22111, a surviv-

ing" for "are no children who qualify under Section 22111, a" before "spouse or the"; **(b)** "member's or disabilitant's accumulated retirement" for "accumulated"; and **(c)** "disability allowance or family allowance payments previously made" for "payments made from the account for any prior qualified persons" near the end.

1996 Amendment: (1) Added "dependent" wherever it appears; **(2)** substituted "disabled member's" for "disabilitant's" both times it appears in subd (a) and in subd (b); **(3)** amended subd (a) by **(a)** substituting "deceased member's" for "member's or disabilitant's"; and **(b)** deleting "disabilitant's" after "percent of the" both times it appears; **(4)** deleted "or disabilitant's" after "the member's" in the first sentence of subds (c) and (d); **(5)** deleted "or disabilitant" after "the member" in the second sentence of subds (c) and (d); and **(6)** amended subd (f) by deleting **(a)** "who qualifies under Section 22111" after "no dependent child"; and **(b)** "the" after "surviving spouse or".

1998 Amendment: Deleted "or disabilitant" after "to the member" in the third sentence of subd (c).

2006 Amendment: (1) Amended subd (c) by **(a)** substituting "60 years of age" for "age" after "surviving spouse at"; **(b)** substituting "a monthly" for "an" after "no dependent child,"; **(c)** substituting "pursuant to" for "as provided in" after "under Option 3"; and **(d)** adding "that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age" after "pursuant to Section 24300"; **(2)** amended subd (d) by **(a)** substituting "no surviving spouse or" for "neither surviving spouse nor" after "If there is"; **(b)** substituting "60 years of age or over, a monthly" for "age 60 years or over, an" after "the dependent parent"; **(c)** substituting "pursuant to" for "as provided in" after "under Option 3"; and **(d)** adding "that provides an allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age," after "pursuant to Section 24300"; **(3)** substituted "of age" for "age" both times it appears in subd (e); and **(4)** added subd (g).

2007 Amendment: Added ", as that section read on December 31, 2006," in subds (c) and (d).

§ 23805.5. Indicia of dependency for parents claiming benefits

(a) A parent claiming a benefit under Section 23805 is dependent if all of the following apply:

(1) The parent was receiving one–half or more of his or her support from the member for the tax year preceding the member's death.

(2) The parent was declared as a dependent on the income tax return of the member for at least one of the two tax years preceding the member's death.

(3) No one else has assumed at least one–half of the parent's support in the tax year of the member's death.

(4) The parent has net assets of not more than twenty–five thousand dollars ($25,000), excluding his or her personal residence and personal property therein.

(b) A person claiming a benefit under Section 23805 or his or her guardian shall furnish the board a state or federal income tax return and any other evidence regarding his or her financial status as the board may require.

Added by Stats 1999 ch 939 § 61 (SB 1074).

§ 23806. Payment of family allowance to children

(a) A dependent child who is not in the care of the surviving spouse shall be included in the calculation of the family allowance. That child's portion of the allowance shall be paid to the guardian of the estate of the child, the natural or adoptive parent having custody of the child, or if none, then to the trustee of the trust established for the benefit of the child.

(b) In the case of a dependent child age 18 years or older, the child's portion of the allowance shall be paid to the guardian of the estate of the child, trustee of the trust established for the benefit of the child, or if none, then to the child.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 16 (AB 3032).

Former Sections: Former § 23806, similar to present Ed C § 22123, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 983 § 1.

Historical Derivation: Former Ed C § 23804.7, as added Stats 1981 ch 124 § 40, amended Stats 1992 ch 1167 § 5.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** substituting "A dependent child who is" for "If there are eligible dependent children who are"; **(b)** deleting ", they" after "surviving spouse"; and **(c)** adding the last sentence; and **(2)** amended subd (b) by **(a)** deleting the former first sentence which read: "An allowance increment payable for an eligible dependent child shall be paid to the guardian of the estate of the child, the natural or adoptive parent having custody of the child, or if none, then to the trustee of the trust established for the benefit of the child."; **(b)** adding "dependent"; and **(c)** substituting "portion" for "share".

§ 23809. Reduction in family allowance for unmodified benefits payable from other systems

The family allowance payable to the surviving spouse who has financial responsibility for at least one dependent child, or the family allowance payable to a dependent child, shall be reduced by an amount equal to the unmodified benefits paid or payable from other public systems for the same event which qualified the surviving spouse or dependent child for the family allowance.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 19 (AB 3032).

Former Sections: Former § 23809, similar to present Ed C § 24403, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 983 § 1.
Historical Derivation: (a) Former Ed C § 23804.5, as added Stats 1981 ch 124 § 39.
(b) Former Ed C § 23811, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 113.

Amendments

1996 Amendment: (1) Added "dependent"; **(2)** added "the family allowance; **(3)** substituted "a dependent child" for "the children"; and **(4)** substituted "surviving spouse or dependent child" for "member or disabilitant".

§ 23810. Termination of family allowance

If the person or persons to whom a family allowance is payable dies or no longer qualifies for the allowance, the allowance shall be terminated on the day of that event except as provided in Section 24600.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23810, similar to present § 23811, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1979 ch 520 § 12, Stats 1980 ch 244 § 10, and repealed Stats 1993 ch 983 § 1.
Historical Derivation: Former § 23805, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 520 § 10.

§ 23811. Lump sum payment on termination of family allowance

(a) Upon termination of family allowances under this part and prior to the payment of allowances equal to the amount of the member's accumulated retirement contributions at the time of death, the balance shall be paid to the member's beneficiary.
(b) Payments provided under this section shall include credited interest on the unpaid balance calculated from the date family allowances were last paid or from the date of death, if no family allowance payments were made, to the date the balance is paid.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23811, similar to present § 23809, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 113, effective April 29, 1977, operative April 30, 1977, and repealed Stats 1981 ch 124 § 44.

Historical Derivation: (a) Former § 23807, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 520 § 11, Stats 1980 ch 244 § 9, Stats 1981 ch 124 § 41.

(b) Former § 23810, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 520 § 12, Stats 1980 ch 244 § 10.

§ 23812. Resumption of benefits for deceased member's surviving spouse who had lost benefits due to remarriage

(a) The surviving spouse of a deceased member who previously lost entitlement to benefits prescribed by this part due to remarriage shall be entitled to resume payment of the benefits effective either on January 1, 2000, or the first day of the month following receipt by the board of a written application for resumption of benefits, whichever date is later. The amount of the benefits payable shall be calculated as though the benefits had been paid without interruption from the date of remarriage through the benefits resumption effective date.

(b) The board shall be under no requirement to identify, locate, or notify a remarried spouse of a deceased member who previously lost entitlement as a result of remarriage about the resumption of benefits provided in this section. The board shall be under no requirement to provide the name or address or any other information concerning any remarried spouse of a deceased member to any person, agency, or entity for the purpose of notifying those who may be eligible for the resumption of benefits under this section.

(c) Nothing in this section shall be construed to imply or interpreted to mean that the benefits addressed shall be required to be paid retroactively.

(d) This section does not apply to the surviving domestic partner of a member.

Added by Stats 1999 ch 432 § 1 (SB 437). Amended by Stats 2000 ch 135 § 34 (AB 2539); Stats 2004 ch 912 § 14 (AB 2233).

Former Sections: Former § 23812, similar to present Ed C § 23403, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

2000 Amendment: Amended subd (a) by **(1)** substituting "benefits" for "benefit" wherever it appears; and **(2)** adding "day" after "January 1, 2000, or the first".

2004 Amendment: Added subd (d).

CHAPTER 23. ACTIVE DEATH BENEFITS: SURVIVOR BENEFITS

§ 23850. Application of chapter; "Member"

This chapter governs the eligibility provisions, benefit provisions, allowance computations, and related provisions for the benefits payable under this part with respect to the Defined Benefit Program upon the death of eligible members. "Member," as used in this chapter, means all persons who become members of the plan under this part on or after October 16, 1992, and all persons who were members as of October 15, 1992, who elected, pursuant to Chapter 21.5 (commencing with Section 23700), to be covered under the death benefit provisions of this chapter.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 190 (SB 2041); Stats 1998 ch 965 § 141 (AB 2765); Stats 2000 ch 1025 § 30 (AB 816).

Former Sections: Former § 23850, similar to the present section, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "become members of the plan on or" for "became members of the system on and" after "members of the" in the second sentence.

1998 Amendment: Added "under this part" both times it appears.

2000 Amendment: Amended the first sentence by **(1)** adding "provisions" after "eligibility"; **(2)** deleting "death" after "provisions for the"; and **(3)** adding "with respect to the Defined Benefit Program".

§ 23851. Payment on death to beneficiary

(a) A death payment of not less than twenty thousand dollars ($20,000) shall be paid to the beneficiary, as designated pursuant to Section 23300, upon receipt of proof of death of a member, who had one or more years of credited service, including service deemed to the member under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851, at least one of which had been earned subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which creditable compensation is paid.

(2) Within four months after termination of creditable service or termination of employment, whichever occurs first.

(3) Within 12 months of the last day for which creditable compensation was paid, if the member was on an approved leave of absence without creditable compensation for reasons other than disability.

(4) While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of termination of the service retirement allowance pursuant to Section 24208 or during the six calendar months commencing with the effective date of termination of the disability retirement allowance pursuant to Section 24117.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt as a plan amendment with respect to the Defined Benefit Program any adjusted amount.

(d) A designated beneficiary may waive the right to the death payment in accordance with the requirements established by the system.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 64 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 191 (SB 2041); Stats 1998 ch 965 § 142 (AB 2765); Stats 1999

ch 939 § 62 (SB 1074); Stats 2010 ch 207 § 13 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 14 (SB 349), effective January 1, 2012.

Former Sections: Former § 23851, similar to the present section, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 1144 prevails), amended Stats 1993 ch 1144 § 4.5, and repealed Stats 1994 ch 933 § 65, effective September 27, 1994.

Amendments

1994 Amendment: (1) Substituted subd (a)(1) for former subd (a)(1) which read: "(1) While in active employment."; **(2)** substituted subd (a)(2) for former subd (a)(2) which read: "(2) Within four months after terminating employment."; and **(3)** added subd (d).

1996 Amendment: (1) Substituted "an active member" for "a member" after "proof of death of" in the introductory clause of subd (a); and **(2)** amended subd (b) by substituting **(a)** "termination of the service retirement allowance" for "reinstatement from service retirement"; and **(b)** "termination of the disability retirement allowance" for "reinstatement from disability retirement".

1998 Amendment: Added **(1)** "no less than" after "A death payment of" in subd (a); and **(2)** "and adopt as a plan amendment any adjusted amount" in subd (c).

1999 Amendment: (1) Substituted "not" for "no" after "A death payment" in subd (a); **(2)** added "creditable" wherever it appears in subds (a)(1)–(a)(3); **(3)** added "with respect to the Defined Benefit Program" in subd (c); and **(4)** substituted "the" for "his or her" in subd (d).

2010 Amendment: Substituted "of a member" for "of an active member" in the introductory clause of subd (a).

2011 Amendment: (1) Amended the introductory clause of subd (a) by **(a)** adding "including service deemed to the member under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851,"; and **(b)** substituting "earned" for "performed"; **(2)** deleted "or military service" at the end of subd (a)(3); and **(3)** added subd (a)(4).

§ 23852. Election of surviving spouse; Dependent child; Beneficiary (Refund of benefits upon death of member)

Upon receipt of proof of death of a member who has no preretirement option in effect:

(a) The surviving spouse may elect to receive either of the following:

(1) The member's accumulated retirement contributions in a lump sum.

(2) If the member meets the provisions set forth in Section 23854, the survivor benefit allowance pursuant to Sections 23854 and 23855.

(b) If there is no surviving spouse, and the member meets the provisions set forth in Section 23854, then each dependent child shall receive the child's portion of the survivor benefit allowance pursuant to Sections 23854, 23855, and 23856. The child's portion of the survivor benefit allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(c) If there is no surviving spouse or dependent child to receive a benefit under subdivision (a) or (b), the member's accumulated retirement contributions shall be paid to the member's beneficiary in a lump sum.

(d) The member's accumulated annuity deposit contributions shall be paid to the member's beneficiary in a lump sum.

(e) The payment of accumulated contributions in a lump sum shall include credited interest through the date of payment.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 2006 ch 654 § 7 (SB 1465), effective January 1, 2007; Stats 2011 ch 703 § 15 (SB 349), effective January 1, 2012.

Former Sections: Former § 23852, similar to the present section, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

2006 Amendment: (1) Added subd (b); **(2)** redesignated former subds (b) and (c) to be (c) and (d); **(3)** added "or eligible dependent child or children" in subd (c); and **(4)** designated the last paragraph as subd (e).

2011 Amendment: (1) Added "If the member meets the provisions set forth in Section 23854," in subd (a)(2); **(2)** amended the first sentence of subd (b) by **(a)** substituting "surviving spouse, and the member meets the provisions set forth in Section 23854, then each" for "eligible surviving spouse, each eligible"; and **(b)** deleting "or children" after "dependent child"; and **(3)** amended subd (c) by **(a)** deleting "eligible" after "there is no" and after "spouse or"; and **(b)** substituting "to receive a benefit under subdivision (a) or (b)" for "or children".

§ 23853. Request for death payments and return of contributions (Exception to Probate Code)

Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code or any other provision of law to the contrary, death payments and return of contributions pursuant to Sections 23851 and 23852, if any, may be requested by the surviving spouse or beneficiary and paid by the system as soon as practicable after receipt of proof of death.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23853, similar to the present section, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

§ 23854. Survivor benefit allowance (Payment conditions)

(a) A survivor benefit allowance is payable upon receipt of proof of death of a member, as defined in Section 23850, who had one or more years of credited service, including deemed service under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851, at least one of which had been earned subsequent to the most recent refund of accumulated retirement contributions.

(b) For the survivor benefit allowance to be payable upon the death of a member, all of the following conditions shall be met at the time of death:

(1) Death occurred after October 15, 1992.

(2) A preretirement election of an option is not in effect.

(3) Death occurs during any one of the following periods:

(A) While in employment for which compensation is paid.

(B) Within four months after termination of service or termination of employment, whichever occurs first.

(C) Within four months after reinstatement from disability retirement.

(D) Within 12 months following the last day for which compensation was paid if the member was on an approved leave of absence without compensation for reasons other than disability.

(E) While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.

(4) At least one-half year of credited service had been performed subsequent to the end of the last break in service, if a break in service of more than one year had occurred.

(5) At least one year of credited service had been performed subsequent to the last reinstatement date, if reinstated from service retirement.

(c) The survivor benefit allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(d) The survivor benefit allowance may be terminated, if all eligible beneficiaries formally waive their rights in accordance with the requirements established by the system.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 66 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 192 (SB 2041); Stats 2011 ch 703 § 16 (SB 349), effective January 1, 2012; Stats 2012 ch 864 § 11 (AB 2663), effective January 1, 2013.

Former Sections: Former § 23854, similar to the present section, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 1144 prevails), amended Stats 1993 ch 1144 § 4.5, and repealed Stats 1994 ch 933 § 67, effective September 27, 1994.

Amendments

1994 Amendment: (1) Substituted subd (a) for former subd (a) which read: "(a) A survivor benefit allowance is payable upon the death of a member, as defined in Section 23850."; **(2)** substituted subds (b)(2)(A) and (b)(2)(B) for former subds (b)(2)(A) and (b)(2)(B) which read: "(A) While in active employment.""(B) Within four months after termination of employment."; **(3)** substituted "termination of" for "reinstatement from" in subd (b)(2)(C); and **(4)** added subd (d).

1996 Amendment: (1) Added "in service" after "of the last break" in subd (b)(4); and **(2)** substituted "shall be paid" for "is" after "benefit allowance" in subd (c).

2011 Amendment: (1) Amended the introductory clause of subd (a) by **(a)** adding "including deemed service under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851,"; and **(b)** substituting "earned" for "performed"; **(2)** deleted "or military service" at the end of subd (b)(3)(E); and **(3)** added subd (b)(3)(F).

2012 Amendment: (1) Deleted former subd (b)(3)(C) which read: "(C) Within four months after termination of disability allowance."; and **(2)** redesignated former subds (b)(3)(D)–(b)(3)(F) to be subds (b)(3)(C)–(b)(3)(E).

§ 23855. Computation of survivor benefit allowance

(a) The survivor benefit allowance is a monthly allowance equal to one-half of the modified retirement allowance the member would have received at 60 years of age, if the member had retired and elected Option 3 pursuant to Section 24300, as that section read on December 31, 2006, naming the spouse as the option beneficiary.

(b) The allowance payable under this subdivision shall be based on the member's actual service credit and final compensation as of the date of his or her death, the retirement factor at 60 years of age, and the member's and spouse's ages as of the date the member would have attained 60 years of age. If the member's death occurs after he or she attains 60 years of age, his or her actual final compensation, the retirement factor at 60 years of age, and the member's and spouse's ages as of the date of the member's death shall be used in the allowance calculation.

(c) The allowance calculation shall include service credit for the unused sick leave that had accrued to the member as of the date of his or her death. Eligibility for the inclusion of unused sick leave service credit and the calculation of that service credit shall be determined pursuant to Section 22717.

(d)(1) The allowance calculation shall not include either of the following:

(A) The increase in the percentage of final compensation pursuant to Section 24203.5.

(B) The increase of the monthly allowance pursuant to Section 24203.6.

(2) The amendments to this section made by the act adding this paragraph do not constitute a change in, but are declaratory of, existing law.

(e) The surviving spouse may elect to begin receiving the survivor benefit allowance immediately as of the date of the member's death or to defer receipt of the allowance to the date the member would have attained 60 years of age. If allowance payments to the surviving spouse commence prior to the date the member would have attained 60 years of age, the allowance payable shall be actuarially reduced.

(f) If the spouse elects, pursuant to Section 23852, to receive the survivor benefit allowance, an additional 10 percent of final compensation shall be payable for each dependent child who is under 21 years of age, up to a maximum of 50 percent of final compensation. The child's portion shall begin to accrue on the day following the member's date of death and shall be payable even if the spouse elects to postpone receipt of the spouse's survivor benefit allowance until the date the member would have attained 60 years of age.

(g) If there is no surviving spouse, an allowance in an amount equal to 10 percent of the deceased member's final compensation shall be paid to each dependent child who is under 21 years of age, up to a maximum of 50 percent of final compensation. If there are more than five dependent children, they

shall receive allowances in equal shares of the 50 percent of final compensation. A child's portion of the survivor benefit allowance shall begin to accrue on the day following the member's date of death.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 524 § 2 (AB 1441); Stats 1996 ch 1165 § 20 (AB 3032); Stats 2006 ch 654 § 8 (SB 1465) (ch 654 prevails), effective January 1, 2007, ch 655 § 20 (SB 1466), effective January 1, 2007; Stats 2007 ch 323 § 10 (AB 757), effective January 1, 2008.

Former Sections: Former § 23855, similar to the present section, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

1995 Amendment: (1) Substituted "retired and elected Option 3 as provided in Section 24300," for "elected an Option 3" in subd (a); **(2)** amended subd (b) by **(a)** substituting "allowance payable under this subdivision" for "Option 3 allowance"; **(b)** substituting "as of the date of his or her" for "at time of"; **(c)** substituting "the member's death occurs after he or she attains" for "death occurs after the member attained"; **(d)** substituting "his or her" for "the"; **(e)** adding "the age 60"; and **(f)** substituting "the member's death shall be used in the" for "death shall be used in the Option 3"; **(3)** amended subd (c) by substituting **(a)** "had accrued to the member as of the date of his or her" for "the member was entitled to on the date of the member's"; and **(b)** "inclusion of unused sick leave service credit and the calculation of that" for "the member was entitled to on the date of the member's"; and **(4)** amended the last sentence of subd (d) by substituting **(a)** "allowance" for "the" before "payments to the"; and **(b)** "actuarially reduced" for "to a reduction as periodically determined by the board".

1996 Amendment: (1) Substituted "date the member would have attained age 60 years" for "member's 60th birthday anniversary" in subds (b) and (e); and **(2)** amended subd (e) by **(a)** deleting "increment of" after "an additional"; **(b)** substituting "shall be" for "is"; **(c)** substituting "dependent child who is not older than age 21 years, up to a maximum of 50 percent of final compensation" for "eligible dependent child up to the attainment of age 21 years, up to a maximum of 50 percent of final compensation for the children's increment"; **(d)** substituted "child's portion" for "children's increment"; and **(e)** substituted "spouse's" for "base".

2006 Amendment: (1) Substituted **(a)** "60 years of age" for "age 60" or "age 60 years"; and **(b)** "retirement factor at 60 years of age" for "age 60 retirement factor" throughout; **(2)** substituted "pursuant to" for "as provided in" after "elected Option 3" in subd (a); **(3)** added subd (d); **(4)** redesignated former subds (d) and (e) to be subds (e) and (f); **(5)** amended subd (f) by substituting "under 21 years of age" for "not older than age 21 years"; and **(6)** added subd (g).

2007 Amendment: Added "as that section read on December 31, 2006," in subd (a).

§ 23856. Eligible dependent children

(a) A dependent child who is not in the care of the surviving spouse shall be included in the calculation of the children's portion of the survivor benefit allowance. That child's portion of the allowance shall be paid to the guardian of the estate of the child, the natural or adoptive parent having custody of the child, or if none, then to the trustee of the trust established for the benefit of the child.

(b) In the case of a dependent child who is age 18 years or older, the child's portion of the allowance shall be paid to the guardian of the estate of the child, trustee of the trust established for the benefit of the child, or if none, then to the child.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 21 (AB 3032).

Former Sections: Former § 23856, similar to the present section, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** substituting "A dependent child who is not in the care of the surviving spouse" for "If there are eligible dependent children who are not in the care of the surviving spouse,

they"; **(b)** deleting "increment" after "of the children's"; and **(c)** adding the last sentence; and **(2)** amended subd (b) by **(a)** substituting the first sentence for the former first sentence which read: "Allowances payable to the eligible dependent children shall be paid to the guardian of the estate of the child, the natural or adoptive parent having custody of the child, or if none, then to the trustee of the trust established for the benefit of the child."; **(b)** adding "dependent"; and **(c)** substituting "portion" for "share".

§ 23858. Termination of allowance on death of beneficiary

If the person or persons to whom a survivor benefit allowance is payable dies or no longer qualifies for the allowance, the allowance shall be terminated on the day of the event except as provided in Section 24600.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23858, similar to present § 22123.5, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 23857, as added Stats 1992 ch 1166 § 24.

§ 23859. Remaining balance paid to estate of spouse on termination of allowance

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 193 (SB 2041); Stats 2009 ch 304 § 17 (SB 634), effective January 1, 2010.

Former Sections: Former § 23859, relating to benefit improvement factor, was added Stats 1992 ch 1166 § 24, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** "substituting, if the total allowance paid or payable is less than" for "and prior to the payment of allowances equal to"; and **(b)** adding "of accumulated retirement contributions" after "remaining balance"; and **(2)** substituted "the last survivor benefit allowance payment was made" for "survivor benefit allowances were last paid" in subd (b).

2009 Amendment: (1) Added subd (b); and **(2)** redesignated former subd (b) to be subd (c).

CHAPTER 24. RETIRED DEATH BENEFITS

§ 23880. Payment to beneficiary (Death benefit)

(a) A death payment of not less than five thousand dollars ($5,000) shall be paid to the beneficiary, as designated pursuant to Section 23300, upon receipt of proof of death of either of the following:

(1) A retired member.

(2) A member, if the death payment pursuant to Section 23801 would have otherwise been payable or if the conditions specified pursuant to paragraphs (3) and (5) of subdivision (b) of Section 23854 are met, and if the member's death occurs during one of the following periods:

(A) Within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 24208.

(B) Within six months commencing with the effective date of reinstatement from disability retirement pursuant to Section 24117.

(b) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index and adopt as a plan amendment any adjusted amount.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 68 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 194 (SB 2041); Stats 1998 ch 965 § 143 (AB 2765).

Former Sections: Former § 23880, similar to the present section, was added Stats 1992 ch 1166 § 25, effective September 29, 1992, repealed Stats 1993 ch 893 § 2 (ch 1144 prevails), amended Stats 1993 ch 1144 § 6, and repealed Stats 1994 ch 933 § 69, effective September 27, 1994.

Amendments

1994 Amendment: (1) Added "Within" at the beginning of subds (a)(2)(A) and (a)(2)(B); and **(2)** deleted former subd (a)(2)(C) which read: "(C) Six months commencing with the date of reinstatement from disability allowance".

1996 Amendment: (1) Restructured the former introductory clause of subd (a), subd (a)(1), and the former introductory clause of subd (a)(2) to be the introductory clause of subd (a) by deleting "either of the following:"(1) A retirant."(2)"; **(2)** substituted "paragraphs (3) and (5)" for "paragraph (3)" in the introductory clause of subd (a); and **(3)** redesignated former subds (a)(2)(A) and (a)(2)(B) to be subds (a)(1) and (a)(2).

1998 Amendment: (1) Amended subd (a) by **(a)** adding "not less than"; **(b)** adding ", as designated pursuant to Section 23300,"; **(c)** adding "either of the following:"; **(d)** adding subd (a)(1); **(e)** adding subdivision designation (a)(2); and **(f)** redesignating former subds (a)(1) and (a)(2) to be subds (a)(2)(A) and (a)(2)(B); and **(2)** added "and adopt as a plan amendment any adjusted amount" at the end of subd (b).

§ 23881. Payment to beneficiary or option beneficiary (Return of contributions and interest)

(a) If upon receipt of proof of death of a retired member who was receiving an unmodified allowance and who retired under this part after June 30, 1972, there is a remaining balance of the member's accumulated retirement contributions, the balance shall be paid to the member's beneficiary.

(b) Upon receipt of proof of death of a retired member's option beneficiary after the beneficiary begins to receive an allowance, the remaining balance of a member's accumulated retirement contributions, if any, shall be paid to the beneficiary designated by the option beneficiary to receive that payment.

(c) The remaining balance of a retired member's accumulated retirement contributions shall be the difference between the balance of the accumulated retirement contributions on the effective date of the member's retirement and the total retirement allowance paid or payable to the retired member on the date of the member's death. If the retired member predeceased the option beneficiary, the remaining

balance of the retired member's accumulated retirement contributions shall be the difference between the balance of the accumulated retirement contributions on the effective date of the member's retirement and the total retirement allowance paid or payable to the retired member and the option beneficiary on the date of the option beneficiary's death.

(d) Payments pursuant to this section shall include interest on the remaining balance of accumulated retirement contributions calculated from the date the last allowance payment was made to the date the remaining balance of accumulated retirement contributions is paid.

Added by Stats 2000 ch 74 § 52 (AB 1509).

Former Sections: Former § 23881, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1996 ch 634 § 195, Stats 1998 ch 965 § 144, and repealed Stats 2000 ch 74 § 51.

Former § 23881, similar to the present section, was added Stats 1992 ch 1166 § 25, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

§ 23882. Request for death payments and return of contributions (Exception to Probate Code)

Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code or any other provision of law, death payments and return of contributions pursuant to Sections 23880 and 23881, if any, may be requested by the beneficiary and paid by the system as soon as practicable after receipt of proof of death.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 23882, similar to the present section, was added Stats 1992 ch 1166 § 25, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

CHAPTER 25. DISABILITY ALLOWANCE

§ 24001. Application for disability allowance (Eligibility requirements)

(a) (1) A member may apply for a disability allowance under the Defined Benefit Program, upon written application for disability allowance to the board on a properly executed form provided by the system, if the member has five or more years of credited service and if all of the following requirements are met:

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

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

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

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

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

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

(2) A member who becomes disabled prior to normal retirement age, who has sick leave which will extend beyond normal retirement age, and who has a dependent child, may be awarded a disability allowance with an effective date after normal retirement age if the application is filed prior to attaining normal retirement age.

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

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

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

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 196 (SB 2041); Stats 1997 ch 386 § 1 (SB 629); Stats 1998 ch 965 § 145 (AB 2765); Stats 2001 ch 803 § 10 (SB 501); Stats 2005 ch 351 § 18 (AB 224), effective January 1, 2006; Stats 2007 ch 332 § 1 (AB 1316), effective January 1, 2008; Stats 2009 ch 304 § 18 (SB 634), effective January 1, 2010; Stats 2011 ch 703 § 17 (SB 349), effective January 1, 2012.

Former Sections: Former § 24001, similar to present Ed C § 24219, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "subject to coverage by the plan" for "in a position requiring membership in the system" in the first sentence of subd (1); **(b)** "terminated the service retirement allowance" for "was reinstated to membership" in subd (3); and **(c)** "the plan" for "this system" after "membership in" in subd (6); **(2)** amended subd (b) by **(a)** adding "performed" after "the member has"; and **(b)** substituting "a disease while in employment subject to coverage by the plan" for "disease in a position requiring membership in the system"; and **(3)** substituted "plan" for "system" after "disability under this" in subd (c).

1997 Amendment: (1) Added "under this plan" in the introductory clause of subd (a); **(2)** added "in accordance with Section 22710" at the end of subd (a)(1); **(3)** amended subd (b) by **(a)** substituting "subdivision (a)" for "this section"; and **(b)** adding "and the four–year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) in addition to any credit received from workers' compensation payments"; and **(4)** substituted subd (c) for former subd (c) which read: "A member shall not be eligible for disability under this plan while on a leave of absence to serve as a full–time elected officer of an employee organization, even if receiving service credit under Section 22711."

1998 Amendment: (1) Amended subd (a) by substituting **(a)** "the Defined Benefit Program" for "this plan" in the introductory clause; **(b)** "performance of service subject to coverage under the Defined Benefit Program" for "service performed subject to coverage by the plan" in subd (a)(1); **(c)** "were performed" for "have been served" in subd (a)(2); **(d)** subd (a)(5) for former subd (a)(5) which read: "(5) The member has not attained normal retirement age, or has unused sick leave with sufficient days to have the member receive salary on account of sick leave to normal retirement age."; and **(e)** "Defined Benefit Program" for "plan" in subd (a)(6); **(2)** amended subd (b) by **(a)** adding "under this part"; **(b)** substituting "is credited with" for "has performed"; **(c)** adding "performed subject to coverage under the Defined Benefit Program"; **(d)** substituting "that occurred while the member was employed" for "while in employment subject to coverage by the plan"; and **(e)** adding "or Chapter 14.5 (commencing with Section 22850)"; **(3)** amended subd (c) by **(a)** adding "under this part"; and **(b)** substituting "under the Defined Benefit Program" for "by the plan" at the end; and **(4)** added subd (d).

2001 Amendment: Deleted former subd (d) which read: "(d) A member shall not be eligible for disability under the Defined Benefit Program while on a leave of absence to serve as a full–time elected officer of an employee organization, even if receiving service credit under Section 22711."

2005 Amendment: Substituted subds (c) for former subd (c) which read: "(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability allowance providing the member has at least one year of credited California service and if the reason for the disability is due to an unlawful act of bodily harm committed by another human being on the person of the member while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.".

2007 Amendment: (1) Added "Except as described in subdivision (d) of Section 24201.5," at the beginning of subd (a)(3); and **(2)** added subd (d).

2009 Amendment: Added ", upon written application for disability allowance to the board on a properly executed form provided by the system," in the introductory clause of subd (a).

2011 Amendment: (1) Added subdivision designation (a)(1); **(2)** redesignated former subds (a)(1)-(a)(6) to be subds (a)(1)(A)-(a)(1)(F); and **(3)** added subd (a)(2).

§ 24001.5. Eligibility of officers of employee organizations

A member shall not be eligible for a disability allowance under the Defined Benefit Program while on a leave of absence to serve as a full–time elected officer of an employee organization, even if the member receives service credit under Section 22711.

Added by Stats 1997 ch 386 § 1.5 (SB 629). Amended by Stats 1998 ch 965 § 146 (AB 2765); Stats 2001 ch 803 § 11 (SB 501).

Amendments

1998 Amendment: Substituted "the Defined Benefit Program" for "this plan".

2001 Amendment: Substituted **(1)** "a disability allowance" for "disability"; and **(2)** "the member receives" for "receiving".

§ 24002. Time and conditions for application for disability allowance

(a) The board may authorize payment of a disability allowance to any member who is qualified upon application under this part by the member, the member's guardian or conservator, or the member's employer, if the application is submitted on a properly executed form prescribed by the system during any one of the following periods:

(1) While the member is employed or on a compensated leave of absence.

(2) While the member is physically or mentally incapacitated for performance of service and the incapacity has been continuous from the last day of actual performance of service for which compensation is payable to the member.

(3) While the member is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of service, and within four months after the last day of actual performance of service for which compensation is payable to the member, or within 12 months of that date if the member is on an employer-approved leave to study at an approved college or university.

(4) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under paragraph (2) and was not made more than four months after the last day of actual performance of service for which compensation is payable to the member.

(b) A member is not qualified to receive a disability allowance if the member is applying because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 1165 § 22 (AB 3032); Stats 1998 ch 965 § 147 (AB 2765); Stats 2002 ch 375 § 9 (AB 2982); Stats 2003 ch 859 § 18 (SB 627); Stats 2010 ch 207 § 14 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 18 (SB 349), effective January 1, 2012.

Former Sections: Former § 24002, similar to present Ed C § 24218, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Added "member's" both times it appears in the introductory clause; **(2)** substituted "service" for "his or her duty" in subds (b) and after "for performance of" in subd (c); **(3)** added "of service" in subds (b) and (d); **(4)** substituted "is payable" for "was paid" in subds (b)–(d); **(5)** amended subd (c) by substituting **(a)** "service" for "employment"; and **(b)** "of that date if the member is on an employer–approved" for "while on an official district"; **(6)** substituted "subject to coverage by the plan" for "in a position requiring membership in the system" in subd (d); **(7)** substituted "a dependent child" for "children" in subd (e); and **(8)** amended subd (f) by substituting **(a)** "plan" for "system"; and **(b)** "which" for "that" after "commenced and".

1998 Amendment: (1) Added "under this part" in the introductory clause; **(2)** substituted "under the Defined Benefit Program" for "by the plan" in subd (d); and **(3)** substituted "Defined Benefit Program" for "plan" in subd (f).

2002 Amendment: Added **(1)** "of actual performance" in subds (b), (c), and (d); and **(2)** the commas after "member" and "child" near the beginning of subd (e).

2003 Amendment: Amended subd (e) by **(1)** deleting the comma after "A member"; and **(2)** adding "the" before "application is filed".

2010 Amendment: Substituted "submitted on a properly executed form prescribed by the system" for "made" in the introductory clause.

2011 Amendment: (1) Added subdivision designation (a); **(2)** redesignated former subds (a)-(d) and (f) to be subds (a)(1)-(a)(4) and (b); **(3)** substituted "paragraph (2)" for "subdivision (b)" in subd (a)(4); **(4)** deleted former subd (e) which read: "(e) A member with a dependent child, who becomes disabled prior to normal retirement age, and whose sick leave will extend beyond normal retirement age, may be awarded a disability allowance with an effective date after normal retirement age, if the application is filed prior to attaining normal retirement age."; and **(5)** amended subd (b) by (a) substituting "qualified to receive" for "applying for"; and (b) adding "if the member is applying".

§ 24003. Medical documentation of impairment; Examination; Request for reasonable accommodation; Administrative appeal

(a) The member shall provide medical documentation to substantiate the impairment qualifying the member for the disability allowance.

(b) On receipt of an application for disability allowance under this part, the system may order a medical examination or review of medical documentation of a member to determine whether the member is incapacitated for performance of service. The medical examination or review of medical documentation shall be conducted by a practicing physician, selected by the board, with expertise in the member's impairment and the board shall pay all costs associated with the examination or review of medical documentation. If the member refuses to submit to the required medical examination or review of medical documentation, the application for disability allowance shall be rejected. If a medical examination is ordered:

(1) The member shall either remain in this state, or return to this state at the member's own expense, to undergo the medical examination, or the application shall be rejected, unless this requirement is waived by the board. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Human Resources.

(2) If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability allowance application under this part if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is mentally or physically incapacitated.

(d) If the board determines that a member who has applied for a disability allowance under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability allowance application.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability allowance under this part.

(f) The system shall inform the member of the rejection or cancellation of the member's disability allowance application under this part within 30 days after that determination is made by the system.

(g) In determining whether a member meets the definition of disability pursuant to Section 22126, the board shall make a determination on the basis of competent medical documentation and shall not use the awarding of a disability allowance as a substitute for the disciplinary process.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 73 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 197 (SB 2041); Stats 1998 ch 965 § 148 (AB 2765); Stats 2008 ch 370 § 1 (AB 2023), effective January 1, 2009. Amended Stats 2012 ch 665 § 8 (SB 1308), effective January 1, 2013.

Editor's Notes—2011 Governor's Reorganization Plan No. 1 was submitted to the Legislature on June 9, 2011, and became effective September 9, 2011, pursuant to Gov C § 12080.5, and substantively operative July 1, 2012.

Stats 2012 ch 665 (SB 1308) enacts the statutory changes necessary to reflect the changes made by the Governor's Reorganization Plan No. 1 of 2011.

Former Sections: Former § 24003, similar to present Ed C § 24206, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 870 § 17, operative July 1, 1979, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23903.5, as added Stats 1992 ch 1167 § 7, amended Stats 1993 ch 1144 § 8.

Amendments

1994 Amendment: Added subd (f).

1996 Amendment: (1) Substituted "to substantiate the impairment qualifying the member" for "related to the impairment qualifying him or her" in subd (a); **(2)** amended subd (b) by substituting **(a)** "performance of" for "further" after "incapacitated for" in the first sentence; and **(b)** "rejected" for "disallowed" after "application shall be" in the fifth sentence; **(3)** amended subd (c) by **(a)** substituting "Section 22126" for "Section 22125"; and **(b)** deleting "to comply" after "physically incapacitated" at the end; **(4)** substituted "service in the member's former position of employment or in" for "his or her usual duties or those of" in the first sentence in subd (d); **(5)** substituted "If" for "In the event that" at the beginning of subd (e); and **(6)** substituted "the rejection or cancellation of the member's" for "any rejection of a" in subd (f).

1998 Amendment: Added "under this part" wherever it appears.

2008 Amendment: Added subd (g).

2011 Amendment: Substituted subd (b) for former subd (b) which read: "(b) On receipt of an application for disability allowance under this part, the system may order a medical examination of a member to determine whether the member is incapacitated for performance of service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member refuses to submit to the required medical examination, the application for disability allowance shall be rejected. The member shall either remain in this state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations, or the application shall be rejected, unless this requirement is waived by the board. If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled."

2012 Amendment: Substituted "Department of Human Resources" for "Department of Personnel Administration" in the second sentence of subd (b)(1).

§ 24004. Limitation of disability allowance in certain areas (Limited-term disability benefit coverage A)

In cases of a member's willful substance abuse or if the board determines a member who qualifies for a disability allowance pursuant to Section 24001 has mental, physical, or vocational rehabilitation potential, the board may limit the disability allowance under this part to a period not to exceed two years from the date of approval of the disability allowance. Notwithstanding Section 24013, the disability allowance shall terminate at the end of the period granted unless an extension is granted by the board.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 198 (SB 2041); Stats 1998 ch 965 § 149 (AB 2765).

Former Sections: Former § 24004, similar to present Ed C § 24207, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1992 ch 1165 § 7, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted **(1)** "cases of a member's willful substance abuse or if the board determines a member who qualifies" for "those cases of willful substance abuse or where the board determines a member qualifying" in the first sentence; and **(2)** "an extension is granted" for "extended" in the second sentence.

1998 Amendment: Added "under this part" in the first sentence.

§ 24005. Effective date of disability allowance; Notification of last day of service

(a) A disability allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for disability allowance is filed on a properly executed form prescribed by the system.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received by the system's headquarters office, as established pursuant to Section 22375, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability allowance is approved under this part, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of approval of the disability allowance, the member's application for a disability allowance shall be rejected and a disability allowance shall not be payable to the member.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 199 (SB 2041); Stats 1997 ch 482 § 26 (SB 471); Stats 1998 ch 965 § 150 (AB 2765); Stats 2005 ch 351 § 19 (AB 224), effective January 1, 2006; Stats 2010 ch 207 § 15 (AB 2260), effective January 1, 2011.

Former Sections: Former § 24005, similar to present Ed C § 24217, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "compensation" for "salary" in subd (2); and **(b)** "system's office" for "system" after "received by the" in subd (3); and **(2)** amended the first sentence in subd (b) by substituting **(a)** "to perform creditable service subject to coverage by the plan" for "in a position requiring membership in the system"; and **(b)** "the member" for "he or she" after "day on which".

1997 Amendment: Added "creditable" after "day of" in subd (a)(2).

1998 Amendment: (1) Added "under this part" in the introductory clause of subd (a); and **(2)** amended the first sentence of subd (b) by **(a)** substituting "under the Defined Benefit Program" for "by the plan"; and **(b)** adding "under this part".

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento,".

2010 Amendment: Substituted "properly executed form prescribed" for "form provided" in subd (a)(1).

§ 24006. Amount of disability allowance

Upon qualification for disability under this part, a member shall receive an annual allowance equal to 50 percent of final compensation payable in monthly installments. The allowance shall be increased by 10 percent of final compensation for each dependent child, to a maximum of four dependent children.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 23 (AB 3032); Stats 1998 ch 965 § 151 (AB 2765).

Former Sections: Former § 24006, relating to early retirement, was added stats 1979 ch 219 § 2, effective July 6, 1979, and repealed Stats 1987 ch 1452 § 174.

Historical Derivation: Former Ed C § 24100, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 122, Stats 1981 ch 124 § 49.

Amendments

1996 Amendment: (1) Substituted "an annual" for "a disability"; **(2)** deleted "the" after "10 percent of"; and **(3)** added "dependent" both times it appears.

1998 Amendment: Added "under this part".

Notes of Decisions

Because a disability allowance calculated under Ed C § 24006 for a teacher who was not eligible for a service retirement did not provide him with retirement income, as indicated in Ed C § 24213(a), but only replaced his lost earnings after separation and before retirement, which were his separate property, his wife had no community property interest in the allowance. Thus, the family court erred when it denied his Fam C § 2122 motion to set aside orders that had awarded the wife a community property interest in the disability allowance. In re Marriage of Walker (2012, 6th Dist) 2012 Cal App LEXIS 100.

§ 24007. Calculation of allowance on credited service

A member who qualifies for a disability allowance under this chapter and who has attained age 45 years, but who has not yet attained age 60 years, shall have his or her allowance calculated upon service with each year of credited California service providing 5 percent of final compensation. The disabled member shall receive the lesser of this amount or the amount provided by Section 24006. A child's portion of the allowance shall be determined pursuant to Section 24006. This section shall not apply to a member who is eligible to apply for a disability allowance under subdivision (c) of Section 24001.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 24 (AB 3032); Stats 1997 ch 386 § 2 (SB 629).

Former Sections: Former § 24007, relating to early retirement, was added Stats 1982 ch 557 § 1, effective August 24, 1982, operative January 1, 1983, amended Stats 1985 ch 261 § 1, effective July 26, 1985, Stats 1987 ch 330 § 14, and repealed, operative January 1, 1989, by its own terms.

Amendments

1996 Amendment: (1) Substituted "attained" for "reached"; **(2)** substituted "has not yet attained" for "is not yet"; **(3)** deleted "own" after "his or her"; **(4)** deleted "also" before "calculated upon service"; **(5)** substituted "disabled member" for "disabilitant"; and **(6)** substituted "amount or the amount provided by Section 24006. A child's portion of the allowance shall be determined pursuant" for "benefit or that provided by Section 24006 for the disabilitant's own allowance. The benefit for dependent children shall be as specified".

1997 Amendment: Added the last sentence.

§ 24009. Reduction when eligible dependent children become ineligible

A disability allowance payable pursuant to Sections 24006 and 24007 that includes a child's portion shall be reduced when a dependent child becomes ineligible. The reduction shall take into account the increases made by application of the improvement factor. However, the member's disability allowance shall not be less than it would have been if there had never been a dependent child.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 26 (AB 3032).

Amendments

1996 Amendment: Substituted the section for the former section which read: "Allowances payable under Sections 24006 and 24007 on account of children shall be reduced when children become ineligible. The reduction shall take into account the increases made by application of the improvement factor. However, the member's disability allowance shall not be less than it would have been if there had been any eligible children."

§ 24010. Reduction for benefits paid or payable under other public systems

Allowances payable under Sections 24006 and 24007 shall be reduced by an amount equal to the unmodified benefits paid or payable under other public systems for the same impairment or impairments that qualify the member for a disability allowance under this part. With respect to workers' compensation payments that are subject to liens under Section 4903 of the Labor Code, "unmodified benefits," for purposes of this section, shall only include payments for temporary disability, vocational rehabilitation monthly allowance, and permanent disability.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 152 (AB 2765); Stats 2002 ch 375 § 10 (AB 2982).

Amendments

1998 Amendment: Added "under this part".
2002 Amendment: Added the second sentence.

§ 24011. Treatment program for impairment amenable to treatment

A member who qualifies for disability allowance pursuant to this chapter because of a disabling impairment that is amenable to treatment that could be expected to restore the member's ability to perform service in the member's former position of employment or a comparable level position shall participate in a treatment program prescribed by the member's primary treating physician. Willful failure to initiate and continue participation in the treatment program shall cause the disability allowance to be terminated. In determining whether a member has good cause for failure to follow the treatment program, the board shall take into account whether treatment would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened, as determined by the member's treating physician and substantiated by medical evidence.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 200 (SB 2041); Stats 1998 ch 965 § 153 (AB 2765).

Amendments

1996 Amendment: (1) Substituted the first sentence for the former first sentence which read: "Any member qualifying for disability allowance pursuant to this chapter with a disabling impairment amenable to treatment that could be expected to restore ability to perform the member's usual duties or those of a comparable level position shall participate in a treatment program prescribed by the member's treatment sources."; and **(2)** added "or whether the member's physical or mental condition has worsened, as determined by the member's treating physician and substantiated by medical evidence" at the end of the third sentence.
1998 Amendment: Added **(1)** "treatment" in the second sentence; and **(2)** "program" after "follow the treatment" in the third sentence.

§ 24012. Participation in rehabilitation program; Effect of willful failure to participate; Costs

(a) A member who is receiving a disability allowance pursuant to this chapter who is determined by the board to have a mental, physical, or vocational rehabilitation potential that could be expected to restore the member's ability to perform service in the member's former position of employment or a comparable level position shall participate in an appropriate rehabilitation program approved by the board. The board shall pay all reasonable costs of the approved program. Willful failure to initiate and continue participation in the rehabilitation program shall cause the disability allowance to be terminated. In determining whether a member has good cause for failure to participate in the program, the board shall take into account whether the participation would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened, as determined by the member's treating physician and substantiated by medical evidence.

(b) Any cost for the approved rehabilitation program prescribed by the board shall be paid directly by the system from the fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 201 (SB 2041); Stats 2002 ch 375 § 11 (AB 2982); Stats 2003 ch 859 § 19 (SB 627).

Amendments

1996 Amendment: (1) Amended the first sentence in subd (a) by **(a)** substituting "A member who qualifies" for "Any member qualifying" at the beginning; **(b)** substituting "the member's ability to perform service in the member's former position of employment" for "ability to perform the member's usual duties or those of"; and **(c)** adding "rehabilitation" after "in an appropriate"; **(2)** added "rehabilitation" after "participation in the" in the third sentence of subd (a); **(3)** added "or whether the member's physical or mental condition has worsened, as determined by the member's treating physician and substantiated by medical evidence" at the end of the fourth sentence in subd (a); and **(4)** added "from the fund" at the end of subd (b).

2002 Amendment: Substituted "is receiving" for "qualifies for" after "A member who is" in the first sentence of subd (a).

2003 Amendment: Added the comma after "in the program" in the fourth sentence of subd (a).

§ 24013. Medical examinations (Continuing qualification)

The board may require any member receiving a disability allowance under this part to undergo medical examination at such times as the board deems necessary. The system may request the member's treating physician, upon authorization by the disabled member, to complete a medical reevaluation questionnaire. The system shall reimburse the disabled member for all reasonable costs related to completion of this questionnaire in an amount not to exceed two hundred fifty dollars ($250) if the disabled member has no other health coverage that would pay the costs of completing the medical questionnaire. The board may authorize a medical examination to be conducted by the disabled member's treating source at the disabled member's expense and, in any case, may require a medical examination to be conducted by a physician selected by the board, in which event, the board shall pay all reasonable costs associated with the examination. The board shall, in scheduling medical examinations, give consideration to the interests and convenience of the disabled member. If the examination, together with other available information, shows to the satisfaction of the board that the member is no longer disabled, the disability allowance shall be terminated. Should the disabled member refuse to submit to medical examination, as provided in this section, the disability allowance shall be terminated and all rights of the disabled member to the disability allowance shall be revoked.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 202 (SB 2041); Stats 1998 ch 965 § 154 (AB 2765).

Amendments

1996 Amendment: (1) Substituted "the board" for "it" after "at such times as" in the first sentence; **(2)** substituted "member's treating physician, upon authorization by the disabled member" for "treating physician, upon authorization by the disabilitant" in the second sentence; **(3)** substituted the third sentence for the former third sentence which read: "The system shall reimburse the disabilitant for all reasonable costs related to this questionnaire if the cost of the questionnaire is no greater than two hundred fifty dollars ($250) and the disabilitant has no other health coverage for the costs of the medical questionnaire."; **(4)** amended the fourth sentence by substituting **(a)** "a" for "any subsequent" after "may authorize"; and **(b)** "disabled member's treating source at the disabled member's expense" for "treating source of the disabilitant at the expense of the disabilitant"; **(5)** substituted "disabled member" for "disabilitant" at the end of the fifth sentence, and after "Should the" in the last sentence; **(6)** amended the sixth sentence by substituting **(a)** "member" for "disabilitant" after "board that the"; and **(b)** "be terminated" for "cease" at the end; and **(7)** substituted "shall be terminated and all rights of the disabled member to" for "payments shall be discontinued and all rights of the disabilitant in" in the last sentence.

1998 Amendment: Added "under this part" in the first sentence.

§ 24014. Employment of disabled member to perform creditable service

A disabled member may be employed to perform creditable service subject to coverage under the Defined Benefit Program. The employment shall not cause the disability allowance to be suspended or terminated except as provided in Sections 23401, 24013, and 24015, and no deduction shall be made from the disabled member's compensation as contributions to the Defined Benefit Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 203 (SB 2041); Stats 1998 ch 965 § 155 (AB 2765).

Amendments

1996 Amendment: Substituted the section for the former section which read: "A disabilitant may be employed in a position requiring certification qualifications. The employment does not operate to terminate or suspend the disability allowance except as provided in Sections 23401 and 24015, and no deduction shall be made from the disabilitant's salary as contributions to this system."

1998 Amendment: (1) Added "subject to coverage under the Defined Benefit Program" in the first sentence; and **(2)** substituted "Defined Benefit Program" for "plan" at the end of the second sentence.

§ 24015. Effect of employment on disability allowance (Earnings limitation)

Notwithstanding Section 22132, if a person who begins to receive a disability allowance under this part after June 30, 1972, is employed, or is self–employed in any capacity in which his or her average earnings for any prior continuous six months amount to 66⅔ percent of the indexed final compensation, the person shall be presumed capable of performing gainful employment and no longer disabled. The disability allowance shall be terminated on the first day of the month following the six–month period. Any allowance paid thereafter shall be considered an overpayment and recovery shall be made.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 203.5 (SB 2041); Stats 1998 ch 965 § 156 (AB 2765).

Historical Derivation: Former Ed C § 23910, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 117, Stats 1978 ch 1176 § 4, Stats 1982 ch 1314 § 6.

Amendments

1996 Amendment: Added "Notwithstanding Section 22132," at the beginning of the first sentence.

1998 Amendment: Added "under this part" after "disability allowance" in the first sentence.

§ 24016. Effect of excessive earnings on allowance

(a) For any one or more months in which the total of a disabled member's allowance under this part, excluding children's portions, and earnings exceed 100 percent of indexed final compensation, 100 percent of the amount in excess shall be considered an overpayment and recovery shall be made.

(b) This action shall not apply to disabled members who have allowances terminated under Section 24015 or who are enrolled in an approved rehabilitation program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 27 (AB 3032); Stats 1998 ch 965 § 157 (AB 2765).

Historical Derivation: Former Ed C § 23910.1, as added Stats 1982 ch 1314 § 7, amended Stats 1984 ch 53 § 3.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "the total of a disabled member's allowance, excluding children's portions" for "a disabilitant's allowance, exclusive of amounts payable on account of minor children or full-time students"; and **(b)** "an overpayment" for "overpaid"; and **(2)** substituted "disabled members" for "disabilitants" in subd (b).

1998 Amendment: Added "under this part" in subd (a).

§ 24017. Effect of excessive earnings on allowance of person enrolled in approved rehabilitation program

If a person who began receiving a disability allowance under this part after June 30, 1972, is enrolled in an approved rehabilitation program and the total of the disability allowance, excluding children's portions, and earnings exceed 100 percent of indexed final compensation, 50 percent of the amount in excess shall be considered an overpayment and recovery shall be made.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 28 (AB 3032); Stats 1998 ch 965 § 158 (AB 2765).

Historical Derivation: Former Ed C § 23910.2, as added Stats 1982 ch 1314 § 8.

Amendments

1996 Amendment: (1) Added "total of the"; **(2)** substituted "excluding children's portions" for "exclusive of amounts payable on account of minor children or full–time students"; and **(3)** substituted "an" for "as".

1998 Amendment: Added "under this part" after "disability allowance".

§ 24018. Recurrence of original disability within six months of return

When a disabled member returns to work in his or her former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, that can be medically substantiated, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability allowance under this part shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day of creditable service for which compensation is payable to the member provided the member complies with the provisions of Section 24003.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 204 (SB 2041); Stats 1998 ch 965 § 159 (AB 2765); Stats 2010 ch 207 § 16 (AB 2260), effective January 1, 2011.

Amendments

1996 Amendment: (1) Substituted "When a disabled member returns to work in his or her former position of employment or in" for "Where a disabilitant returns to work in" at the beginning of the first sentence; and **(2)** amended the second sentence by substituting **(a)** "again become payable" for "be restored" after "allowance shall"; **(b)** "service for which compensation is payable to the member" for "compensation" after "last day of"; and **(c)** "of" for "in" before "Section 24003".

1998 Amendment: Added "under this part" in the second sentence.

2010 Amendment: Added "creditable" in the second sentence.

CHAPTER 26. DISABILITY RETIREMENT

§ 24100. Applicability of chapter

This chapter governs the eligibility, allowance computations, and related provisions for the disability retirement program. This chapter applies to all persons who become members of the plan under this part on and after October 16, 1992, all persons who become members of the plan on and after October 16, 1992, subsequent to a refund, and to all members as of October 15, 1992, who elect under this part, pursuant to Chapter 21.5 (commencing with Section 23700), to be covered by the disability retirement program set forth in this chapter.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 205 (SB 2041); Stats 1998 ch 965 § 160 (AB 2765).

Former Sections: Former § 24100, similar to present Ed C § 24006, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 122, effective April 29, 1977, operative April 30, 1977, Stats 1981 ch 124 § 49, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 24150, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Substituted "plan on or after October 16, 1992, all persons who become members of the plan on or after October 16, 1992, subsequent to" for "system on and after October 16, 1992, all persons who reenter membership on and after October 16, 1992, following" in the second sentence.
1998 Amendment: Added "under this part" both times it appears in the second sentence.

§ 24101. Application for disability retirement (Eligibility requirements)

(a) A member may apply for a disability retirement under this part, upon written application for disability retirement to the board on a properly executed form provided by the system, if the member has five or more years of credited service and if all of the following requirements are met:
(1) At least four years were credited for actual service performed subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be counted toward the four-year requirement in accordance with Section 22710.
(2) The last five years of credited service were performed in this state.
(3) Except as described in subdivision (d) of Section 24201.5, at least one year of credited service was earned subsequent to the date on which the member terminated the service retirement allowance under Section 24208.
(4) At least one year of credited service was earned subsequent to the date on which the member's disability retirement was terminated.
(5) At least one year of credited service was earned subsequent to the most recent refund of accumulated retirement contributions.
(6) The member is not applying for a disability retirement because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and that remains substantially unchanged at the time of application.
(b) Nothing in subdivision (a) shall affect the right of a member to a disability retirement if the reason that the member has performed less than four years of actual service is due to an on-the-job injury or a disease while in employment subject to coverage by the Defined Benefit Program and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5 (commencing with Section 22850) in addition to any credit received from workers' compensation payments.
(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability retirement allowance if the following conditions are met:

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

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 74 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 206 (SB 2041); Stats 1997 ch 386 § 3 (SB 629); Stats 1998 ch 965 § 161 (AB 2765); Stats 2001 ch 803 § 12 (SB 501); Stats 2005 ch 351 § 20 (AB 224), effective January 1, 2006; Stats 2007 ch 332 § 2 (AB 1316), effective January 1, 2008; Stats 2009 ch 304 § 19 (SB 634), effective January 1, 2010.

Former Sections: Former § 24101, relating to recalculation of allowance if specified conditions exist, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1987 ch 1452 § 175.

Historical Derivation: Former Ed C § 24151, as added Stats 1992 ch 1166 § 26.

Amendments

1994 Amendment: Substituted "retirement from" for "under" in subd (c).

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "subject to coverage by the plan" for "in a position requiring membership in the system" at the end of the first sentence in subd (1); **(b)** "terminated the service retirement allowance" for "was reinstated to membership" in subd (3); and **(c)** "the plan" for "this system" after "recent membership in" in subd (6); **(2)** amended subd (b) by **(a)** adding "performed" after "the member has; and **(b)** "a disease while in employment subject to coverage by the plan" for "disease in a position requiring membership in the system" at the end; and **(3)** substituted "plan" for "system" after "retirement from this" in subd (c).

1997 Amendment: (1) Added "in accordance with Section 22710" at the end of subd (a)(1); **(2)** amended subd (b) by **(a)** substituting "subdivision (a)" for "this section"; and **(b)** adding "and the four–year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) in addition to any credit received from workers' compensation payments"; and **(3)** substituted subd (c) for former subd (c) which read: "(c) A member shall not be eligible for disability retirement from this plan while on a leave of absence to serve as a full–time elected officer of an employee organization, even if receiving service credit under Section 22711."

1998 Amendment: (1) Amended subd (a) by **(a)** adding "under this part" in the introductory clause; **(b)** substituting "under the Defined Benefit Program" for "by the plan" in subd (a)(1); **(c)** substituting "were performed" for "have been served" in subd (a)(2); and **(d)** substituting "Defined Benefit Program" for "plan" in subd (a)(6); **(2)** amended subd (b) by **(a)** substituting "Defined Benefit Program" for "plan"; and **(b)** adding "or Chapter 14.5 (commencing with Section 22850)"; **(3)** substituted "under the Defined Benefit Program" for "by the plan" at the end of subd (c); and **(4)** added subd (d).

2001 Amendment: Deleted former subd (d) which read: "(d) A member shall not be eligible for disability retirement from the Defined Benefit Program while on a leave of absence to serve as a full–time elected officer of an employee organization, even if receiving service credit under Section 22711."

2005 Amendment: (1) Substituted "retirement" for "allowance" in subd (a)(4); and **(2)** substituted subd (c) for former subd (c) which read: "(c) Nothing in subdivision (a) shall affect the right of a member who has less than five years of credited service to a disability retirement allowance providing the member has at least one year of credited California service and if the reason for the disability is due to an unlawful act of bodily harm committed by another human being on the person of the member while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.".

2007 Amendment: (1) Amended subd (a)(3) by (a) adding "Except as described in subdivision (d) of Section 24201.5," at the beginning; and (b) deleting "(1.000)" after "at least one year"; **(2)** deleted "(1.000)" after "At least one year" in subds (a)(4) and (a)(5); and **(3)** added subd (d).

2009 Amendment: Added ", upon written application for disability retirement to the board on a properly executed form provided by the system," in the introductory clause of subd (a).

Notes of Decisions

Application timing requirements of Ed C § 24102 apply even if the person applying is otherwise eligible for benefits under Ed C § 24101(c). Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

Ed C § 24101(b) does not operate as a complete exception to the eligibility requirements in § 24101(a), which include the basic requirement of five years of credited service. Thus, where a teacher did not have five years of credited service, the question of whether she could have satisfied the "four years of actual service" requirement by means of the exception in § 24101(b), was moot. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

Where a representative of the California State Teachers' Retirement Board (CalSTRS) misled a teacher about the eligibility requirements for disability retirement benefits under Ed C § 24101, the teacher's 2005 application for disability benefits, arising from a 1998 attack by students, should have been remanded to CalSTRS to decide whether to exercise its power to relieve the teacher from the consequences of the late-filed application, including her inability to prove with contemporaneous medical evidence that she was disabled in 1999. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

§ 24101.5. Eligibility for disability while officer of organization

A member shall not be eligible for disability retirement under the Defined Benefit Program while on a leave of absence to serve as a full–time, elected officer of an employee organization, even if the member receives service credit under Section 22711.

Added by Stats 1997 ch 386 § 3.5 (SB 629). Amended by Stats 1999 ch 939 § 63 (SB 1074).

Amendments

1999 Amendment: (1) Substituted "under the Defined Benefit Program" for "from this plan"; **(2)** added the comma after "full–time"; and **(3)** substituted "the member receives" for "receiving".

§ 24102. Time for application for disability retirement allowance (Conditions for application)

(a) The board may authorize payment of a disability retirement allowance under this part to any member who is qualified upon application by the member, the member's guardian or conservator, or the member's employer, if the application is submitted on a properly executed form prescribed by the system during any one of the following periods:

(1) While the member is employed or on a compensated leave of absence.

(2) While the member is physically or mentally incapacitated for performance of service and the incapacity has been continuous from the last day of actual performance of service for which compensation is payable to the member.

(3) While the member is on a leave of absence without compensation, granted for reason other than mental or physical incapacity for performance of service, and within four months after the last day of actual performance of service for which compensation is payable to the member, or within 12 months of that date if the member was on an employer-approved leave to study at an approved college or university.

(4) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under paragraph (2) and was not made more than four months after the last day of actual performance of service for which compensation is payable to the member.

(b) The member is not qualified to receive a disability allowance if the member is applying because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 207 (SB 2041); Stats 1998 ch 965 § 163 (AB 2765); Stats 2002 ch 375 § 12 (AB 2982); Stats 2010 ch 207 § 17 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 20 (SB 349), effective January 1, 2012.

Former Sections: Former § 24102, relating to reduction of allowances, was enacted 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1983 ch 283 § 1, Stats 1984 ch 53 § 6, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24152, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: (1) Substituted "member's guardian or conservator, or the member's" for "guardian or conservator, or the" in the introductory clause; **(2)** amended subd (b) by substituting **(a)** "service" for "his or her duty" after "performance of"; and **(b)** "is payable" for "was paid" after "which compensation"; **(3)** substituted "service, and within four months after the last day of service for which compensation is payable to the member, or within 12 months of that date if the member was on an employer–approved" for "his or her duty, and within four months after the last day of employment for which compensation was paid to the member, or within 12 months while on an official district" in subd (c); **(4)** amended subd (d) by substituting **(a)** "subject to coverage by the plan" for "in a position requiring membership in the system" after "member's employment"; and **(b)** "of service for which compensation is payable" for "for which compensation was paid" after "the last day"; and **(5)** substituted "the plan commenced and which" for "this system commenced and that" after "recent membership in" in subd (e).

1998 Amendment: (1) Added "under this part" in the introductory clause; **(2)** substituted "under the Defined Benefit Program" for "by the plan" in subd (d); and **(3)** substituted "Defined Benefit Program" for "plan" in subd (e).

2002 Amendment: Added **(1)** "of actual performance of service" in subd (b); and **(2)** "of actual performance of" in subds (c) and (d).

2010 Amendment: Substituted "submitted on a properly executed form prescribed by the system" for "made" in the introductory clause.

2011 Amendment: (1) Added subdivision designation (a); **(2)** redesignated former subds (a)-(e) to be subds (a)(1)-(a)(4) and (b); **(3)** substituted "paragraph (2)" for "subdivision (b)" in subd (a)(4); and **(4)** amended subd (b) by (a) substituting "qualified to receive" for "applying for"; and (b) adding "if the member is applying".

Notes of Decisions

Teacher's 2005 application for disability benefits arising from a 1998 attack by students should have been remanded to the California State Teachers' Retirement Board (CalSTRS) to decide whether to exercise its power to relieve the teacher from the consequences of the late-filed application, including her inability to prove under Ed C § 24102 that she was disabled in 1999, because a CalSTRS telephone representative misled the teacher about the eligibility requirements for disability retirement benefits in 1999. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

Application timing requirements of Ed C § 24102 apply even if the person applying is otherwise eligible for benefits under Ed C § 24101(c). Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

§ 24103. Medical documentation of impairment; Examination; Request for reasonable accommodation; Administrative appeal

(a) The member shall provide medical documentation substantiating the impairment qualifying the member for the disability retirement under this part.

(b) On receipt of an application for disability retirement under this part, the system may order a medical examination or review of medical documentation of a member to determine whether the member is incapacitated for performance of service. The medical examination or review of medical documentation shall be conducted by a practicing physician, selected by the board, with expertise in the member's impairment, and the board shall pay all costs associated with the examination or review of medical documentation. If the member refuses to submit to the required medical examination or

review of medical documentation, the application for disability retirement shall be rejected. If a medical examination is ordered:

(1) The member shall either remain in this state, or return to this state at the member's own expense, to undergo the medical examination or the application shall be rejected, unless this requirement is waived by the board. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Human Resources.

(2) If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability retirement application under this part if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is mentally or physically incapacitated.

(d) If the board determines that a member who has applied for disability retirement under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability retirement application under this part.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability retirement allowance under this part.

(f) The system shall inform the member of the rejection or cancellation of the member's disability retirement allowance application under this part within 30 days after that determination is made by the system.

(g) In determining whether a member meets the definition of disability pursuant to Section 22126, the board shall make a determination on the basis of competent medical documentation and shall not use the awarding of a disability retirement as a substitute for the disciplinary process.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 75 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 208 (SB 2041); Stats 1998 ch 965 § 164 (AB 2765); Stats 2008 ch 370 § 2 (AB 2023), effective January 1, 2009; Stats 2011 ch 703 § 21 (SB 349), effective January 1, 2012. Amended Stats 2012 ch 665 § 9 (SB 1308), effective January 1, 2013.

Editor's Notes—2011 Governor's Reorganization Plan No. 1 was submitted to the Legislature on June 9, 2011, and became effective September 9, 2011, pursuant to Gov C § 12080.5, and substantively operative July 1, 2012.

Stats 2012 ch 665 (SB 1308) enacts the statutory changes necessary to reflect the changes made by the Governor's Reorganization Plan No. 1 of 2011.

Former Sections: Former § 24103, relating to reduction of allowances for ineligible children, was enacted 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1984 ch 53 § 7, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24152.5, as added Stats 1992 ch 1166 § 26.

Amendments

1994 Amendment: (1) Substituted "be examined" for "attend" at the end of the sixth sentence of subd (b); and **(2)** added subd (f).

1996 Amendment: (1) Substituted "substantiating the impairment qualifying the member" for "related to the impairment qualifying him or her" in subd (a); **(2)** substituted "performance of" for "further" after is incapacitated for" in the first sentence of subd (b); **(3)** substituted "rejected" for "disallowed" after "application shall be" in the fifth sentence of subd (b); **(4)** amended the sixth sentence in subd (b) by **(a)** "be examined" for "comply with this examination" after "is too ill to"; and **(b)** deleting "a time that" after "examination until"; **(5)** amended subd (c) by substituting **(a)** "Section 22126" for "Section 22125"; and **(b)** "mentally or physically incapacitated"

for "too incapacitated mentally or physically to comply" at the end; and **(6)** substituted "the rejection or cancellation of the member's disability retirement" for "any rejection of a disability" in subd (f).

1998 Amendment: Added "under this part" wherever it appears.

2008 Amendment: Added subd (g).

2011 Amendment: Substituted subd (b) for former subd (b) which read: "(b) On receipt of an application for disability retirement under this part, the system may order a medical examination of a member to determine whether the member is incapacitated for performance of service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability, and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member refuses to submit to the required medical examination, the application for disability retirement shall be rejected. The member shall either remain in this state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations or the application shall be rejected, unless this requirement is waived by the board. If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled."

2011 Amendment (GRP 1): Substituted "Department of Human Resources" for "Department of Personnel Administration" in the third sentence of subd (b).

2012 Amendment: Substituted "Department of Human Resources" for "Department of Personnel Administration" in the second sentence of subd (b)(1).

Notes of Decisions

1. Generally

Where a representative of the California State Teachers' Retirement Board (CalSTRS) misled a teacher about the eligibility requirements for disability retirement benefits, the teacher's 2005 application for disability benefits, arising from a 1998 attack by students, should have been remanded to CalSTRS to decide whether to exercise its power to relieve the teacher from the consequences of the late-filed application, including her inability to prove that she was disabled for purposes of a determination under Ed C § 24103. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

§ 24104. Limitation of disability retirement period in certain cases (Limited-term disability benefit coverage B)

In cases of a member's willful substance abuse or if the board determines a member who qualifies for disability retirement under this part pursuant to this chapter has mental, physical, or vocational rehabilitation potential, the board may limit the disability retirement to a period not to exceed two years from the date of approval of the disability retirement. Notwithstanding Section 24112, the disability retirement allowance shall terminate at the end of the period granted unless an extension is granted by the board.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 209 (SB 2041); Stats 1998 ch 965 § 165 (AB 2765).

Former Sections: Former § 24104 was added Stats 1977 ch 36 § 423, effective April 29, 1977, and amended and renumbered Ed C § 24403 by Stats 1978 ch 502 § 11.

Historical Derivation: Former Ed C § 24153, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Substituted **(1)** "cases of a member's willful substance abuse or if the board determines a member who qualifies" for "those cases of willful substance abuse or where the board determines a member qualifying" in the first sentence; and **(2)** "an extension is granted" for "extended" after "period granted unless" in the second sentence.

1998 Amendment: Added "under this part" in the first sentence.

§ 24105. Effective date of disability retirement allowance; Notification of last day of service

(a) A disability retirement allowance under this part shall become effective upon any date designated by the member, provided that all of the following conditions are met:

(1) An application for disability retirement is filed on a properly executed form prescribed by the system.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than either the first day of the month in which the application is received at the system's headquarters office, as established pursuant to Section 22375, or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If a member's application for disability retirement under this part does not contain an election of either an unmodified allowance or an allowance modified under an option and if the member subsequently submits an election, but not within the 30-day period established pursuant to Section 24301, the board shall set a benefit effective date which is no earlier than the first day of the month in which the subsequent election is received by the system. If the member fails to submit an election pursuant to Section 24301 and within six months of the date the acknowledgment notice is mailed pursuant to Section 24301, the member's application for disability retirement under this part shall be rejected.

(c) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability retirement is approved, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of the approval of disability retirement, the member's application for disability retirement shall be rejected and a disability retirement allowance shall not be payable to the member.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 210 (SB 2041); Stats 1998 ch 965 § 166 (AB 2765); Stats 2005 ch 351 § 21 (AB 224), effective January 1, 2006; Stats 2010 ch 207 § 18 (AB 2260), effective January 1, 2011.

Former Sections: Former § 24105, relating to state contributions, was added Stats 1977 ch 46 § 424, effective April 29, 1977, and repealed Stats 1979 ch 282 § 12, effective July 24, 1979.

Historical Derivation: Former Ed C § 24154, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "compensation" for "salary" after "service for which" in subd (2); and **(b)** "at the system's office" for "by the system" after "application is received" in subd (3); and **(2)** amended the first sentence in subd (c) by substituting **(a)** "to perform creditable service subject to coverage by the plan" for "in a position requiring membership in the system"; and **(b)** "the member" for "he or she" after "last day on which".

1998 Amendment: (1) Added "under this part" in the introductory clause of subd (a) both times it appears in subd (b); and **(2)** substituted "under the Defined Benefit Program" for "by the plan" in the first sentence of subd (c).

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento,".

2010 Amendment: (1) Substituted "properly executed form prescribed" for "form provided" in subd (a)(1); and **(2)** added "creditable" in subd (a)(2).

§ 24106. Components of retirement allowance

Upon retirement for disability pursuant to this chapter, a member under this part shall receive a retirement allowance that shall consist of all of the following:

(a) An annual allowance equal to 50 percent of final compensation payable in monthly installments.

(b) An additional 10 percent of final compensation for each dependent child, up to a maximum of 40 percent of final compensation. If there are more than four dependent children, they shall share equally in the maximum allowance of 40 percent. A dependent child may waive his or her right to his or her portion of the allowance in accordance with procedures established by the system.

(c) An annuity that shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of the disability retirement.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 76 (AB 3171), effective September 27, 1994; Stats 1996 ch 1165 § 29 (AB 3032); Stats 1998 ch 965 § 167 (AB 2765).

Historical Derivation: Former Ed C § 24155, as added Stats 1992 ch 1166 § 26.

Amendments

1994 Amendment: (1) Substituted "that" for "which" after "allowance" in the introductory clause and after "An annuity" in subd (c); and **(2)** added the second and third sentences.

1996 Amendment: Amended subd (b) by **(1)** deleting "eligible" after "compensation for each"; **(2)** substituting "A dependent" for "An eligible" in the beginning of the second sentence; and **(3)** substituting "of the allowance in accordance with procedures" for "in accordance with the requirements".

1998 Amendment: Added "under this part" in the introductory clause.

§ 24107. Options modifying allowance

A member retired for disability under this part may elect an option pursuant to Section 24301 to modify the disability retirement allowance payable pursuant to subdivision (a) of Section 24106.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 77 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 211 (SB 2041); Stats 1998 ch 965 § 168 (AB 2765).

Historical Derivation: Former Ed C § 24156, as added Stats 1992 ch 1166 § 26.

Amendments

1994 Amendment: Substituted "Section 24301" for "Sections 24301 and 24304".

1996 Amendment: Substituted "member retired for disability" for "disability retirant".

1998 Amendment: Added "under this part".

§ 24108. Reduction when eligible dependent children become ineligible

A retirement allowance payable pursuant to Section 24106 that includes a child's portion shall be reduced when a dependent child becomes ineligible. The reduction shall take into account the increases made by application of the improvement factor. However, the retired member's allowance under this part shall not be less than it could have been if there had never been a dependent child.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 30 (AB 3032); Stats 1998 ch 965 § 169 (AB 2765).

Historical Derivation: Former Ed C § 24158, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Substituted **(1)** "A retirement allowance" for "Retirement allowances" in the beginning; **(2)** "that includes a child's portion shall be reduced when a dependent child becomes" for "on account of eligible dependent children shall be reduced when children become"; **(3)** "retired member's" for "retirant's"; and **(4)** "a dependent child" for "any eligible dependent children".

1998 Amendment: Added "under this part" in the third sentence.

§ 24109. Reduction for workers' compensation benefits paid or payable

Retirement allowances payable pursuant to subdivision (a) of Section 24106 shall be reduced by an amount equal to the unmodified benefits paid or payable under a workers' compensation program for the same impairment or impairments that qualify the member for a disability retirement allowance under this part. For purposes of this section, unmodified benefits are limited to benefits for temporary disability, permanent disability, and for vocational rehabilitation paid or payable under the Workers' Compensation Act.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 170 (AB 2765); Stats 2002 ch 375 § 13 (AB 2982); Stats 2012 ch 864 § 12 (AB 2663), effective January 1, 2013.

Historical Derivation: Former § 24159, as added Stats 1992 ch 1166 § 26.

Amendments

1998 Amendment: Added "under this part" at the end.
2002 Amendment: Added the second sentence.
2012 Amendment: Substituted "temporary disability, permanent disability, and" for "either a temporary or permanent disability or" in the second sentence.

§ 24110. Program for impairment amenable to treatment

A member who qualifies for disability retirement under this part pursuant to this chapter because of a disabling impairment that is amenable to treatment that could be expected to restore the member's ability to perform service in the member's former position of employment or in a comparable level position shall participate in a treatment program prescribed by the member's primary treating physician. Willful failure to initiate and continue participation in the program shall cause the disability retirement allowance to be terminated. In determining whether a member has good cause for failure to follow that treatment, the board shall take into account whether the treatment would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened as determined by the member's treating physician and substantiated by medical evidence.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 212 (SB 2041); Stats 1998 ch 965 § 171 (AB 2765).

Historical Derivation: Former Ed C § 24160, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Substituted **(1)** the first sentence for the former first sentence which read: "Any member qualifying for disability retirement pursuant to this chapter with a disabling impairment amenable to treatment that could be expected to restore ability to perform the member's usual duties or those of a comparable level position shall participate in a treatment program prescribed by the member's primary treating physician."; and **(2)** "member's physical or mental" for "medical" after "or whether the" in the third sentence.
1998 Amendment: Added "under this part" in the first sentence.

§ 24111. Participation in rehabilitation program; Effect of willful failure to participate; Costs

(a) A member who is receiving a disability retirement allowance under this part pursuant to this chapter who is determined by the board to have a mental, physical, or vocational rehabilitation potential that could be expected to restore the member's ability to perform service in the member's former

position of employment or in a comparable level position shall participate in an appropriate rehabilitation program approved by the board. The board shall pay all reasonable costs of the approved program. Willful failure to initiate and continue participation in the rehabilitation program shall cause the disability retirement allowance under this part to be terminated. In determining whether a member has good cause for failure to participate in the program, the board shall take into account whether the participation would abridge the member's right to the free exercise of religion or whether the member's physical or mental condition has worsened as determined by the member's treating physician and substantiated by medical evidence.

(b) Any cost for the approved rehabilitation program prescribed by the board shall be paid directly by the system from the fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 213 (SB 2041); Stats 1998 ch 965 § 172 (AB 2765); Stats 2002 ch 375 § 14 (AB 2982); Stats 2003 ch 859 § 20 (SB 627).

Historical Derivation: Former Ed C § 24161, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: (1) Amended the first sentence in subd (a) by **(a)** substituting "A member who qualifies" for "Any member qualifying" at the beginning; **(b)** substituting "the member's ability to perform service in the member's former position of employment or in" for "ability to perform the member's usual duties or those of" after "expected to restore"; and **(c)** adding "rehabilitation" after "in an appropriate"; **(2)** added "rehabilitation" after "participation in the" in the third sentence of subd (a); **(3)** substituted "member's physical or mental" for "medical" after "or whether the" in the last sentence in subd (a); and **(4)** added "from the fund" at the end of subd (b).

1998 Amendment: Added "under this part" in the first and third sentences.

2002 Amendment: Substituted "is receiving a disability retirement allowance" for "qualifies for disability retirement" in the first sentence of subd (a).

2003 Amendment: Added the comma after "in the program" in the fourth sentence of subd (a).

§ 24112. Medical examinations (Continuing qualification)

The board may require a member receiving a disability retirement allowance under this part to undergo medical examination at such times as the board deems necessary. The system may request the member's treating physician, upon authorization by the retired member, to complete a medical reevaluation questionnaire. The system shall reimburse the retired member for all reasonable costs related to completion of this questionnaire in an amount not to exceed two hundred fifty dollars ($250) if the retired member has no other health coverage that would pay for the cost of completing the medical questionnaire. The board may authorize a medical examination to be conducted by the retired member's treating source at the retired member's expense and, in any case, may require a medical examination to be conducted by a physician selected by the board, in which event, the board shall pay all reasonable costs associated with the examination. The board shall, in scheduling medical examinations, give consideration to the interests and convenience of the retired member. If the examination, together with other available information, shows to the satisfaction of the board that the retired member is no longer disabled, the disability retirement allowance shall be terminated. Should the retired member refuse to submit to medical examination, as provided in this section, the member's disability retirement allowance shall be terminated and all rights of the retired member to the disability retirement allowance shall be revoked.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 214 (SB 2041); Stats 1998 ch 965 § 173 (AB 2765).

Historical Derivation: Former Ed C § 24162, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Substituted the section for the former section which read: "The board may require any disability retirant receiving an allowance to undergo medical examination at such times as it deems necessary. The system may request the treating physician, upon authorization by the disability retirant, to complete a medical reevaluation questionnaire. The system shall reimburse the disability retirant for all reasonable costs related to this questionnaire if the cost of completing the questionnaire is no greater than two hundred fifty dollars ($250) and the disability retirant has no other health coverage that pays for the cost of completing the medical questionnaire. The board may authorize any subsequent medical examination to be conducted by the treating source of the retirant at the expense of the retirant and, in any case, may require a medical examination to be conducted by a physician selected by the board, in which event, the board shall pay all reasonable costs associated with the examination. The board shall, in scheduling medical examinations, give consideration to the interests and convenience of the disability retirant receiving the disability retirement allowance. If the examination, together with other available information, shows to the satisfaction of the board that the retirant is no longer disabled, the disability retirement allowance shall cease. Should the retirant refuse to submit to medical examination, as provided in this section, payments to the member under the disability shall be discontinued and all rights of the member in the disability retirement allowance shall be revoked."

1998 Amendment: Added "under this part" in the first sentence.

§ 24113. Employment of member retired for disability

A member retired for disability under this part may be employed to perform creditable service subject to coverage under the Defined Benefit Program. The employment shall not cause the disability retirement allowance to be suspended or terminated, except as provided in Section 24112, and no deduction shall be made from the retired member's compensation as contributions to the plan under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 215 (SB 2041); Stats 1998 ch 965 § 174 (AB 2765).

Historical Derivation: Former Ed C § 24163, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Substituted the section for the former section which read: "A disability retirant may be employed in a position requiring certification qualifications. The employment does not operate to terminate or suspend the disability retirement allowance and no deduction shall be made from the disability retirant's salary as contributions to this system."

1998 Amendment: Added **(1)** "under this part" in the first sentence and at the end of the second sentence; and **(2)** "subject to coverage under the Defined Benefit Program" in the first sentence.

Notes of Decisions

Work as a substitute teacher was not a basis for concluding that a teacher was not disabled. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

§ 24114. Employment or self–employment of retired member; Earnings limitation

(a) A member receiving a disability retirement benefit under this part may be employed or self–employed in any capacity, notwithstanding Section 22132, but may not make contributions to the retirement fund with respect to the Defined Benefit Program or accrue service credit under this part based on earnings from any employment.

(b) A member receiving a disability retirement benefit under this part may earn in any one calendar year up to the limitation specified in subdivision (c) without a reduction in his or her disability retirement allowance.

(c) The limitation that shall apply to the earnings of a member receiving a disability retirement benefit under this part shall be fifteen thousand dollars ($15,000), in any one calendar year, adjusted annually by the board effective each January 1 by the amount of increase in the All Urban California Consumer Price Index using December 1989 as the base.

(d) If a member receiving a disability retirement benefit under this part earns in excess of the limitation specified in subdivision (c) from all employment in any calendar year, notwithstanding Section 22132, his or her retirement allowance shall be reduced by the amount of the excess earnings. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the calendar year in which the excess compensation was earned.

(e) The earnings limitation specified in this section does not apply to a member receiving a disability retirement benefit under this part who is participating in an approved rehabilitation program pursuant to Section 24111.

(f) This section does not apply to a member receiving a disability retirement benefit under this part who began receiving a disability retirement allowance prior to October 16, 1992.

Added by Stats 1995 ch 394 § 3 (AB 948), effective August 11, 1995. Amended by Stats 1996 ch 634 § 216 (SB 2041); Stats 1998 ch 965 § 175 (AB 2765); Stats 2002 ch 375 § 15 (AB 2982); Stats 2004 ch 912 § 15 (AB 2233).

Former Sections: Former § 24114, similar to the present section, was added Stats 1993 ch 893 § 1 and repealed Stats 1995 ch 394 § 2, effective August 11, 1995.

Historical Derivation: (a) Former Ed C § 24114, as added Stats 1993 ch 893 § 1.

(b) Former Ed C § 24164, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Added **(1)** "in any capacity, notwithstanding Section 22132," in subd (a); and **(2)** "notwithstanding Section 22132," in the first sentence of subd (d).

1998 Amendment: Added **(1)** "under this part" wherever it appears in subds (a)–(c), (e) and (f), and in the first sentence of subd (d); and **(2)** "with respect to the Defined Benefit Program" in subd (a).

2002 Amendment: (1) Substituted "may" for "shall" after "22132, but" in subd (a) and after "payable but" in the second sentence of subd (d); **(2)** amended subd (c) by substituting **(a)** "calendar" for "school"; and **(b)** "effective each January" for "each July"; and **(3)** substituted "does not apply" for "shall not be applicable" in subd (f).

2004 Amendment: (1) Substituted "receiving a disability retirement benefit" for "retired for disability" throughout the section; **(2)** deleted "annual" before "amount"; and **(3)** substituted "does not apply" for "shall not be applicable".

Notes of Decisions

Work as a substitute teacher was not a basis for concluding that a teacher was not disabled. Welch v. California State Teachers' Retirement Bd. (2012, 3d Dist) 2012 Cal App LEXIS 85.

§ 24116. Service by certain retired teachers of California State University (Post-retirement earnings limitations)

A member retired for disability under this part whose last employment was in the California State University, as a member of the Defined Benefit Program or the Public Employees' Retirement System, may serve as a member of the teaching staff of the California State University and shall be subject to the employment limitations as provided by the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 217 (SB 2041); Stats 1998 ch 965 § 176 (AB 2765).

Historical Derivation: Former Ed C § 23918, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 118, Stats 1979 ch 796 § 7, Stats 1980 ch 1185 § 1, Stats 1981 ch 714, § 83, Stats 1983 ch 143 § 14.

Amendments

1996 Amendment: Substituted **(1)** "A member retired for disability" for "Any disability retirant" at the beginning; and **(2)** "plan" for "system" after "member of this".

1998 Amendment: (1) Added "under this part" near the beginning; and **(2)** substituted "the Defined Benefit Program" for "this plan".

§ 24117. Termination of disability retirement allowance

(a) A member retired for disability under this part may terminate the disability retirement allowance upon written request to the system.

(b) If a member retired for disability under this part is determined by the board to no longer be eligible to receive a disability retirement allowance pursuant to this chapter, the disability retirement allowance shall be terminated.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 218 (SB 2041); Stats 1998 ch 965 § 177 (AB 2765).

Historical Derivation: Former Ed C § 24166, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: Substituted the section for the former section which read:

"(a) Any retirant who is retired for disability pursuant to this chapter may be reinstated to membership by the board upon receipt of the retirant's written request to terminate the disability retirement allowance and reinstate to membership in the system.

"(b) The allowance of a disability retirant who is determined by the board to no longer be eligible to receive a disability retirement allowance pursuant to this chapter shall be terminated and the disability retirant shall be reinstated to membership in the system."

1998 Amendment: Added "under this part" in subds (a) and (b).

§ 24118. Credit to member's account on termination of disability retirement allowance

(a) Upon termination of a disability retirement allowance that was payable pursuant to this chapter, the individual account of the member under this part shall be credited with the amount of the member's accumulated retirement contributions as they were on the effective date of disability retirement, less the sum of all payments made under subdivisions (a) and (b) of Section 24106. The reduction shall not be greater than the total of the accumulated retirement contributions.

(b) Upon the termination of a disability retirement, the accumulated annuity deposit contribution account of the member shall be credited with the amounts of those contributions as they were on the date the annuity became payable under this part because of that retirement less the sum of all payments made pursuant to subdivision (c) of Section 24106.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 178 (AB 2765).

Historical Derivation: Former § 24167, as added Stats 1992 ch 1166 § 26.

Amendments

1998 Amendment: Added "under this part" in the first sentence of subd (a) and in subd (b).

§ 24119. Recurrence of original disability within six months of return

When a member retired for disability under this part returns to work in the member's former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, which can be medically substantiated, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former disability retirement allowance shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day of creditable service for which compensation is payable to the member, provided the member complies with Section 24103.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 219 (SB 2041); Stats 1998 ch 965 § 179 (AB 2765); Stats 2010 ch 207 § 19 (AB 2260), effective January 1, 2011.

Historical Derivation: Former Ed C § 24168, as added Stats 1992 ch 1166 § 26.

Amendments

1996 Amendment: (1) Substituted "When a member retired for disability returns to work in the member's former position of employment or" for "Where a disability retirant returns to work" at the beginning of the first sentence; and **(2)** amended the second sentence by substituting **(a)** "again become payable" for "be restored" after "retirement allowance shall"; and **(b)** "service for which compensation is payable to the member" for "compensation".

1998 Amendment: Added "under this part" near the beginning of the first sentence.

2010 Amendment: Added "creditable" in the second sentence.

CHAPTER 27. SERVICE RETIREMENT

§ 24201. Application for retirement; Conditions

(a) A member may retire for service under this part upon written application for retirement to the board on a properly executed form provided by the system, under paragraph (1) or (2) as follows:

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

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

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

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 83 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 220 (SB 2041); Stats 1998 ch 1076 § 10 (SB 2126), ch 1077 § 3.5 (SB 610); Stats 1999 ch 939 § 64 (SB 1074); Stats 2000 ch 1025 § 31 (AB 816); Stats 2006 ch 655 § 21 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24201, similar to the present section, was added Stats 1992 ch 1166 § 27, effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 1144 prevails), amended Stats 1993 ch 1144 § 12, and repealed Stats 1994 ch 933 § 84, effective September 27, 1994.

Former § 24201, relating to modification of future service retirement allowance, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1981 ch 124 § 50.

Historical Derivation: (a) Former Ed C § 23901, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 520 § 13, Stats 1987 ch 1312 § 1.

(b) Former Ed C § 24201, as added Stats 1992 ch 1166 § 27, amended Stats 1993 ch 1144 § 12.

Amendments

1994 Amendment: (1) Substituted "paragraph (2)" for "paragraph (1)" and "paragraph (1)" for "paragraph (2)" in subd (b); and **(2)** deleted ", and those applicants are not subject to Section 24220" at the end of subd (c).

1996 Amendment: (1) Amended subd (a) by substituting **(a)** the introductory clause for the former introductory clause which read: "Any member who comes within any of the following descriptions may be retired for service at his or her option upon written application for retirement to the board, subject to the following conditions:"; and **(b)** "the San Francisco City and County Employees' Retirement System" for "a local system" at the end of subd (2); and **(2)** amended subd (b) by **(a)** deleting "there shall be excluded" after "of that subdivision"; and **(b)** adding "shall be excluded" at the end.

1998 Amendment: (1) Added "under this part" in the introductory clause of subd (a); **(2)** amended subd (a)(1) by **(a)** deleting "California" after "five years of credited" the first time it appears; **(b)** dividing the former first sentence into the first and second sentences by substituting ". The" for ", if"; and **(c)** substituting "years of credited service may include out–of–state service purchased pursuant to Section 22820" for "of the final six years of credited service have been in this state" in the second sentence; **(3)** amended subd (a)(2) by adding **(a)** "excluding the federal social security system," after "any other public retirement system,"; and **(b)** ", county retirement systems established under the County Employees Retirement Law of 1937,"; **(4)** deleted former subd (b) which read: "(b) In the calculation of allowances of members who qualify for retirement under paragraph (2) of subdivision (a) and who are not qualified for retirement under paragraph (1) of that subdivision, any service performed in other states of the United States, its territories and possessions, or in Canada shall be excluded.";

and **(5)** redesignated former subd (c) to be subd (b). (As amended Stats 1998 ch 1077, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 1076. See Gov C § 9605.)

1999 Amendment: (1) Amended subd (a)(1) by **(a)** substituting "the age of 55" for "age 55" in the first sentence; and **(b)** adding the last sentence; **(2)** amended subd (a)(2) by substituting **(a)** substituting "the member has attained the age of 55 years or older" for "he or she has attained age 55 years"; and **(b)** "one or more of the retirement systems with which the member has concurrent membership as defined in Section 22115.2" for "the Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, or the San Francisco City and County Employees' Retirement System"; and **(3)** substituted "even if the member has not earned five years of service" for "at any time" in subd (b).

2000 Amendment: Added "credited" in subd (b).

2006 Amendment: Amended subd (a) by **(1)** adding "on a properly executed form provided by the system" after "retirement to the board" in the introductory clause; and **(2)** substituting "55 years of age" for "the age of 55 years" after "member has attained" in the first sentence of subd (a)(1), and in subd (a)(2).

§ 24201.5. Service retirement during an evaluation of a disability application

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

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

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

(A) The application is executed no earlier than the date the application for disability benefits is executed and no earlier than six months before the effective date of the retirement allowance.

(B) The effective date is no earlier than the first day of the month in which the application for disability benefits is received at the system's headquarters office, as established pursuant to Section 22375.

(C) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(D) The effective date is no earlier than one year following the date on which a retirement allowance was terminated pursuant to Section 24208 or subdivision (a) of Section 24117.

(3) The effective date of the service retirement allowance can be no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

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

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

(6) (A) Except as described in subparagraph (B), a member who applies for service retirement under this section shall not receive service credit for each day of accumulated and unused leave of absence for illness or injury or for education pursuant to Section 22717 or 22717.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Added Stats 2007 ch 332 § 3 (AB 1316), effective January 1, 2008. Amended Stats 2009 ch 304 § 20 (SB 634), effective January 1, 2010; Stats 2011 ch 703 § 22 (SB 349), effective January 1, 2012.

Amendments

2009 Amendment: (1) Substituted "the application" for "an application" in the introductory clause of subd (a)(2); **(2)** deleted "the" after "subject to" in the introductory clause of subd (a)(7); **(3)** designated former subds

(e) and (g)(1) to be subds (e)(1) and (g); **(4)** substituted "subdivision (f)" for "subdivision (e)" in subd (e)(1); **(5)** added subd (e)(2); **(6)** amended subd (f) by **(a)** deleting "Except as described in subdivision (g)," at the beginning; **(b)** adding "the member shall be considered retired for service at the time of death, and"; and **(c)** substituting "shall be paid accordingly" for "payable to the member's surviving spouse or beneficiary shall be based on the service retirement allowance as elected by the member at the time of retirement for service"; **(7)** amended subd (g) by **(a)** deleting "Subject to paragraph (2)," at the beginning; **(b)** adding "after the board has approved the member's application for disability, the member shall be considered a disabled member, or retired for disability, at the time of death, and any subsequent benefits shall be paid accordingly, even if the member died"; and **(c)** deleting "retirement, the disability retirement shall be payable to the member's surviving spouse or beneficiary" at the end; **(8)** deleted former subd (g)(2) which read: "(2) If the member elected an option pursuant to Section 24300.1, a modified disability retirement allowance shall be payable to the member's beneficiary or beneficiaries."; and **(9)** amended subd (h) by adding **(a)** "changes or" in the first sentence; and **(b)** the second sentence.

2011 Amendment: (1) Amended subd (a)(2)(A) by **(a)** adding "no earlier than the date the application for disability benefits is executed and"; and **(b)** substituting the period for "and" at the end; **(2)** added subdivision designation (a)(2)(B); **(3)** added "for disability benefits" in subd (a)(2)(B); and **(4)** redesignated former subds (a)(2)(B) and (a)(2)(C) to be subds (a)(2)(C) and (a)(2)(D).

§ 24202. Application for service retirement allowance (Two percent at age 60)

(a) A member who retires for service after June 30, 1972, shall receive a retirement allowance consisting of both of the following:

(1) An annual allowance payable in monthly installments, upon retirement at normal retirement age but less than age 60¼, equal to 2 percent of the final compensation for each year of credited service. If the member's retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the member's allowance shall be reduced by one–half of 1 percent for each full month, or fraction of a month that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account at the time of retirement.

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

(c) The amendments to this section during the 1997–98 Regular Session of the Legislature shall not apply to state employees.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 221 (SB 2041); Stats 1998 ch 966 § 2 (AB 1150).

Former Sections: Former § 24202, relating to elected option voided upon reinstatement to membership, was added Stats 1992 ch 1166 § 28, effective September 29, 1992, and repealed Stats 1993 ch 893 § 1.

Former § 24202, relating to effect of non–election at death, was added Stats 1977 ch 36 § 425, effective April 29, 1977, operative April 30, 1977, and repealed Stats 1978 ch 277 § 3.

Former § 24202, relating to effect of non–election at death, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1977 ch 36 § 559, effective April 29, 1977, operative April 30, 1977.

Historical Derivation: Former Ed C § 24000, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 670 § 2, Stats 1978 ch 1024 § 1, Stats 1987 ch 330 § 13, Stats 1990 ch 560 § 8.

Amendments

1996 Amendment: (1) Substituted the introductory clause of subd (a) for the former introductory clause of subd (a) which read: "Upon retirement for service that became effective after June 30, 1972, a member shall receive a retirement allowance that shall consist of both of the following:"; **(2)** amended the second sentence in subd (a)(1) by substituting **(a)** "member's retirement" for "retirement of a member"; and **(b)** "the member's" for

"this"; **(3)** substituted "the member's account at the time of" for "his or her account at the time of his or her" after "to the credit of" in subd (a)(2); and **(4)** substituted "on" for "at" after "age of the member" in subd (b).

1998 Amendment: (1) substituted "but less than age 60¼" for "or over" in subd (a)(1); and **(2)** added subd (c).

Notes of Decisions

Teacher retirement unmodified allowance of former Ed C § 24000, and average monthly compensation under Ed C § 22127, and the fixed allowance for the combined lives of the retiree and his beneficiary under former Ed C § 24200(a), violated Title VII of the Civil Rights Act of 1964 on the basis of sex. Under the plan men could not be paid lower monthly benefits simply because men as a class lived shorter lives than women. Probe v. State Teachers' Retirement System (1986, 9th Cir Cal) 780 F2d 776, 1986 US App LEXIS 21239, cert den (1986) 476 US 1170, 90 L Ed 2, 106 S Ct 2891, 1986 US LEXIS 1638.

§ 24202.5. Retirement allowance for service after specified date

(a) A member who retires for service on or after January 1, 1999, shall receive a retirement allowance consisting of all of the following:

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

Age at Retirement	Percentage
60	2.00
60¼	2.033
60½	2.067
60¾	2.10
61	2.133
61¼	2.167
61½	2.20
61¾	2.233
62	2.267
62¼	2.30
62½	2.333
62¾	2.367
63 and over	2.40

If the member's retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the member's allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the member's accumulated annuity deposit contributions at the time of retirement.

(3) An annuity based on the balance of credits in the member's Defined Benefit Supplement account, pursuant to Section 25012, if elected by the member pursuant to Section 25011 or 25011.1.

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

Added by Stats 1998 ch 966 § 3 (AB 1150). Amended by Stats 2000 ch 74 § 53 (AB 1509); Stats 2006 ch 655 § 22 (SB 1466), effective January 1, 2007.

Amendments

2000 Amendment: (1) redesignated former subd (a)(2) to be the second paragraph of subd (a)(1); **(2)** redesignated former subd (a)(3) to be subd (a)(2); **(3)** amended subd (a)(2) by **(a)** adding "member's"; and **(b)** deleting "standing to the credit of the member's account" after "contributions"; **(4)** added subd (a)(3); and **(5)** added "paragraph (1) of" in subd (b).

2006 Amendment: (1) Added "or 25011.1" at the end of subd (a)(3); and **(2)** substituted "described" for "provided" after "later date as" in subd (b).

§ 24202.6. Retirement allowance for member first hired after specified date; Annuity

(a) A member who is first hired on or after January 1, 2013, shall receive a retirement allowance consisting of all of the following:

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

Age at Retirement	Percentage
62	2.000
62¼	2.033
62½	2.067
62¾	2.100
63	2.133
63¼	2.167
63½	2.200
63¾	2.233
64	2.267
64¼	2.300
64½	2.333
64¾	2.367
65	2.400

(B) If a member retires after attaining early retirement age but before attaining normal retirement age, the member's allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the member will attain normal retirement age.

(2) An annuity that shall be the actuarial equivalent of the member's accumulated annuity deposit contributions at the time of retirement.

(3) An annuity based on the balance of credits in the member's Defined Benefit Supplement account, pursuant to Section 25012, if elected by the member pursuant to Section 25011 or 25011.1.

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

(c) Pensionable compensation used to calculate the defined benefit shall be limited as described in Section 7522.10 of the Government Code.

Added Stats 2012 ch 296 § 3 (AB 340), effective January 1, 2013.

§ 24202.7. Minimum retirement age for member first hired after specified date

Notwithstanding any other provision of this part, for any member who is first hired on or after January 1, 2013, the minimum retirement age shall be 55 years of age, the early retirement age shall be 55 years of age, and the normal retirement age shall be 62 years of age.

Added Stats 2012 ch 296 § 4 (AB 340), effective January 1, 2013.

§ 24202.8. Implementation of changes established in Sections 24202.6 and 24202.7

It is the intent of the Legislature that the system identify and propose all statutory changes necessary to fully effectuate the implementation of the changes established in Sections 24202.6 and 24202.7 in all relevant statutes by June 30, 2013.

Added Stats 2012 ch 296 § 5 (AB 340), effective January 1, 2013.

§ 24203. Retirement allowance; Early retirement versus normal retirement ("30 and out")

(a) A member who has 30 years of credited service under this part may retire at age 50 years or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service. If the member has attained age 50 years, but has not attained early retirement age, the allowance shall be reduced by one–quarter of 1 percent for each full month or fraction of a month that will elapse until the member will attain early retirement age and one–half of 1 percent for each full month, or fraction of a month between early retirement age and normal retirement age.

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

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 222 (SB 2041); Stats 1998 ch 965 § 180 (AB 2765).

Former Sections: Former § 24203, similar to present Ed C § 24307, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 124, effective April 29, 1977, operative April 30, 1977, ch 619 § 3, Stats 1978 ch 870 § 18, operative July 1, 1979, Stats 1979 ch 796 § 16, Stats 1984 ch 1308 § 5,Stats 1986 ch 208 § 1, Stats 1990 ch 97 § 3, Stats 1992 ch 1166 § 29, effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 1144 prevails), amended Stats 1993 ch 1144 § 13, and repealed Stats 1994 ch 933 § 85, effective September 27, 1994.

Historical Derivation: Former Ed C § 24000, as enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 670 § 2, Stats 1978 ch 1024 § 1, Stats 1987 ch 330 § 13, Stats 1990 ch 560 § 8.

Amendments

1996 Amendment: (1) Amended subd (a) by **(a)** substituting "A member who has" for "Members with" at the beginning of the first sentence; and **(b)** adding "of a month" after "full month, or fraction" in the second sentence; and **(2)** substituted "on" for "at" after "age of the member" in subd (b).

1998 Amendment: Added "under this part" near the beginning of subd (a).

Notes of Decisions

Teacher retirement unmodified allowance of former Ed C § 24000, and average monthly compensation under Ed C § 22127, and the fixed allowance for the combined lives of the retiree and his beneficiary under former Ed C § 24200(a), violated Title VII of the Civil Rights Act of 1964 on the basis of sex. Under the plan men could not be paid lower monthly benefits simply because men as a class lived shorter lives than women. Probe v. State Teachers' Retirement System (1986, 9th Cir Cal) 780 F2d 776, 1986 US App LEXIS 21239, cert den (1986) 476 US 1170, 90 L Ed 2, 106 S Ct 2891, 1986 US LEXIS 1638.

§ 24203.5. Percentage of final compensation to be increased ("Career factor")

(a) The percentage of final compensation used to compute the allowance pursuant to Section 24202.5, 24203, or 24205 of a member retiring on or after January 1, 1999, who has 30 or more years of credited service, shall be increased by two–tenths of 1 percentage point, provided that the sum of the percentage of final compensation used to compute the allowance, including any adjustments for

retiring before the normal retirement age, and the additional percentage provided by this section does not exceed 2.40 percent.

(b) For purposes of establishing eligibility for the increased allowance pursuant to this section only, credited service shall exclude service credited pursuant to the following:

(1) Section 22714.

(2) Section 22714.5.

(3) Section 22715.

(4) Section 22717, except as provided in subdivision (b) of Section 22121.

(5) Section 22717.5.

(c) For purposes of establishing eligibility for the increased allowance pursuant to this section only, credited service shall include credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. A nonmember spouse shall also be eligible for the increased allowance pursuant to this section if the member had 30 or more years of credited service on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

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

Added by Stats 1998 ch 1006 § 6 (AB 1102). Amended by Stats 1999 ch 939 § 65 (SB 1074); Stats 2001 ch 803 § 13 (SB 501); Stats 2003 ch 313 § 6 (AB 1207); Stats 2004 ch 911 § 4 (SB 102).

Amendments

1999 Amendment: (1) Designated the former section to be subd (a); **(2)** amended subd (a) by adding **(a)** ", or 24205" both times it appears in the first sentence; **(b)** "excluding service credited pursuant to Section 22714, 22715, or 22717," in the first sentence; and **(c)** the second and third sentences; and **(3)** added subds (b) and (c).

2001 Amendment: Substituted "22717, and 22717.5" for "or 22717" in the first sentence of subd (a).

2003 Amendment: Added "22714.5," in the first sentence of subd (a).

2004 Amendment: (1) Amended subd (a) by **(a)** deleting "excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5," after "credited service"; and **(b)** substituting "allowance," for "allowance in Section 24202.5, 24203, or 24205,"; **(2)** added subd (b); **(3)** redesignated the former second paragraph of subd (a) to be subd (c); **(4)** redesignated former subd (b) to be subd (d); **(5)** substituted "may not" for "shall not" in subd (d); and **(6)** deleted former subd (c) which read: "The amendments made to subdivision (a) in the first year of the 1999–2000 Regular Session are declaratory of existing law."

§ 24203.6. Increase in monthly allowance ("Longevity bonus")

(a) In addition to the amount otherwise payable pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209, 24209.3, 24210, 24211, and 24212, a member shall receive an increase in the monthly allowance, prior to any modification pursuant to Sections 24300, 24300.1, and 24309, in the amount identified in subdivision (b), if the member meets all of the following criteria:

(1) The member retires for service on or after January 1, 2001.

(2) Prior to January 1, 2011, the member has 30 or more years of credited service, including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652, but excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22714.5.

(C) Section 22715.

(D) Section 22717, except as provided in subdivision (b) of Section 22121.

(E) Section 22717.5.

(F) Section 22826.

(3) The member is receiving an allowance subject to Section 24203.5.

(b) The amount of the increase in the monthly allowance shall be based on the member's years of credited service at the time of retirement as follows:

30 years of credited service	$200
31 years of credited service	$300
32 or more years of credited service	$400

(c) This section also applies to a nonmember spouse, if all of the following conditions are satisfied:

(1) The member is eligible for the allowance increase pursuant to subdivisions (a) and (b) upon his or her retirement for service.

(2) On the date the parties separated, as established in the judgment or court order pursuant to Section 22652, the member had at least 30 years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22714.5.

(C) Section 22715.

(D) Section 22717, except as provided in subdivision (b) of Section 22121.

(E) Section 22717.5.

(F) Section 22826.

(3) The service credit of the member was divided into separate accounts in the name of the member and the nonmember spouse by a court pursuant to Section 22652. The amount identified in the schedule in subdivision (b) and payable pursuant to this section, that is based on the service credited during the marriage, shall be divided and paid to the member and the nonmember spouse proportionately according to the respective percentages of the member's service credit that were allocated to the member and the nonmember spouse in the court's order.

(d) The allowance increase provided under this section is not subject to Sections 24415 and 24417, but is subject to Section 22140.

Added by Stats 2000 ch 1029 § 1 (AB 1933). Amended by Stats 2001 ch 803 § 14 (SB 501); Stats 2003 ch 313 § 7 (AB 1207); Stats 2004 ch 911 § 5 (SB 102) (ch 911 prevails), ch 912 § 16 (AB 2233); Stats 2006 ch 655 § 23 (SB 1466), effective January 1, 2007.

Amendments

2001 Amendment: (1) Amended subd (a) by **(a)** substituting "Sections 24202.5, 24203, 24203.5, 24205, 24209.5, 24210, 24211, and 24212" for "this chapter"; **(b)** adding "22717.5," both times it appears; and **(c)** substituting "Sections 24300 and 24309" for "Section 24300"; and **(2)** amended subd (b) by **(a)** substituting "Sections 22714, 22715, 22717, 22717.5, and" for "Section 22714, 22715, 22717, or 22826"; **(b)** adding "and the service credit of the member was divided into separate accounts in the name of the member and the nonmember spouse by a court pursuant to Section 22652" at the end of the first sentence; and **(c)** adding the second sentence.

2003 Amendment: Added "22714.5," in subd (a) twice and in the first sentence of subd (b).

2004 Amendment: (1) In subd (a), **(a)** substituted "24209, 24209.3," for "24209.5,"; **(b)** substituted "shall receive an increase in the monthly allowance, prior to any modification pursuant to Sections 24300 and 24309, in the amount identified in subdivision (b), if the member meets all the following criteria:" for "who"; **(c)** added the designation of subd (a)(1); **(d)** added "The member" before "retires"; **(e)** added "2001."; **(f)** added the designation of subd (a)(2); **(g)** substituted "Prior to" for "2001, (2) has, prior"; **(h)** added "the member has"; **(i)** added "but excluding service credited pursuant to the following"; **(j)** added (A) through (F); **(k)** substituted "The member is" for "and (3) is"; and **(l)** deleted ", shall receive a monthly increase in the allowance, prior to any modification pursuant to Sections 24300 and 24309, in the amount identified in"; **(2)** added the designation of subd (b) substituted "The amount of the increase in the monthly allowance shall be based on the member's years of credited service at the time of retirement as follows:" for "the member's credited service at the time of retirement, excluding service credited pursuant to Sections 22717, 22714.5, 22715, 22717, 22717.5, and 22826 but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652."; **(3)** redesignated former subd (b) as subd (c); **(4)** in present subd (c), **(a)** substituted "applies" for "shall apply";

(b) added "all of the following conditions are satisfied:"; **(c)** substituted "subdivisions (a) and (b)" for "subdivision (a)"; **(d)** substituted "service" for "service and"; **(e)** added "22652, the member"; **(f)** added "the following:"; **(g)** added subds (c)(1)(A) through (c)(1)(F); **(h)** added subd (c)(2); **(i)** added the designation of (c)(3); and **(j)** substituted "subdivision (b)" for "subdivision (a)"; **(5)** redesignated former subd (c) as present subd (d); and **(6)** and in present subd (c) substituted "is not" for shall not be" and substituted "is" for "shall be".

2006 Amendment: Added "Section 24300.1," after "pursuant to Sections 24300," in subd (a).

§ 24204. Service retirement allowance; Conditions (Benefit effective date)

(a) A service retirement allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for service retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance.

(2) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(3) The effective date is no earlier than the date on which the retirement allowance was terminated under Section 24208.

(4) The effective date is no earlier than one year following the date on which the retirement allowance was terminated under subdivision (a) of Section 24117.

(5) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(6) The effective date is no earlier than the date upon which the member completes payment of a service credit purchase pursuant to Section 22801, 22820, or 22826, or payment of a redeposit of contributions pursuant to Section 23200, except as provided in Section 22801 or 22829.

(7) The effective date is no earlier than the first day of the month in which the application for disability benefits is received at the system's headquarters office, as established pursuant to Section 22375, if the application is made pursuant to Section 24201.5.

(b) A member who files an application for service retirement may change or cancel his or her retirement application, as long as the form provided by the system is received in the system's headquarters office, established pursuant to Section 22375, no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system.

(c) The retirement date of a member retiring on and after January 1, 2012, shall be no earlier than January 1, 2012.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 86 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 223 (SB 2041); Stats 1998 ch 965 § 181 (AB 2765); Stats 2004 ch 912 § 17 (AB 2233); Stats 2005 ch 351 § 22 (AB 224), effective January 1, 2006; Stats 2007 ch 323 § 11 (AB 757), effective January 1, 2008; Stats 2011 ch 703 § 23 (SB 349), effective January 1, 2012; Stats 2012 ch 135 § 1 (AB 178), effective July 17, 2012.

Former Sections: Former § 24204, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1980 ch 244 § 11, Stats 1984 ch 53 § 8, Stats 1992 ch 1166 § 30), effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 1144 prevails), amended Stats 1993 ch 1144 § 14, and repealed Stats 1994 ch 933 § 87, effective September 27, 1994.

Historical Derivation: (a) Former Ed C § 23900, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 114, ch 659 § 8, Stats 1978 ch 502 § 8, Stats 1979 ch 796 § 2, Stats 1992 ch 1166 § 25.5, Stats 1993 ch 1144 § 7.

(b) Former Ed C § 24204, as enacted Stats 1976 ch 1010 § 2, amended Stats 1980 ch 244 § 11, Stats 1984 ch 53 § 8, Stats 1992 ch 1166 § 30, Stats 1993 ch 1144 § 14.

Amendments

1994 Amendment: (1) Amended the introductory clause by **(a)** substituting "provided" for "subject to"; and **(b)** adding "are met" at the end; **(2)** substituted "that" for "which" after "the system" in subd (a); and **(3)** deleted "to membership from disability allowance or was reinstated" after "was reinstated" in subd (d)(1).

1996 Amendment: (1) Added "service" before "retirement allowance" in the introductory clause, and in subd (a); **(2)** substituted "compensation" for "salary" in subd (b); **(3)** substituted "at the system's office" for "by the system" in subd (c); and **(4)** substituted "retirement allowance was terminated" for "member was reinstated" in subd (d)(1).

1998 Amendment: Added "under this part" in the introductory clause.

2004 Amendment: Added subd (e).

2005 Amendment: (1) Substituted "which" for "that" in subd (a); and **(2)** substituted "headquarters office, established pursuant to Section 22375," for "office in Sacramento".

2007 Amendment: (1) Deleted the former introductory clause of subd (d) which read: "Either of the following conditions exists:"; **(2)** redesignated former subds (d)(1) and (d)(2) to be subds (d) and (e); and **(3)** substituted "for service" for "prior to the effective date of" in subd (f).

2011 Amendment: (1) Added subdivision designation (a); **(2)** redesignated former subds (a), (b), (d), (e), and (f) to be subds (a)(1)-(a)(4) and (b); **(3)** deleted former subd (c) which read: "(c) The effective date is no earlier than the first day of the month in which the application is received at the system's headquarters office, as established pursuant to Section 22375."; **(4)** added subds (a)(5), (a)(6), and (c); and **(5)** substituted "30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system" for "the last day of the month in which the retirement date is effective" in subd (b).

2012 Amendment: (1) Added subd (a)(3); **(2)** redesignated former subds (a)(3)–(a)(6) to be subds (a)(4)–(a)(7); and **(3)** deleted "Section 24208, or" after "terminated under" in subd (a)(4).

§ 24205. Option to receive partial allowance upon early retirement and revert to full allowance for normal retirement age (Early Retirement Limited Term Reduction Program)

A member retiring prior to 60 years of age, and who has attained 55 years of age, may elect to receive one-half of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age.

(a) The retirement allowance shall be based on service credit and final compensation as of the date of retirement for service and shall be calculated with the factor for normal retirement age.

(b) If the member elects a joint and survivor option under Section 24300 or 24300.1, the actuarial reduction shall be based on the member's and beneficiary's ages as of the effective date of the early retirement. If the member elected a preretirement option under Section 24307, the actuarial reduction shall be based on the member's and beneficiary's ages as determined by the provisions of that section.

(c) One-half of the retirement allowance as of 60 years of age shall be paid for a period of time equal to twice the elapsed time between the effective date of retirement and the date of the retired member's 60th birthday.

(d) The full retirement allowance as calculated under subdivision (a) or (b) shall begin to accrue as of the first of the month following the reduction period as specified in subdivision (c). The full retirement allowance shall not begin to accrue prior to this time under any circumstances, including, but not limited to, divorce or death of the named beneficiary.

(e) The annual improvement factor provided for in Sections 22140 and 22141 shall be based upon the retirement allowance as calculated under subdivision (a) or (b). The improvement factor shall begin to accrue on September 1 following the retired member's 60th birthday. These increases shall be accumulated and shall become payable when the full retirement allowance for normal retirement age first becomes payable.

(f) Any ad hoc benefit increase with an effective date prior to the retired member's 60th birthday shall not affect an allowance payable under this section. Only those ad hoc improvements with effec-

tive dates on or after the retired member's 60th birthday shall be accrued and accumulated and shall first become payable when the full retirement allowance for normal retirement age becomes payable.

(g) The cancellation of an option election in accordance with Section 24305 shall not cancel the election under this section. Upon cancellation of the joint and survivor option, one-half of the retired member's retirement allowance as calculated under subdivision (a) shall become payable for the balance of the reduction period specified in subdivision (c).

(h) If a retired member who has elected a joint and survivor option dies during the period when the reduced allowance is payable, the beneficiary shall receive one-half of the allowance payable to the beneficiary until the date when the retired member would have received the full retirement allowance for normal retirement age. At that time, the beneficiary's allowance shall be increased to the full amount payable to the beneficiary plus the appropriate annual improvement factor increases and ad hoc increases.

(i) This section shall not apply to a member who retires for service pursuant to Section 24201.5, 24209, 24209.3, 24210, 24211, or 24212.

Added Stats 1999 ch 939 § 67 (SB 1074). Amended Stats 2006 ch 655 § 24 (SB 1466), effective January 1, 2007; Stats 2007 ch 332 § 4 (AB 1316), effective January 1, 2008; Stats 2011 ch 703 § 24 (SB 349), effective January 1, 2012.

Former Sections: Former § 24205, relating to board's obligation to develop additional early retirement alternative, was added Stats 1993 ch 893 § 2, amended Stats 1996 ch 634 § 224, Stats 1997 ch 482 § 27, Stats 1998 ch 965 § 182, and repealed Stats 1999 ch 939 § 66. Historical derivations: Former Ed C § 24210, as added Stats 1978 ch 1024 § 2, amended Stats 1987 ch 330 § 16.

Former § 24205, similar to present Ed C § 24309, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 502 § 12, Stats 1984 ch 1308 § 6, Stats 1990 ch 83 § 6, effective May 2, 1990, ch 97 § 4, Stats 1992 ch 1166 § 31, effective September 29, 1992, repealed Stats 1993 ch 893 § 1 (ch 920 prevails), amended Stats 1993 ch 920 § 8, and repealed Stats 1994 ch 933 § 88, effective September 27, 1994.

Amendments

2006 Amendment: (1) Substituted "60 years of age, and who has attained 55 years of age" for "the age of 60 years, and who has attained the age of 55 years" in the introductory clause; **(2)** added "or 24300.1" after "under Section 24300" in the first sentence of subd (b); and **(3)** substituted "60 years of age" for "the age of 60 years" after "allowance as of" in subd (c).

2007 Amendment: (1) Substituted "A member" for "Any member" at the beginning of the first paragraph; **(2)** added "the" after "as determined by" in the last sentence of subd (b); **(3)** substituted "an allowance" for "any allowance" in the first sentence of subd (f); and **(4)** added subd (i).

2011 Amendment: Substituted "Section 24201.5, 24209, 24209.3, 24210, 24211, or 24212" for "Section 24201.5" in subd (i).

§ 24206. Minimum unmodified allowance

The minimum unmodified allowance for service retirement under the Defined Benefit Program, exclusive of annuities payable from accumulated annuity deposit contributions and exclusive of the balance of credits in the member's Defined Benefit Supplement account, shall not be less than ten dollars ($10) per month multiplied by the member's years of credited service. This guaranteed amount shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited under the Defined Benefit Program. If the retirement is effective at less than age 60 years this allowance shall be reduced by one–half of 1 percent for each full month or fraction of a month that will elapse until the member would have reached age 60 years.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 183 (AB 2765); Stats 2000 ch 74 § 54 (AB 1509).

Former Sections: Former § 24206, similar to present Ed C § 24310, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1984 ch 1308 § 7, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24003, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 870 § 17.

Amendments

1998 Amendment: (1) Added "under this part" in the first sentence; and **(2)** substituted "under this part" for "by this system" at the end of the second sentence.

2000 Amendment: (1) Amended the first sentence by **(a)** adding "for service retirement under the Defined Benefit Program"; **(b)** adding "payable" after "annuities"; **(c)** substituting "and exclusive of the balance of credits in the member's Defined Benefit Supplement account" for "payable for service retirement under this part"; and **(d)** adding "member's" after "multiplied by the"; and **(2)** substituted "the Defined Benefit Program" for "this part" at the end of the second sentence.

§ 24207. Minimum allowance for retired member terminating service retirement allowance and retiring under part

If a retired member terminates a service retirement allowance and subsequently retires under this part, the minimum retirement allowance shall be the allowance provided by Section 24206.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 89 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 225 (SB 2041); Stats 1998 ch 965 § 184 (AB 2765).

Former Sections: Former § 24207, similar to present Ed C § 24402, was enacted 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24004, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 870 § 17.

Amendments

1994 Amendment: Substituted "is reinstated" for "reenters the system as a member".

1996 Amendment: Substituted the section for the former section which read: "If a service retirant is reinstated and subsequently retires, the minimum retirement allowance is the allowance provided by Section 24206."

1998 Amendment: Added "under this part".

§ 24208. Termination of retirement allowance (Reinstatement)

(a) A member retired for service under this part may terminate the retirement allowance payable under this part and applicable to his or her credited service upon written request to the system effective upon a date designated by the member, subject to the following conditions:

(1) The request for termination of the retirement allowance is filed on a form provided by the system, and the form is executed no earlier than six months before the effective date of the termination.

(2) The effective date of the termination of the retirement allowance is no earlier than the first day of the month in which the request for termination is received in the system's headquarters office, as established pursuant to Section 22375.

(b) A member who files a request for termination of the retirement allowance may cancel the termination upon written request to the system, provided that the cancellation request is received in the system's headquarters office, as established pursuant to Section 22375, no later than the last day of the month in which the termination is effective.

(c) A member whose retirement allowance is terminated pursuant to this section may apply for retirement pursuant to Section 24209, in accordance with Section 24204.

(d) A member whose retirement allowance is terminated pursuant to this section may not file a preretirement election of an option pursuant to Section 24307 within one year of reinstatement that elects

either a different option or a different beneficiary or set of beneficiaries, or both, than were in effect at the time the retirement allowance was terminated.

(e) A member whose retirement allowance is terminated pursuant to this section and retires pursuant to Section 24209 within one year of reinstatement shall elect the same option and beneficiary or beneficiaries that were in effect at the time the retirement allowance was terminated.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 226 (SB 2041); Stats 1998 ch 965 § 185 (AB 2765); Stats 2005 ch 351 § 23 (AB 224), effective January 1, 2006; Stats 2012 ch 135 § 2 (AB 178), effective July 17, 2012.

Amendments

1996 Amendment: Substituted the section for the former section which read: "Any retirant who is retired for service may be reinstated to membership by the board upon receipt of the retirant's written request to terminate the retirement allowance and reinstate to membership in the system."

1998 Amendment: Added "under this part".

2005 Amendment: (1) Added subd designations; **(2)** substituted "system effective upon a date designated by the member, subject to the following conditions:" for "system." at the end of the introductory paragraph of subd (a); and **(3)** added subd (a)(1) and (a)(2) and subd (b).

2012 Amendment: Added **(1)** "payable under this part and applicable to his or her credited service" in the introductory clause of subd (a); and **(2)** subds (c)–(e).

§ 24209. Retirement for service following reinstatement

(a) Upon retirement for service following reinstatement, the member shall receive a service retirement allowance equal to the sum of both of the following:

(1) An amount equal to the monthly allowance the member was receiving immediately preceding reinstatement, exclusive of any amounts payable pursuant to Section 22714, 22714.5, or 22715, increased by the improvement factor that would have been applied to the allowance if the member had not reinstated.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24203, 24203.5, or 24206 on service credited subsequent to the most recent reinstatement, the member's age at retirement, and final compensation.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, the amounts identified in paragraphs (1), for members who initially retired on or after January 1, 1999, and (2) of subdivision (a) shall be calculated pursuant to Section 24203.5.

(c) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, upon retirement for service following reinstatement, a member who retired pursuant to Section 24213, and received the terminated disability allowance for the prior retirement, shall receive a service retirement allowance equal to the sum of the following:

(1) An amount based on the service credit accrued prior to the effective date of the disability allowance, the member's age at the prior retirement increased by the factor provided in Section 24203.5, and projected final compensation.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24203.5, or 24206 on service credited subsequent to the reinstatement, the member's age at retirement, and final compensation.

(d) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (e) of Section 22115.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 227 (SB 2041); Stats 1998 ch 965 § 186 (AB 2765), ch 1006 § 7 (AB 1102); Stats 2000 ch 1025 § 32 (AB 816); Stats 2001

ch 803 § 15 (SB 501); Stats 2003 ch 313 § 8 (AB 1207); Stats 2006 ch 655 § 25 (SB 1466), effective January 1, 2007.

Historical Derivation: Former Ed C § 24000.3, as added Stats 1992 ch 1165 § 3.

Amendments

1996 Amendment: (1) Amended the introductory clause by **(a)** substituting "termination of a prior service retirement" for "a prior service retirement and subsequent reinstatement to membership in the system"; and **(b)** deleting "that shall" after "retirement allowance"; **(2)** substituted "termination of retirement allowance" for "reinstatement" in subds (a) and (b); and **(3)** substituted "terminated the retirement allowance" for "reinstated" in subd (a).

1998 Amendment: Added "24202.5," and "24203.5," in subd (b). (As amended Stats 1998 ch 1006, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

2000 Amendment: (1) Designated the former introductory clause of the section to be subd (a); **(2)** substituted "reinstatement" for "termination of a prior service retirement" in the introductory clause of subd (a); **(3)** redesignated former subds (a) and (b) to be subds (a)(1) and (a)(2); **(4)** amended subd (a)(1) by substituting **(a)** "reinstatement" for "the most recent termination of retirement allowance"; and **(b)** "reinstated" for "terminated the retirement allowance" at the end; **(5)** substituted "reinstatement" for "termination of retirement allowance" in subd (a)(2); and **(6)** added subds (b) and (c).

2001 Amendment: (1) Amended subd (b) by **(a)** adding "22717.5,"; **(b)** adding ", for members who initially retired on or after January 1, 1999,"; and **(c)** deleting the former second sentence which read: "The improvement factor required in paragraph (1) of subdivision (a) shall be based on the allowance calculated pursuant to this subdivision."; and **(2)** added "22717.5," in subd (c).

2003 Amendment: Added "22714.5," in subds (a)(1), (b), and (c).

2006 Amendment: Added subd (d).

§ 24209.3. Service retirement benefits for member who perform creditable service for two or more years following reinstatement

(a) Notwithstanding subdivision (a) of Section 24209 and subdivision (d) of Section 24204, and exclusive of any amounts payable during the prior retirement for service pursuant to Section 22714, 22714.5, or 22715:

(1) A member who retired, other than pursuant to Section 24210, 24211, 24212, or 24213, and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service performed prior to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation.

(2) A member who retired pursuant to Section 24210 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on service credit accrued prior to the effective date of the disability retirement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and indexed final compensation to the effective date of the initial service retirement.

(B) An amount calculated pursuant to this chapter based on the service credit accrued after termination of the disability retirement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(C) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation.

(3) A member who retired pursuant to Section 24211 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) The greater of (i) the disability allowance the member was receiving immediately prior to termination of that allowance, excluding the children's portion, or (ii) an amount calculated pursuant to this chapter based on service credit accrued prior to the effective date of the disability allowance, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount equal to either of the following:

(i) For a member who was receiving a benefit pursuant to subdivision (a) of Section 24211, the member's credited service at the time of the retirement pursuant to Section 24211, excluding service credited pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200).

(ii) For a member who was receiving a benefit pursuant to subdivision (b) of Section 24211, the member's projected service, excluding service credited pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200).

(C) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation using compensation earnable or projected final compensation or a combination of both.

(D) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) or, for credited service performed during the most recent reinstatement, Section 22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(4) A member who retired pursuant to Section 24212 or 24213 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on the member's projected service credit, excluding service credited pursuant to Section 22717, 22717.5, or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation, using compensation earnable or projected final compensation or a combination of both.

(C) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) or, for credited service performed during the most recent reinstatement, Section 22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than the number of years required to be eligible for an increased allowance pursuant to this chapter or Section 22134.5, the amounts identified in this section shall be calculated pursuant to the section authorizing the increased benefit.

(c) For members receiving an allowance pursuant to Section 24410.5 or 24410.6, the amount payable pursuant to this section shall not be less than the amount payable to the member as of the effective date of reinstatement.

(d) The amount payable pursuant to this section shall not be less than the amount that would be payable to the member pursuant to Section 24209.

(e) For purposes of determining an allowance increase pursuant to Sections 24415 and 24417, the calendar year of retirement shall be the year of the subsequent retirement if the final compensation used to calculate the allowance pursuant to this section is higher than the final compensation used to calculate the allowance for the prior retirement.

(f) The allowance paid pursuant to this section to a member receiving a lump-sum payment pursuant to Section 24221 shall be actuarially reduced to reflect that lump-sum payment.

(g) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (e) of Section 22115.

Added by Stats 2001 ch 800 § 1 (SB 334), effective October 13, 2001. Amended by Stats 2002 ch 375 § 16 (AB 2982) (ch 375 prevails), ch 664 § 59 (AB 3034); Stats 2003 ch 313 § 9 (AB 1207); Stats 2004 ch 912 § 18 (AB 2233); Stats 2006 ch 655 § 26 (SB 1466), effective January 1, 2007.

Amendments

2002 Amendment: (1) Substituted "22800) of Chapter 14.2" for "22800 of Chapter 14, 2" in subds (a)(3)(D) and (a)(4)(C); and **(2)** amended subd (f) by substituting **(a)** "lump–sum" for "lump sum" both times it appears; and **(b)** "Section 24221" for "Section 24237".

2003 Amendment: Added "22714.5," in subds (a), (a)(3)(D), (a)(4)(C), and (b).

2004 Amendment: (1) Substituted the second instance of "disability allowance" for "disability retirement" in subd (a)(3)(A); and **(2)** added "or Chapter 19 (commencing with Section 23200)" in subds (a)(3)(B)(i), (a)(3)(B)(ii), (a)(3)(D), (a)(4)(A), and (a)(4)(C).

2006 Amendment: Added subd (g).

§ 24210. Retirement following prior disability retirement that was terminated

Upon retirement for service following a prior disability retirement granted pursuant to Chapter 26 (commencing with Section 24100) that was terminated, the member shall receive a service retirement allowance calculated pursuant to Section 24202, 24202.5, 24203, 24203.5, or 24206 and equal to the sum of both of the following:

(a) An amount based on service credit accrued prior to the effective date of the disability retirement, the member's age as of the effective date of the service retirement, and indexed final compensation to the effective date of the service retirement.

(b) An amount based on the service credit accrued after termination of the disability retirement, the member's age as of the effective date of service retirement, and final compensation.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 228 (SB 2041); Stats 1998 ch 965 § 187 (AB 2765), ch 1006 § 8 (AB 1102).

Former Sections: Former § 24210, similar to present Ed C § 24205, was added Stats 1978 ch 1024 § 2, amended Stats 1987 ch 330 § 16, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24000.7, as added Stats 1992 ch 1165 § 5.

Amendments

1996 Amendment: Substituted **(1)** "that was terminated" for "and subsequent reinstatement to membership in the system" after "Section 24100)" in the introductory clause; and **(2)** "termination of the" for "reinstatement from" after "credit accrued after" in subd (b).

1998 Amendment: Added "24202.5" and "24203.5," in the introductory clause. (As amended Stats 1998 ch 1006, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

§ 24211. Allowance of member granted disability allowance who returns to employment subject to coverage under program

When a member who has been granted a disability allowance under this part after June 30, 1972, returns to employment subject to coverage under the Defined Benefit Program and performs:

(a) Less than three years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance which is the sum of the allowance calculated on service credit accrued after the termination date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable and projected final compensation, plus the greater of either of the following:

(1) A service retirement allowance calculated on service credit accrued as of the effective date of the disability allowance, the age of the member on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), to the termination date of the disability allowance.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(b) Three or more years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance that is the greater of the following:

(1) A service retirement allowance calculated on all actual and projected service excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(c) The allowance shall be increased by an amount based on any service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(d) If the total amount of credited service, other than projected service or service that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, the amounts identified in subdivisions (a) and (b) shall be calculated pursuant to Sections 24203.5 and 24203.6.

(e) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (e) of Section 22115.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 31 (AB 3032); Stats 1998 ch 965 § 188 (AB 2765); Stats 1999 ch 939 § 68 (SB 1074); Stats 2000 ch 1025 § 33 (AB 816); Stats 2001 ch 803 § 16 (SB 501); Stats 2003 ch 313 § 10 (AB 1207); Stats 2004 ch 912 § 19 (AB 2233); Stats 2006 ch 655 § 27 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24211, relating to additional optional plan, was added Stats 1979 ch 248 § 1, effective July 1, 1982, and repealed, operative July 1, 1982, by its own terms.

Historical Derivation: (a) Former Ed C § 23911.5, as added Stats 1990 ch 1201 § 3, amended Stats 1992 ch 1165 § 2.

(b) Former Ed C § 24303, as added Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 51, Stats 1987 ch 330 § 18.

Amendments

1996 Amendment: Substituted **(1)** "subject to coverage by the plan" for "requiring membership in the system" in the introductory clause; **(2)** "creditable" for "credited" in the introductory clause of subds (a) and (b); and **(3)** "excluding children's portions" for "exclusive of increments added for children" in subds (a)(2) and (b)(2).

1998 Amendment: Amended the introductory clause by **(1)** adding "Under this part"; and **(2)** substituting "under the Defined Benefit Program" for "by the plan".

1999 Amendment: Added **(1)** "excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820)," in subd (a)(1); **(2)** "excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820)" in subd (b)(1); and **(3)** subd (c).

2000 Amendment: Added subd (d).

2001 Amendment: (1) Substituted "Section 22717 and 22717.5" for "Section 22717" in subds (a)(1) and (b)(1); **(2)** substituted "Sections 22714, 22715, 22717, and 22717.5" for "Section 22714, 22715, or 22717" in subd (c); and **(3)** amended subd (d) by **(a)** adding "22717.5,"; and **(b)** substituting "Sections 24203.5 and 24203.6" for "Section 24203.5".

2003 Amendment: Added "22714.5," in subds (c) and (d).

2004 Amendment: Added "or Chapter 19 (commencing with Section 23200)" in subds (a)(1), (b)(1) and (c).

2006 Amendment: Added subd (e).

§ 24212. Termination before retirement of allowance to member who does not return to employment

(a) If a disability allowance granted under this part after June 30, 1972, is terminated for reasons other than those specified in Section 24213 and the member does not return to employment subject to coverage under the Defined Benefit Program, the member's service retirement allowance, when payable, shall be based on projected service, excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), projected final compensation, and the age of the member on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance excluding children's portions.

(b) The allowance shall be increased by an amount based on any service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200) and final compensation using compensation earnable, or projected final compensation, or a combination of both.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 90 (AB 3171), effective September 27, 1994; Stats 1996 ch 1165 § 32 (AB 3032); Stats 1998 ch 965 § 189 (AB 2765); Stats 1999 ch 939 § 69 (SB 1074); Stats 2001 ch 803 § 17 (SB 501); Stats 2003 ch 313 § 11 (AB 1207); Stats 2004 ch 912 § 20 (AB 2233).

Former Sections: Former § 24212, relating to additional alternative early retirement plan, was added Stats 1982 ch 557 § 2, effective August 24, 1982, operative July 1, 1982, and repealed, operative July 1, 1985, by its own terms.

Amendments

1994 Amendment: Substituted "in a position requiring membership in the system" for "pursuant to Section 22131" in the first sentence.

1996 Amendment: Substituted **(1)** "subject to coverage by the plan" for "in a position requiring membership in the system"; and **(2)** "excluding children's portions" for "exclusive of increments added for children".

1998 Amendment: Added "under this part" in the first sentence.

1999 Amendment: (1) Designated the former section to be subd (a); **(2)** amended the first sentence of subd (a) by **(a)** substituting "under the Defined Benefit Program the member's" for "by the plan the"; and **(b)** adding "excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820),"; and **(3)** added subd (b).

2001 Amendment: Substituted **(1)** "Section 22717 and 22717.5" for "Section 22717" in subd (a); and **(2)** "Sections 22714, 22715, 22717, and 22717.5" for "Section 22714, 22715, or 22717" in subd (b).

2003 Amendment: Added "22714.5," in subd (b).

2004 Amendment: Added "or Chapter 19 (commencing with Section 23200)" in subd (b).

§ 24213. Termination of disability allowance on retirement (Disability allowance to service retirement)

(a) When a member who has been granted a disability allowance under this part after June 30, 1972, attains normal retirement age, or at a later date when there is no dependent child, the disability allowance shall be terminated and the member shall be eligible for service retirement. The retirement allowance shall be calculated on the projected final compensation and projected service to normal retirement age, excluding service credited pursuant to Section 22717 or 22717.5, or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820). The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance. The allowance shall be increased by an amount based on any service credited pursuant to Section 22714, 22714.5, 22715, 22717, or 22717.5, or Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), or Chapter 19 (commencing with Section 23200) and projected final compensation to normal retirement age.

(b) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 1165 § 33 (AB 3032); Stats 1998 ch 965 § 190 (AB 2765); Stats 1999 ch 939 § 70 (SB 1074); Stats 2003 ch 313 § 12 (AB 1207); Stats 2004 ch 912 § 21 (AB 2233); Stats 2007 ch 323 § 12 (AB 757), effective January 1, 2008.

Former Sections: Former § 24213, relating to development of alternative early retirement plans, was added Stats 1985 ch 261 § 2, effective July 26, 1985, operative July 1, 1985, amended Stats 1987 ch 330 § 17, and repealed, operative July 1, 1988, by its own terms.

Historical Derivation: Former Ed C § 23911, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 870 § 14, Stats 1981 ch 124 § 47, Stats 1987 ch 330 § 12.

Amendments

1996 Amendment: Substituted **(1)** "is no dependent child" for "are no children"; and **(2)** "shall be" for "is" after "and the member".

1998 Amendment: Added "under this part" in the first sentence of subd (a).

1999 Amendment: Amended subd (a) by adding **(1)** ", excluding service credited pursuant to Section 22717 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820)" at the end of the second sentence; and **(2)** the last sentence.

2003 Amendment: Added "22714.5," in the last sentence of subd (a).

2004 Amendment: Added "or Chapter 19 (commencing with Section 23200)" in the last sentence of subd (a).

2007 Amendment: Amended subd (a) by **(1)** substituting "Section 22717 or 22717.5, or Chapter 14" for "Section 22717 or Chapter 14"; **(2)** substituting "Section 22714, 22714.5, 22715, 22717, or 22717.5," for "Section 22714, 22714.5, 22715, or 22717"; **(3)** substituting the comma for "or" after "(commencing with Section 22800)"; and **(4)** adding the comma after "(commencing with Section 22820)".

Notes of Decisions

Because a disability allowance calculated under Ed C § 24006 for a teacher who was not eligible for a service retirement did not provide him with retirement income, as indicated in Ed C § 24213(a), but only replaced his lost earnings after separation and before retirement, which were his separate property, his wife had no community property interest in the allowance. Thus, the family court erred when it denied his Fam C § 2122 motion to set aside orders that had awarded the wife a community property interest in the disability allowance. In re Marriage of Walker (2012, 6th Dist) 2012 Cal App LEXIS 100.

§ 24214. Activities of retired member; Compensation; Limitations; Applicability of limitations; Documentation to substantiate exemption; Contents of documentation (First of two; Inoperative July 1, 2014; Repealed January 1, 2015)

(a) A member retired for service under this part may perform retired member activities, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for retired member activities, performed by that member shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing retired member activities.

(d) A member retired for service under this part may earn compensation for performing retired member activities in any one school year up to the limitation specified in subdivision (f) without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of retired member activities for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of retired member activities shall, in any one school year, be an amount calculated by the board each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing retired member activities, in excess of the limitation specified in subdivision (f), and if that compensation is not exempt from that limitation under subdivision (h) or any other law, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be

equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

(h) The limitation specified in this section is not applicable to compensation paid to a member retired for service under this part who has returned to work after the date of retirement as a trustee, fiscal adviser, fiscal expert, receiver, or special trustee appointed by the Superintendent of Public Instruction, the State Board of Education, the Board of Governors of the California Community Colleges, or a county superintendent of schools to address academic or financial weaknesses in a school district pursuant to any of the following provisions:

(1) Section 41320.1.

(2) Article 2 (commencing with Section 42122) of Chapter 6 of Part 24 of Division 3 of Title 2.

(3) Article 3.1 (commencing with Section 52055.57) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

(4) Section 84040.

(i) The Superintendent of Public Instruction, the Executive Director of the State Board of Education, the Chancellor of the California Community Colleges, or the county superintendent of schools exercising the exemption pursuant to subdivision (h) shall submit all documentation required by the system to substantiate the eligibility of the retired member for the exemption, including compliance with subdivisions (j) and (k). The documentation shall be received by the system prior to the retired member's performance of retired member activities.

(j) Subdivision (h) shall not apply to a member who has not attained normal retirement age at the time the compensation is earned by the member, received additional service credit pursuant to Section 22714 or 22715, or received from any public employer any financial inducement to retire in the previous six months. For purposes of this section and Section 24214.5, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the member retires for service on or before a specific date or specific range of dates established by the public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature's intent to make subdivision (h) inapplicable to members if the member received a financial incentive from any public employer to retire or otherwise terminate employment with the public employer.

(k) The documentation required for subdivision (i) shall include certification of the following:

(1) The position was first advertised for appointment to current active or inactive members of the program with the necessary qualifications to perform the requirements of the position and no qualified current active or inactive member was available to be appointed.

(2) The appointing authority made a good faith effort to hire a retired member who reinstated to active membership for the position at the same salary that was offered as first advertised pursuant to paragraph (1).

(3) The appointing authority, having tried and failed to hire a current active or inactive member or a reinstated retired member, hired a retired member and the salary offered to the retired member subject to this paragraph does not exceed the salary that was offered as first advertised pursuant to paragraph (1).

(4) The salary paid shall be no greater than the salary offered to current active members for the appointed position.

(l) The amendments to this section enacted during the 1995-96 Regular Session shall be deemed to have become operative on July 1, 1996.

(m) This section shall apply to compensation paid during the 2012-13 and 2013-14 fiscal years.

(n) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

Added Stats 1995 ch 394 § 6 (AB 948), effective August 11, 1995. Amended Stats 1996 ch 634 § 229 (SB 2041), operative July 1, 1996; Stats 1998 ch 965 § 191 (AB 2765); Stats 2000 ch 896 § 2 (AB 1733); Stats 2002 ch 903 § 2 (SB 1983); Stats 2004 ch 912 § 22 (AB 2233); Stats 2005 ch 351 § 24 (AB 224), effective January 1, 2006, repealed January 1, 2008; Stats 2006 ch 655 § 28 (SB 1466), effective January 1, 2007, repealed January 1, 2008; Stats 2007 ch 353 § 1 (SB 901), effective January 1, 2008, inoperative June 30, 2009, repealed January 1, 2010; Stats 2008 ch 494 § 5 (AB 2390), effective January 1, 2009, inoperative June 30, 2010, repealed January 1, 2011; Stats 2009 ch 306 § 1 (AB 506), effective January 1, 2010, operative until June 30, 2012, repealed January 1, 2013; Stats 2011 ch 703 § 25 (SB 349), effective January 1, 2012, inoperative June 30, 2012, repealed January 1, 2013; Stats 2012 ch 135 § 3 (AB 178), effective July 17, 2012, inoperative June 30, 2013, repealed January 1, 2014, ch 296 § 6 (AB 340), effective January 1, 2013, inoperative July 1, 2014, repealed January 1, 2015.

Editor's Notes—This section, as amended by Stats 2012 ch 135 § 3, effective July 17, 2012, until January 1, 2013, read: "(a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

"(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

"(c) A member retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

"(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

"(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

"(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year to the fiscal year ending in the previous calendar year.

"(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, and if that compensation is not exempt from that limitation under subdivision (e) or any other provisions of law, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

"(h) The limitation specified in this section is not applicable to compensation paid to a member retired for service under this part who has returned to work after the date of retirement as a trustee, administrator, or fiscal adviser approved by the Superintendent of Public Instruction, the Board of Governors of the California Community Colleges, or a county superintendent of schools to address academic or financial weaknesses in a school district pursuant to any of the following provisions:

"(1) Section 41320.1.

"(2) Article 2 (commencing with Section 42122) of Chapter 6 of Part 24 of Division 3 of Title 2.

"(3) Article 3.1 (commencing with Section 52055.57) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

"(4) Section 84040.

"(i) The Superintendent of Public Instruction, the Chancellor of the California Community Colleges, or the county superintendent of schools exercising the exemption pursuant to subdivision (h) shall submit all documentation required by the system to substantiate the eligibility of the retired member for the exemption, including compliance with subdivision (h). The documentation shall be received by the system prior to the retired member's performance of any activity specified in subdivision (a) or (b) of Section 22119.5 or subdivision (a) or (b) of Section 26113.

"(j) The documentation required for subdivision (i) shall include certification of the following:

"(1) The position was first advertised for appointment to current active or inactive members of the program with the necessary qualifications to perform the requirements of the position and no qualified current active or inactive member was available to be appointed.

"(2) The appointing authority made a good faith effort to hire a retired member who reinstated to active membership for the position at the same salary that was offered as first advertised pursuant to paragraph (1).

"(3) The appointing authority, having tried and failed to hire a current active or inactive member or a reinstated retired member, hired a retired member and the salary offered to the retired member subject to this paragraph does not exceed the salary that was offered as first advertised pursuant to paragraph (1).

"(4) The appointment shall be terminated no later than June 30, 2013.

"(5) The salary paid shall be no greater than the salary offered to current active members for the appointed position.

"(k) An employee of a third party shall not be subject to this section if he or she meets all of the following conditions:

"(1) He or she performs a limited-term assignment.

"(2) The third-party employer does not participate in a California public pension system.

"(3) The activities performed by the individual are not normally performed by employees of the employer, as defined in Section 22131.

"(*l*) The amendments to this section enacted during the 1995-96 Regular Session shall be deemed to have become operative on July 1, 1996.

"(m) This section shall apply to compensation paid during the 2012-13 fiscal year.

"(n) This section shall become inoperative on June 30, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed."

Former Sections: Former § 24214, similar to the present section, was added Stats 1993 ch 893 § 2 and repealed Stats 1995 ch 394 § 5, effective August 11, 1995.

Historical Derivation: (a) Former Ed C § 23919, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 119, Stats 1977 ch 355 § 2, Stats 1979 ch 796 § 8, Stats 1979 ch 820 § 1, Stats 1980 ch 1185 § 2, Stats 1982 ch 918 § 1, Stats 1984 ch 762 § 1, Stats 1989 ch 227 § 1, Stats 1990 ch 903 § 1.

(b) Former Ed C § 24214, as added Stats 1993 ch 893 § 2.

Amendments

1996 Amendment: (1) Substituted "as an employee of an employer, as an employee of a third party, or as an independent contractor," for "for an employer" in subd (a); **(2)** added "as an employee of the employer" after "retired for service" in subd (b); **(3)** substituted "receive earnings" for "earn compensation" after "for service may" in subd (d); **(4)** substituted "performed by a member retired for service either as an employee of an employer, an employee of a third party, or as an independent contractor," for "of a member retired for service" in subd (e); and **(5)** added the last paragraph.

1998 Amendment: (1) Amended subd (a) by substituting **(a)** "under this part may perform the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b)," for "may perform creditable service as defined in"; and **(b)** "within the California public school system, but the member" for ", but"; **(2)** added "under this part" in subd (b); **(3)** substituted subds (c) and (d) for former subds (c) and (d) which read: "(c) A member retired for service shall not be required to reinstate for performing creditable service."(d) A member retired for service may receive earnings for creditable service performed in any one school year up to the limitation specified in subdivision (e) without a reduction in his or her retirement allowance."; **(4)** added subd (e); **(5)** redesignated former subds (e) and (f) to be subds (f) and (g); **(6)** amended subd (f) by **(a)** substituting "compensation for performance of the activities identified in paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5" for "earnings from creditable service performed"; and **(b)** adding "under this

part"; **(7)** substituted the first sentence of subd (g) for the former first sentence which read: "If a member retired for service earns compensation for creditable service in excess of the limitation specified in subdivision (e), his or her retirement allowance shall be reduced by the amount of the excess compensation."; and **(8)** added subdivision designation (h).

2000 Amendment: (1) Added subd (e)(1); **(2)** redesignated former subd (e) to be subd (e)(2); **(3)** amended subd (f) by substituting **(a)** "twenty–two thousand dollars ($22,000)" for "fifteen thousand dollars ($15,000)"; and **(b)** "December 1999" for "December 1989"; **(4)** added "and if that compensation is not exempt from that limitation under subdivision (e) or any other provisions of law," in subd (g); and **(5)** added subd (i).

2002 Amendment: (1) Substituted "may" for "shall" after **(a)** "but the member" in subd (a); **(b)** "employee of the employer" in subd (b); and **(c)** "service under this part" in subd (c); **(2)** substituted "are not" for "shall not be" after "set forth in this section" in subds (e)(1) and (e)(2); and **(3)** substituted ", in any one school year, be an amount calculated by the board each July 1 equal to twenty–two thousand dollars ($22,000) multiplied by the percentage increase in the average earnable salary of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year" for "be twenty–two thousand dollars ($22,000) in any one school year, adjusted annually by the board each July 1 by the annual amount of increase in the All Urban California Consumer Price Index using December 1999 as the base" in subd (f).

2004 Amendment: Substituted "adjusted by the percentage change in the average compensation earnable" for "multiplied by the percentage increase in the average earnable salary" in subd (f).

2005 Amendment: Added the last sentence of subd (e)(1).

2006 Amendment: (1) Added the last sentence in subd (a); and **(2)** substituted subd (b) for former subd (b) which read: "(b) The rate of pay for service performed by a member retired for service under this part as an employee of the employer may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties."

2007 Amendment: (1) Substituted "subdivision (a) or (b)" for "paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b)," in subds (a),(d),(e)(1),(f) and (g); **(2)** substituted "subdivision (a) or (b) of Section 22119.5" for "paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5," in subd (c); and **(3)** amended subd (i) by **(a)** adding "remain in effect only until June 30, 2009, and shall"; **(b)** substituting "January 1, 2010" for "January 1, 2008"; and **(c)** substituting "unless a later enacted statute deletes or extends" for "unless legislation extends or deletes".

2008 Amendment: Amended subd (i) by substituting **(1)** "June 30, 2010" for "June 30, 2009"; and **(2)** "January 1, 2011" for "January 1, 2010".

2009 Amendment: (1) Substituted "shall begin no earlier than" for "begins from" in the second sentence of subd (e)(1); and **(2)** amended subd (i) by substituting **(a)** "June 30, 2012" for "June 30, 2010"; and **(b)** "January 1, 2013" for "January 1, 2011".

2011 Amendment: (1) Added ", or subdivision (a) or (b) of Section 26113," in the first sentence of subd (a); and **(2)** substituted "shall" for "may" before "not" in the first sentence of subd (a) and in subds (b) and (c).

2012 Amendment (ch 135): (1) Added "as" after "third party, or" in subd (d); **(2)** deleted former subd (e)(1) which read: "(1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work after the date of retirement and, for a period of at least 12 consecutive months, has not performed the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system. For the purpose of this paragraph, the period of 12 consecutive months shall begin no earlier than the effective date of the member's most recent retirement."; **(3)** redesignated former subd (e)(2) to be subd (e); **(4)** substituted "one-half of the median final compensation of all members who retired for service during the" for "twenty-two thousand dollars ($22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99" in subd (f); **(5)** added "after any reduction made in accordance with subdivision (b) of Section 24214.5" in the second sentence of subd (g); **(6)** added subds (h)–(k) and (m); **(7)** redesignated former subds (h) and (i) to be subds (l) and (n); and **(8)** amended subd (n) by **(a)** substituting "become inoperative on June 30, 2013, and, as of January 1, 2014, is repealed" for "remain in effect only until June 30, 2012, and shall be repealed on January 1, 2013"; **(b)** adding ", that becomes operative on or before January 1, 2014,"; and **(c)** substituting "the dates on which it becomes inoperative and is repealed" for "that date".

2012 Amendment (ch 296): (1) Substituted "retired member activities" for "the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, as an employee of an employer,

as an employee of a third party, or as an independent contractor within the California public school system" in the first sentence of subd (a); **(2)** amended subd (b) by **(a)** substituting "retired member activities," for "service"; **(b)** deleting "as an employee of the employer, as an employee of a third party, or as an independent contractor" after "that member"; and **(c)** substituting "the maximum," for "that" after "nor exceed"; **(3)** substituted "retired member activities" for "the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system" in subd (c); **(4)** amended subd (d) by **(a)** substituting "retired member activities" for "activities identified in subdivision (a) or (b) of Section 22119.5"; and **(b)** deleting "as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system," after "subdivision (f)"; **(5)** substituted "retired member activities" for "the activities described in subdivision (a)" in subd (e); **(6)** amended subd (f) by **(a)** substituting "retired member activities" for "the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor"; and **(b)** deleting "to the fiscal year" after "fiscal year"; **(7)** amended the first sentence of subd (g) by **(a)** substituting "retired member activities," for "activities identified in subdivision (a) or (b) of Section 22119.5"; **(b)** deleting "as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system," after "subdivision (f),"; **(c)** substituting "subdivision (h)" for "subdivision (e)"; and **(d)** deleting "provisions of" after "any other"; **(8)** amended the introductory clause of subd (h) by **(a)** substituting "fiscal adviser, fiscal expert, receiver, or special trustee appointed" for "administrator, or fiscal adviser approved"; and **(b)** adding "the State Board of Education,"; **(9)** amended the first sentence of subd (i) by **(a)** adding "the Executive Director of the State Board of Education,"; and **(b)** substituting "subdivisions (j) and (k)" for "subdivision (h)"; **(10)** substituted "retired member activities" for "any activity specified in subdivision (a) or (b) of Section 22119.5 or subdivision (a) or (b) of Section 26113" in the second sentence of subd (i); **(11)** added subd (j); **(12)** redesignated former subd (j) to be subd (k); **(13)** deleted former subd (k)(4) which read: "(4) The appointment shall be terminated no later than June 30, 2013."; **(14)** redesignated former subd (k)(5) to be subd (k)(4); **(15)** deleted former subd (k) which read: "(k) An employee of a third party shall not be subject to this section if he or she meets all of the following conditions: (1) He or she performs a limited-term assignment. (2) The third-party employer does not participate in a California public pension system. (3) The activities performed by the individual are not normally performed by employees of the employer, as defined in section 22131."; **(16)** substituted "2012-13 and 2013-14 fiscal years" for "2012-13 fiscal year" in subd (m); and **(17)** amended subd (n) by substituting **(a)** "July 1, 2014" for "June 30, 2013"; and **(b)** "January 1, 2015" for "January 1, 2014" both times it appears.

§ 24214. Activities of retired member; Compensation; Limitations; Applicability of limitations; Employee of third party (Second of two; Operative July 1, 2014)

(a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor within the California public school system shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

(h) An employee of a third party shall not be subject to this section if he or she meets all of the following conditions:

(1) He or she performs a limited-term assignment.

(2) The third-party employer does not participate in a California public pension system.

(3) The activities performed by the individual are not normally performed by employees of the employer, as defined in Section 22131.

(i) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995-96 Regular Session, is deemed to have become operative on July 1, 1996.

(j) This section shall become operative on July 1, 2014.

Added Stats 2000 ch 896 § 3 (AB 1733), operative January 1, 2008. Amended Stats 2002 ch 903 § 3 (SB 1983), operative January 1, 2008; Stats 2003 ch 859 § 21 (SB 627), operative January 1, 2008; Stats 2004 ch 912 § 23 (AB 2233), operative January 1, 2008; Stats 2006 ch 655 § 29 (SB 1466), effective January 1, 2007, operative January 1, 2008; Stats 2007 ch 353 § 2 (SB 901), effective January 1, 2008, operative July 1, 2009; Stats 2008 ch 494 § 6 (AB 2390), effective January 1, 2009, operative July 1, 2010; Stats 2009 ch 306 § 2 (AB 506), effective January 1, 2010, operative July 1, 2012; Stats 2011 ch 703 § 26 (SB 349), effective January 1, 2012, operative June 30, 2012; Stats 2012 ch 135 § 4 (AB 178), effective July 17, 2012, operative July 1, 2013, ch 296 § 7 (AB 340), effective January 1, 2013, operative July 1, 2014 (ch 296 prevails), ch 864 § 13 (AB 2663), effective January 1, 2013.

Editor's Notes—This section, as amended by Stats 2012 ch 135 § 4, effective July 17, 2012, until January 1, 2013, read: "(a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, or subdivision (a) or (b) of Section 26113, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

"(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor within the California public school system shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

"(c) A member retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

"(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

"(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

"(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

"(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (b) of Section 24214.5.

"(h) An employee of a third party shall not be subject to this section if he or she meets all of the following conditions:

"(1) He or she performs a limited-term assignment.

"(2) The third-party employer does not participate in a California public pension system.

"(3) The activities performed by the individual are not normally performed by employees of the employer, as defined in Section 22131.

"(i) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995-96 Regular Session, is deemed to have become operative on July 1, 1996.

"(j) This section shall become operative on July 1, 2013."

Amendments

2002 Amendment: (1) Substituted "may" for "shall" after "but the member" in subd (a), "employer" in subd (b), and "payable but" in the second sentence of subd (g); **(2)** substituted "are not" for "shall not be" after "forth in this section" in subd (e); and **(3)** substituted ", shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty–two thousand dollars ($22,000) multiplied by the average earnable salary of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year" for "be twenty–two thousand dollars ($22,000), in any one school year, adjusted annually by the board each July 1 by the annual amount of increase in the All Urban California Consumer Price Index using December 1999 as the base" in subd (f).

2003 Amendment: (1) Substituted "percentage increase in the average compensation earnable" for "average earnable salary" in subd (f); and **(2)** substituted "is deemed" for "shall be deemed" in subd (h).

2004 Amendment: Substituted "adjusted by the percentage change" for "multiplied by the percentage increase" in subd (f).

2006 Amendment: (1) Added the last sentence in subd (a); and **(2)** substituted subd (b) for former subd (b) which read: "(b) The rate of pay for service performed by a member retired for service under this part as an employee of the employer may not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties."

2007 Amendment: (1) Substituted "subdivision (a) or (b)" for "paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b)," in subds (a), (d),(f) and (g); **(2)** substituted "within the California public school system" for the comma after "contractor" in subd (b); **(3)** substituted "subdivision (a) or (b) of Section 22119.5" for "paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision (b), of Section 22119.5," in subd (c); **(4)** de-

leted the comma after "independent contractor" in subd (f); and **(5)** substituted "July 1, 2009" for "January 1, 2008" in subd (i).

2008 Amendment: Substituted "July 1, 2010" for "July 1, 2009" in subd (i).

2009 Amendment: Substituted "July 1, 2012" for "July 1, 2010" in subd (i).

2011 Amendment: (1) Added ", or subdivision (a) or (b) of Section 26113," in the first sentence of subd (a); and **(2)** substituted "shall" for "may" before "not" in the first sentence of subd (a) and in subds (b) and (c).

2012 Amendment (ch 135): (1) Added ", or subdivision (a) or (b) of Section 26113," in the first sentence of subd (a); **(2)** substituted "shall not" for "may not" in the first sentence of subd (a) and in subds (b) and (c); **(3)** added "as" after "third party, or" in subd (d); **(4)** substituted "one-half of the median final compensation of all members who retired for service during" for "twenty-two thousand dollars ($22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998-99 fiscal year to" in subd (f); **(5)** added "after any reduction made in accordance with subdivision (b) of Section 24214.5" in the second sentence of subd (g); **(6)** added subd (h); **(7)** redesignated former subds (h) and (i) to be subds (i) and (j); and **(8)** substituted "July 1, 2013" for "July 1, 2012" in subd (j).

2012 Amendment (ch 296): Substituted "July 1, 2014" for "July 1, 2013" in subd (j).

§ 24214.5. Postretirement compensation limitation; Exemption from limitation; Contents of resolution; Documentation; Reduction of retirement allowance

(a) Notwithstanding subdivision (f) of Section 24214, the postretirement compensation limitation shall be zero dollars ($0) in either of the following circumstances:

(1) During the first 180 days after the most recent retirement of a member retired for service under this part.

(2) During the first six consecutive months after the most recent retirement if the member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire, as defined by subdivision (j) of Section 24214.

(b) If the member has attained normal retirement age at the time the compensation is earned, subdivision (a) shall not apply and Section 24214 shall apply if the appointment has been approved by the governing body of the employer in a public meeting, as reflected in a resolution adopted by the governing body of the employer prior to the performance of retired member activities, expressing its intent to seek an exemption from the limitation specified in subdivision (a). Approval of the appointment may not be placed on a consent calendar. Notwithstanding any other provision of Article 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code or any state or federal law incorporated by subdivision (k) of Section 6254 of the Government Code, the resolution shall be subject to disclosure by the entity adopting the resolution and the system. The resolution shall include the following specific information and findings:

(1) The nature of the employment.

(2) A finding that the appointment is necessary to fill a critically needed position before 180 days have passed.

(3) A finding that the member is not ineligible for application of this subdivision pursuant to subdivision (d).

(4) A finding that the termination of employment of the retired member with the employer is not the basis for the need to acquire the services of the member.

(c) Subdivision (b) shall not apply to a retired member whose termination of employment with the employer is the basis for the need to acquire the services of the member.

(d) Subdivision (b) shall not apply if the member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire.

(e) The Superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system to substantiate the eligibility of the retired member for application of subdivision (b), including, but not limited to, the resolution adopted pursuant to that subdivision.

(f) If a member will be receiving compensation for performance of retired member activities before 180 days after the most recent retirement, the Superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system that certifies that the member did not receive from any public employer any financial inducement to retire.

(g) The documentation required by this section shall be received by the system prior to the retired member's performance of retired member activities.

(h) Within 30 calendar days after the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (b), or seeking to employ a retired member pursuant to subdivision (f), and the retired member whether the compensation paid to the member will be subject to the limitation specified in subdivision (a).

(i) If a member retired for service under this part earns compensation for performing retired member activities in excess of the limitation specified in subdivision (a), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the allowance payable during the first 180 days, in accordance with subdivision (a), after a member retired for service under this part.

Added Stats 2009 ch 306 § 3 (AB 506), effective January 1, 2010. Amended Stats 2010 ch 207 § 20 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 27 (SB 349), effective January 1, 2012; Stats 2012 ch 296 § 8 (AB 340), effective January 1, 2013 (ch 296 prevails), ch 864 § 14 (AB 2663), effective January 1, 2013.

Amendments

2010 Amendment: Added ", within the California public school system," in subd (a).

2011 Amendment: Added "the most recent retirement of" in subd (a).

2012 Amendment: Substituted the section for the former section which read: "(a) Notwithstanding Section 24214, as of July 1, 2010, the postretirement compensation limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 either as an employee of an employer, an employee of a third party, or as an independent contractor, within the California public school system, shall be zero dollars ($0) during the first six calendar months after the most recent retirement of a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned. "(b) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (a), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned."

§ 24215. Service by certain retired teachers of California State University

A member retired for service under this part whose last employment was in the California State University, as a member of the Defined Benefit Program or the Public Employees' Retirement System, may serve as a member of the teaching staff of the California State University and shall be subject to the employment limitations as provided by the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 230 (SB 2041); Stats 1998 ch 965 § 192 (AB 2765).

Historical Derivation: Former Ed C § 23918, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 118, Stats 1979 ch 796 § 7, Stats 1980 ch 1185 § 1, Stats 1981 ch 714 § 83, Stats 1983 ch 143 § 14.

Amendments

1996 Amendment: Substituted **(1)** "A member retired for service" for "Any service retirant" at the beginning; and **(2)** "plan" for "system" after "member of this".

1998 Amendment: (1) Added "under this part" near the beginning; and **(2)** substituted "the Defined Benefit Program" for "this plan".

§ 24216. Exemption from limits on compensation for retirees hired in connection with certain emergency situations [Repealed]

Added Stats 2000 ch 22 § 2 (AB 141), effective May 19, 2000, operative January 1, 2001. Amended Stats 2002 ch 375 § 17 (AB 2982); Stats 2003 ch 313 § 13 (AB 1207); Stats 2004 ch 934 § 1 (AB 2554), ch 935 § 3.5 (AB 1852); Stats 2005 ch 351 § 25 (AB 224), effective January 1, 2006; Stats 2006 ch 766 § 1 (AB 2254), effective January 1, 2007; Stats 2007 ch 353 § 3 (SB 901), effective January 1, 2008,; Stats 2008 ch 494 § 7 (AB 2390), effective January 1, 2009; Stats 2009 ch 304 § 21 (SB 634), effective January 1, 2010, ch 306 § 4 (AB 506) (ch 306 prevails), inoperative June 30, 2012, repealed January 1, 2013; Stats 2010 ch 207 § 21 (AB 2260), effective January 1, 2011, inoperative June 30, 2012, repealed January 1, 2013.

Former Sections: Former 24216, relating to exemption from limits on compensation, was added Stats 1995 ch 394 § 8, effective August 11, 1995, operative July 1, 1995, amended Stats 1996 ch 634 § 231, Stats 1997 ch 572 § 2, Stats 1998 ch 965 § 193, Stats 2000 ch 22 § 1, effective May 19, 2000, and repealed operative January 1, 2001, by its own terms.

Former Ed C § 24216, relating to exemption from limits on compensation, was added Stats 1993 ch 893 § 2 and repealed Stats 1995 ch 394 § 7, effective August 11, 1995.

Historical Derivation: Former Ed C § 23922, as added Stats 1979 ch 796 § 14.

§ 24216.5. Exemption from limits on compensation for retirees needed for class size reduction program [Repealed]

Added Stats 1996 ch 948 § 1 (AB 1068), effective February 11, 1997. Amended Stats 1998 ch 965 § 194 (AB 2765); Stats 1999 ch 40 § 1 (AB 335), effective June 28, 1999; Stats 2000 ch 70 § 2 (SB 1666), effective July 5, 2000; Stats 2004 ch 934 § 2 (AB 2554); Stats 2007 ch 353 § 4 (SB 901), effective January 1, 2008, inoperative June 30, 2009, repealed January 1, 2010; Stats 2008 ch 494 § 8 (AB 2390), effective January 1, 2009, inoperative June 30, 2010, repealed January 1, 2011; Stats 2009 ch 303 § 6 (SB 509), effective January 1, 2010, ch 304 § 22 (SB 634), effective January 1, 2010, ch 306 § 5 (AB 506) (ch 306 prevails), effective January 1, 2010, operative until June 30, 2012, repealed January 1, 2013. Repealed operative January 1, 2013, by its own terms. The repealed section related to exemption from limits on compensation for retirees needed for class size reduction program.

§ 24216.6. Conditions for exemption of compensation of member retired for service from certain provisions of § 24214; Records [Repealed]

Added Stats 2000 ch 351 § 1 (AB 1736). Amended Stats 2003 ch 859 § 22 (SB 627); Stats 2004 ch 934 § 3 (AB 2554); Stats 2007 ch 353 § 5 (SB 901), effective January 1, 2008, inoperative June 30, 2009, repealed January 1, 2010; Stats 2008 ch 494 § 9 (AB 2390), effective January 1, 2009, inoperative June 30, 2010, repealed January 1, 2011; Stats 2009 ch 304 § 23 (SB 634), effective January 1, 2010, ch 306 § 6 (AB 506) (ch 306 prevails), effective January 1, 2010, operative until June 30, 2012, repealed January 1, 2013. Repealed operative January 1, 2013, by its own terms. The repealed section related to conditions for exemption of compensation of member retired for service from certain provisions of § 24214.

§ 24217. Annuity retirement allowance; Option (Savings clause)

A person who was a member under this part on June 30, 1972, and had five or more years of service and who had attained age 55 years, shall have the option of receiving the allowance payable under Section 14245, as it read on that date in lieu of the allowance payable under subdivision (a) of Section 24202.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 195 (AB 2765).

Historical Derivation: Former § 24005, as enacted Stats 1976 ch 1010 § 2.

§ 24218. Calculation of part–time service credit (7/1/1956 through 6/30/1968)

For the purpose of calculating retirement allowances, credit for service performed between June 30, 1956, and July 1, 1968, on a part–time basis in each school year shall be based on the ratio that service performed bears to the minimum full–time service required for credit for a year of service.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Historical Derivation: Former § 24002, as enacted Stats 1976 ch 1010 § 2.

§ 24219. Local teachers' retirement system retirees; Permanent fund benefit computations

Members who were retired under a previously existing local teachers' retirement system or the San Francisco Employees' Retirement System prior to July 1, 1972, who have not retired under this part for the local system service performed prior to July 1, 1972, shall have that portion of the retirement allowance computed under the law in effect on June 30, 1972, whenever they retire in the future.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 232 (SB 2041); Stats 2005 ch 351 § 26 (AB 224), effective January 1, 2006.

Historical Derivation: Former Ed C § 24001, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted **(1)** "this part for the" for "the State Teachers' Retirement System, for the allowance that existed for" after "not retired under"; and **(2)** "portion" for "part" after "shall have that".

§ 24221. Election of lump-sum payment and actuarially reduced monthly allowance (Partial lump-sum)

(a) A member who retires for service prior to January 1, 2011, may elect, on a form prescribed by the system, to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to this section in lieu of the monthly unmodified allowance that would otherwise be payable to the member pursuant to this chapter. The election under this section shall be made at the time the member files his or her application for service retirement allowance as provided in Section 24204.

(b) A member who makes the election described in subdivision (a) shall receive a one-time, lump-sum payment in an amount that equals or does not exceed the lesser of the following amounts:

(1) The actuarial present value of the amount by which (A) the monthly unmodified allowance payable to the member pursuant to this chapter exceeds (B) an amount equal to 2 percent of the member's final compensation multiplied by the number of years of credited service and divided by 12.

(2) Fifteen percent of the actuarial present value of the monthly unmodified allowance payable to the member under this chapter.

(c) Notwithstanding any other provision of this part, a member who makes the election described in subdivision (a) shall receive a monthly unmodified allowance, pursuant to this chapter, that shall be actuarially reduced to reflect the lump-sum amount paid under subdivision (b). The actuarial reduced unmodified allowance may be modified pursuant to Section 24300 or 24300.1.

(d) A member may not apply a lump-sum payment made pursuant to this section for the purposes of redepositing previously refunded retirement contributions pursuant to Chapter 19 (commencing with Section 23200) or purchasing service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820) or Chapter 14.5 (commencing with Section 22850). The Legislature hereby finds and declares that if a member who elects to receive a partial lump-sum payment also elects to redeposit previously refunded retirement contributions or purchase service credit as a result of the receipt of the lump-sum payment, the Defined Benefit Program may experience a net actuarial impact.

(e) An election pursuant to subdivision (a) may have no net actuarial impact to the Defined Benefit Program. The board shall adopt present value factors to establish a corresponding actuarially reduced monthly allowance, that results in no net actuarial impact to the Defined Benefit Program. The Legislature reserves the right to modify the provisions of this section to further the objective of permitting eligible members to receive a lump-sum distribution of a portion of their benefits, with a corresponding actuarial reduction in their monthly allowance, so that there is no net actuarial impact to the Defined Benefit Program.

(f) This section shall not apply to a member who retires for service pursuant to Section 24201.5.

Added by Stats 2002 ch 375 § 18 (AB 2982). Amended by Stats 2003 ch 859 § 23 (SB 627); Stats 2004 ch 935 § 4 (AB 1852); Stats 2006 ch 655 § 30 (SB 1466), effective January 1, 2007; Stats 2007 ch 332 § 5 (AB 1316), effective January 1, 2008.

Amendments

2003 Amendment: Amended subd (a) by **(1)** substituting "January 1, 2004" for "April 1, 2002"; **(2)** substituting "either the age of 60 years and three months within the month he or she retires or the age of 60 years if he or she has at least 30 years of credited service" for "normal retirement age"; and **(3)** adding the last sentence.

2004 Amendment: (1) Substituted "monthly unmodified allowance" for "monthly allowance" in subds (a), (b)(1)(A), (b)(2) and (c); **(2)** amended subd (a) by deleting **(a)** "on or after January 1, 2004, and" after "service"; and **(b)** "and who has reached either the age of 60 years and three months within the month he or she retires or the age of 60 years if he or she has at least 30 years of credited service" after "January 1, 2011,"; **(3)** substituted "amount by which" for "difference between" in subd (b)(1); **(4)** substituted "exceeds" for ", and" at the end of subd (b)(1)(A); **(5)** added the last sentence in subd (c); **(6)** added "retirement" in the last sentence of subd (d); and **(7)** substituted subd (e) for former subd (e) which read: "The Legislature reserves the right to modify the provisions of this section to further the objective of permitting eligible members to receive a lump–sum distribution of a portion of their benefits, with a corresponding actuarial reduction in their monthly allowance, so that there is no net actuarial impact to the Defined Benefit Program."

2006 Amendment: Added "or 24300.1" after "pursuant to Section 24300" in subd (c).

2007 Amendment: Added subd (f).

CHAPTER 27.1. RETIREMENT OPTION PROGRAM

[Chapter 27.1, consisting of §§ 24230–24238, added by Stats 2000 ch 897 § 1. Repealed by Stats 2002 ch 375 § 19.]

CHAPTER 27.5. REPLACEMENT BENEFITS PROGRAM

§ 24250. Legislative intent

It is the intent of the Legislature in repealing Sections 22316 and 22317 and adding Section 24275 to revoke the election made on behalf of the plan under Section 415(b)(10) of the Internal Revenue Code of 1986 and to provide for restoration of benefits pursuant to Section 24275.

Added by Stats 1999 ch 465 § 5 (AB 819).

Historical Derivation: (a) Former Ed C § 22004.2, as added Stats 1991 ch 543 § 1, amended Stats 1993 ch 1082 § 1.
(b) Former Ed C §§ 22315, 22316, as added Stats 1993 ch 893 § 2, amended Stats 1996 ch 634 § 77, Stats 1998 ch 965 §§ 37, 38.
(c) Former Ed C § 22317, added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 21, Stats 1996 ch 634 § 78, Stats 1998 ch 965 § 39.
(d) Former Ed C § 22514, 22515, as added Stats 1989 ch 1004 §§ 1, 2.

§ 24255. Teachers' Replacement Benefits Program Fund; Deposits and disbursements of money

(a) There is in the State Treasury a trust fund to be known as the Teachers' Replacement Benefits Program Fund. There shall be deposited directly in that fund, and not transferred from the Teachers' Retirement Fund, that portion of employer contributions determined by the board as necessary to fund the replacement benefits program.
(b) Notwithstanding Section 13340 of the Government Code, moneys in the Teachers' Replacement Benefits Program Fund are continuously appropriated without regard to fiscal years to pay benefits to members and beneficiaries of the Defined Benefit Program, and to pay related administrative expenses.
(c) The board may authorize the transfer and disbursement of funds from the Teachers' Replacement Benefits Program Fund for the purpose of carrying into effect this chapter upon the signature of either or both of its chairperson and vice chairperson or the chief executive officer or any employee of the system designated by the chief executive officer.
(d) Disbursements of money from the Teachers' Replacement Benefits Program Fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds except that, notwithstanding the foregoing, disbursements may be made to return funds deposited in the fund in error.

Added by Stats 1999 ch 465 § 5 (AB 819). Amended by Stats 2000 ch 135 § 35 (AB 2539); Stats 2001 ch 803 § 18 (SB 501).

Amendments

2000 Amendment: Added the commas after "except that" and "foregoing" in subd (d).
2001 Amendment: Substituted "Defined Benefit Program" for "defined benefit program" in subd (b).

§ 24260. Establishment of program; Annual benefits (Replacement Benefits Program)

(a) A replacement benefits program is hereby established under this chapter for the exclusive purpose of providing to members or their beneficiaries in accordance with subdivisions (c) and (d) that portion of the annual benefit of the member or the member's beneficiaries otherwise payable under the provisions of this part that exceeds the limitations on the dollar amount of annual benefit under Sec-

tion 415 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415) as applicable to a governmental plan, as defined in subdivision (d) of Section 414.

(b) The replacement benefits program established by this chapter is intended to comply with the provisions of Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415(m)).

(c) In any case in which (1) the annual benefit of the member or the member's beneficiaries for the calendar year otherwise payable under the terms of this part, as measured under the provisions of Section 415(b)(2) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415(b)(2)) and adjusted to exclude the portion of the annual benefit attributable to employee contributions that are not "picked up" under Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 414(h)(2)) or attributable to rollover contributions described in Section 415(b)(2) of the Internal Revenue Code of 1986, exceeds (2) the limitation on the dollar amount of an annual benefit applicable for the calendar year under Section 415(b)(1)(A) or subdivision (e) as applicable to a governmental plan, as defined in Section 414(d) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 414(d)), the amount of the portion of the annual benefit shall be paid to the member or the member's beneficiaries under the replacement benefit program in the manner described in subdivision (d). In no event shall the portion of the annual benefit from the replacement benefits program be payable from the assets of the Teachers' Retirement Fund. In no event shall the replacement benefits program provide to the member or the member's beneficiaries, directly or indirectly, any election to defer compensation.

(d) Any portion of the annual benefit of a member or the member's beneficiaries for the year described in subdivision (c) shall be payable, at the same time and in the same form as the remainder of the annual benefit and subject to the terms and conditions of this part except as otherwise provided under this section, from the proceeds of the employer contributions due under Section 22950, and, notwithstanding Section 22956, prior to the deposit of those employer contributions in the State Treasury to the Teachers' Retirement Fund. Upon receipt of the warrants for the employer contributions as described in Section 23001, the board shall retain and place in the Teachers' Replacement Benefits Program Fund only the amounts of employer contributions as are necessary for the exclusive purpose of paying currently the monthly installment next due of the portion of the annual benefit payable from the replacement benefits program to the member or the member's beneficiaries as well as any administrative expenses associated with the replacement benefits program. Amounts shall not be accumulated in the Teachers' Replacement Benefits Program Fund for the payment of future benefits, and a member or the member's beneficiaries who are to receive the portion of his or her annual benefit under the replacement benefits program shall have no entitlement to amounts in the Teachers' Replacement Benefits Program Fund until distributed to him or her as a benefit.

(e) The portion of the annual benefit payable under the replacement benefits program shall be subject to withholding for any applicable income or employment taxes.

(f) The administrative expenses of the replacement benefits program may include the employer portion of the Medicare payroll tax on the replacement benefits program payments of a retired member who is required to contribute to Medicare. The employee portion of the Medicare payroll tax on the replacement benefits program payments to retired members in this program who are required to contribute to Medicare shall be withheld from the replacement benefits program payments to the retired member.

(g) The board may by plan amendment amend the terms of the replacement benefits program established under this section as appropriate to comply with applicable federal or state law.

(h) All references to sections of the Internal Revenue Code of 1986 are to those sections as are amended from time to time or their successor sections.

Added by Stats 1999 ch 465 § 5 (AB 819). Amended by Stats 2001 ch 803 § 19 (SB 501).

Amendments

2001 Amendment: (1) Added subd (f); **(2)** redesignated former subds (f) and (g) to be subds (g) and (h); and **(3)** substituted "those" for "such" after "1986 are to" in subd (h).

§ 24270. Reduced annual benefits

In the case of any member or member's beneficiaries whose annual benefit otherwise payable under the provisions of this part has been reduced for any year by reason of application of the 100 percent of compensation limitation on benefits under Section 415(b)(1)(B) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415(b)(1)(B)) the reduced annual benefit shall be restored to its full amount otherwise payable for that year. In the case of restorations in respect of annual benefits that were paid prior to January 1, 2000, the additional benefit amount shall be paid by the system to the member or the member's beneficiaries on or before April 1, 2000.

Added by Stats 1999 ch 465 § 5 (AB 819).

§ 24275. Benefits subject to limitation (Internal Revenue Code Section 415)

(a) Notwithstanding any other provision of this part, the benefits payable to any person shall be subject to the limitations of Section 415 (other than Section 415(b)(1)(B)) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 415) as applicable to a governmental plan as those sections are amended from time to time or their successor sections.

(b) This section and Section 24270 shall be applicable to benefits payable in all plan years beginning before, on, or after enactment of this chapter.

Added by Stats 1999 ch 465 § 5 (AB 819).

Historical Derivation: (a) Former Ed C § 22004.2, as added Stats 1991 ch 543 § 1, amended Stats 1993 ch 1082 § 1.

(b) Former Ed C § 22316, as added Stats 1993 ch 893 § 2, amended Stats 1996 ch 634 §§ 77, Stats 1998 ch 965 § 38.

(c) Former Ed C § 22327, as added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 21, Stats 1996 ch 634 § 78, Stats 1998 ch 965 § 39.

CHAPTER 28. OPTIONS

§ 24300. Election of options

(a) A member may, prior to the effective date of the member's retirement, elect an option pursuant to this part that would provide an actuarially modified retirement allowance payable throughout the life of the member and the member's option beneficiary or beneficiaries, as follows:

(1) Option 2. The modified retirement allowance shall be paid to the retired member. Upon the retired member's death, an allowance equal to the modified amount that the retired member was receiving shall be paid to the option beneficiary.

(2) Option 3. The modified retirement allowance shall be paid to the retired member. Upon the retired member's death, an allowance equal to one-half of the modified amount that the retired member was receiving shall be paid to the option beneficiary.

(3) Option 4. The modified retirement allowance shall be paid to the retired member as long as both the retired member and the option beneficiary are living. Upon the death of either the retired member or the option beneficiary, an allowance equal to two-thirds of the modified amount that the retired member was receiving shall be paid to the surviving retired member or the surviving option beneficiary.

(4) Option 5. The modified retirement allowance shall be paid to the retired member as long as both the retired member and the option beneficiary are living. Upon the death of either the retired member or the option beneficiary, an allowance equal to one-half of the modified amount that the retired member was receiving shall be paid to the surviving retired member or surviving option beneficiary.

(5) Option 6. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to the modified amount that the retired member was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retired member, the retirement allowance without modification for the option shall be payable to the retired member. If the option beneficiary predeceases the retired member, the retired member may designate a new option beneficiary. The effective date of the new designation shall be six months following the date notification is received by the board, so long as both the retired member and the designated option beneficiary are then living. Notification shall be on a properly executed form for the new designation. The designation of the new option beneficiary under this subdivision is subject to an actuarial modification of the unmodified retirement allowance and shall not result in any additional liability to the fund. The new option beneficiary shall not be an existing option beneficiary.

(6) Option 7. The modified retirement allowance shall be paid to the retired member and upon the retired member's death, an allowance equal to one-half of the modified amount the retired member was receiving shall be paid to the option beneficiary. However, if the option beneficiary predeceases the retired member, the retirement allowance without modification for the option shall be payable to the retired member. If the option beneficiary predeceases the retired member, the retired member may designate a new option beneficiary. The effective date of the new designation shall be six months following the date notification is received by the board, provided both the retired member and the designated option beneficiary are then living. Notification shall be on a properly executed form for the new designation. The designation of the new option beneficiary under this subdivision is subject to an actuarial modification of the unmodified retirement allowance and shall not result in any additional liability to the fund. The new option beneficiary shall not be an existing option beneficiary.

(7) Option 8.

(A) Any member, prior to the effective date of the member's retirement, may designate multiple option beneficiaries. The member who has designated more than one option beneficiary shall elect an option that the member is authorized to elect subject to subdivision (e) for each beneficiary designated that would provide an actuarially modified retirement allowance payable throughout the lives of the member and the member's option beneficiaries.

(B) The modified retirement allowance shall be paid to the retired member as long as the retired member and at least one of the option beneficiaries are living. Upon the retired member's death, an allowance shall be paid to each surviving option beneficiary in accordance with the option elected respective to that beneficiary. However, if one or more of the option beneficiaries predeceases the retired member, the retired member's allowance shall be adjusted in accordance with the option elected for the deceased beneficiary. The member shall determine the percentage of the unmodified allowance that will be modified by the election of Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7 within this option, the aggregate of which shall equal 100 percent of the member's unmodified allowance. The election of this option is subject to approval by the board.

(C) A member who is a party to an action for legal separation or dissolution of marriage and who is required by court order to designate a spouse or former spouse as an option beneficiary may designate his or her spouse or former spouse as a sole option beneficiary under subparagraphs (A) and (B). The member shall specify the option elected for the spouse or former spouse and the percentage of his or her unmodified allowance to be modified by the option, consistent with the court order. The percentage of the member's unmodified allowance that is not modified by the option shall remain an unmodified allowance payable to the member. The aggregate of the percentages specified for the option beneficiary and the member's remaining unmodified allowance, if any, shall equal 100 percent.

(b) For purposes of this section, the member shall designate an option beneficiary on a form prescribed by the system, which shall be duly executed and filed with the system at the time of the member's retirement.

(c) A member may revoke or change an election of an option at any time prior to the effective date of the member's retirement under this part. A revocation or change of an option may not be made in derogation of a spouse's or former spouse's community property rights as specified in a court order.

(d) On or before July 1, 2004, the board shall evaluate the existing options and annuities provided pursuant to this section, Chapter 38 (commencing with Section 25000) of this part, and Part 14 (commencing with Section 26000) and adopt, as a plan amendment, any appropriate changes to the options and annuities based on the needs of members, participants, and their beneficiaries, including, but not limited to, providing economic security for beneficiaries and reducing complexity in the election of options and annuities by members and participants. The changes to the options and annuities may have no net actuarial impact on the retirement fund, and the board may establish any eligibility criteria it deems necessary to prevent an adverse actuarial impact to the fund. The board shall designate the effective date of the plan amendment, which shall be at least 18 months after the amendment is adopted by the board, and notwithstanding any other provision of this section, the options and annuities available to members and participants eligible to retire pursuant to this part and Part 14 (commencing with Section 26000), after the effective date of the plan amendment made pursuant to this subdivision, shall reflect the changes adopted as a plan amendment pursuant to this subdivision.

(e) Any member or participant who retired and elected an option or a joint and survivor annuity, or who filed a preretirement election of an option prior to the effective date of the plan amendment made pursuant to subdivision (d), may elect to change to a different option or joint and survivor annuity, as modified by the board as a plan amendment pursuant to subdivision (d), if the member or participant meets all the criteria established by the board to prevent a change in an option or joint and survivor annuity from having an adverse actuarial impact on the retirement fund, including, but not limited to, the effective date of a new designation or limitations on any changes if a member or participant, as the case may be, or beneficiary, or both, is currently not living or afflicted with a known terminal illness. The member or participant shall designate the change during the six-month period that begins with the effective date of the plan amendment, on a form prescribed by the system. Any member changing an option election pursuant to this subdivision is not subject to the allowance reduction prescribed in Section 24309 or 24310 as a result of the election. If a member or participant elects to change his or her option or joint and survivor annuity under this subdivision, the member or participant shall retain the same option beneficiary or beneficiaries as named in the prior designation.

(f) The Legislature reserves the right to modify this section prior to the effective date of the plan amendment made pursuant to subdivision (d) to prevent any actuarial impact to the fund.

(g) Except as described in subdivision (d) of Section 24300.1, on or after January 1, 2007, a member may not make a new election for an option or joint and survivor annuity described in subdivision (a).

(h) Any member with a retirement effective on or after January 1, 2007, shall elect an option from the options described in Section 24300.1. Any member making a new option election under the provisions of Section 24300.6, 24305.5, or 24306 shall elect an option from the options described in Section 24300.1 if the effective date of the new option election is on or after January 1, 2007.

Added by Stats 2002 ch 903 § 5 (SB 1983). Amended by Stats 2003 ch 859 § 24 (SB 627); Stats 2006 ch 655 § 31 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24300, similar to present section, was added Stats 1998 ch 349 § 2, operative January 1, 2000, amended Stats 1999 ch 939 § 71, operative January 1, 2000, and repealed Stats 2002 ch 903 § 4.

Former § 24300, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1995 ch 524 § 3, Stats 1996 ch 634 § 233, Stats 1998 ch 349 § 1, and repealed, operative January 1, 2000, by its own terms.

Former § 24300, relating to purpose of article, was enacted 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1990 ch 83 § 7, effective May 1, 1990.

Amendments

2003 Amendment: (1) Deleted the comma after "pursuant to this part" in subd (a); **(2)** added subd (a)(7)(C); **(3)** added the last sentence in subd (c); and **(4)** amended the last sentence of subd (d) by **(a)** adding "and Part 14 (commencing with Section 26000),"; and **(b)** adding the comma after "pursuant to this subdivision" the first time it appears.

2006 Amendment: (1) Added "or beneficiaries" after "member's option beneficiary" in subd (a); **(2)** amended subd (a)(5) by **(a)** substituting "designation" for "selection" after "the new designation. The"; **(b)** substituting "and shall" for ". A retired member may" after "unmodified retirement allowance"; **(c)** deleting "designate any new option beneficiary that would" after "and shall not"; and **(d)** adding the last sentence; **(3)** amended subd (a)(6) by **(a)** substituting "designation" for "selection" after "the new designation. The"; **(b)** substituting "and shall not" for ". A retired member may not designate any new option beneficiary that would" after "unmodified retirement allowance"; and **(c)** adding the last sentence; **(4)** substituted "elect" for "select" after "option beneficiary shall" in subd (a)(7)(A); **(5)** substituted "within this option, the aggregate of which shall equal" for "under this option, the aggregate of which may not exceed" after "Option 6, or Option 7" in subd (a)(7)(B); **(6)** amended subd (a)(7)(C) by **(a)** substituting "elected" for "selected" after "specify the option"; **(b)** substituting "by" for "under" both times it appears; and **(c)** substituting "shall equal" for "may not exceed" after "unmodified allowance, if any,"; **(7)** substituted "election" for "selection" after "complexity in the" in subd (d); and **(8)** added subds (g) and (h).

§ 24300.1. Election of option beneficiary; Revocation or change; Death of option beneficiary before member; Community property interest; Plan amendment

(a) A member may, upon application for retirement, elect an option pursuant to this part that would provide an actuarially modified retirement allowance payable throughout the life of the member and the member's option beneficiary or beneficiaries, as follows:

(1) One hundred percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the member's death, 100 percent of the modified allowance shall continue to be paid to the option beneficiary.

(2) Seventy-five percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the member's death, 75 percent of the modified allowance shall continue to be paid to the option beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community proper-

ty interest in the benefits of the member under this part, the member may not designate an option beneficiary under this option who is more than exactly 19 years younger than the member.

(3) Fifty percent beneficiary option. The modified retirement allowance shall be paid to the member and upon the death of the member, 50 percent of the modified allowance shall continue to be paid to the option beneficiary.

(4) Compound option. The member may designate multiple option beneficiaries or one or multiple option beneficiaries with a designated percentage to remain unmodified. The member shall elect an option as described in paragraph (1), (2), or (3) for each designated option beneficiary that would provide an actuarially modified retirement allowance payable throughout the lives of the member and the member's option beneficiary or beneficiaries.

(A) The modified retirement allowance shall be paid to the member as long as the member and at least one option beneficiary is living. Upon the member's death, an allowance shall be paid to each surviving option beneficiary in accordance with the option elected respective to that option beneficiary. If an option beneficiary predeceases the member, the member's allowance shall be adjusted in accordance with the option elected for the deceased option beneficiary.

(B) The member shall specify the percent of the unmodified allowance that will be modified by the election of each option described in paragraph (1), (2), or (3) of this subdivision. The percent of the unmodified allowance that is not modified by an option, if any, shall be payable to the member. The sum of the percentages specified for the option beneficiary or beneficiaries and the member's remaining unmodified allowance, if any, shall equal 100 percent.

(C) The member's election of the compound option is subject to all of the following:

(i) Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part, the member may not designate an option beneficiary under the 100 percent beneficiary option within this compound option who is more than exactly 10 years younger than the member.

(ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the option beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part, the member may not designate an option beneficiary under the 75 percent beneficiary option within this compound option who is more than exactly 19 years younger than the member.

(b) For purposes of this section, the member shall designate an option beneficiary on a properly executed retirement application. Except as otherwise provided by this chapter, the option shall become effective on the member's retirement date.

(c) A member may revoke or change an election of an option no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system. A revocation of an option may not be made in derogation of a spouse's or a former spouse's community property rights as specified in a court order.

(d) If an option beneficiary designated pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) predeceases the member, the retirement allowance shall be paid to the member without modification for the option. If the option beneficiary predeceases the member, the member may designate a new option beneficiary. The effective date of the new designation shall be six months following the date of notification is received by the board, provided both the member and the designated option beneficiary are then living. Notification shall be on a properly executed form provided by the system. The designation of the new option beneficiary pursuant to this subdivision is subject to an actuarial modification of the unmodified retirement allowance and may not result in additional liability to the fund. The new option beneficiary cannot be an existing option beneficiary.

(e) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse described in paragraphs (2) and (4) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

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

(g) The board may evaluate the existing options and annuities provided pursuant to this section, Chapter 38 (commencing with Section 25000) of this part, and Part 14 (commencing with Section 26000) and adopt, as a plan amendment, any appropriate changes to the options and annuities based on the needs of the members, participants, and their beneficiaries, including, but not limited to, providing economic security for beneficiaries and reducing the complexity of the options and annuities. The changes to the options and annuities may have no net actuarial impact on the retirement fund and the board may establish any eligibility criteria the board deems necessary to prevent an adverse actuarial impact to the fund. The board shall designate the effective date of the plan amendment, which shall be at least 18 months after the amendment is adopted by the board, and notwithstanding any other provision of this section, the options and annuities available to members and participants eligible to retire pursuant to this part and Part 14 (commencing with Section 26000), after the effective date of the plan amendment made pursuant to this subdivision, shall reflect the changes adopted as a plan amendment to this subdivision.

Added Stats 2006 ch 655 § 32 (SB 1466), effective January 1, 2007. Amended Stats 2010 ch 207 § 22 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 28 (SB 349), effective January 1, 2012.

Amendments

2010 Amendment: (1) Substituted "compound option" for "Compound Option" in the introductory clause of subd (a)(4)(C); **(2)** added subds (b) and (c); and **(3)** redesignated former subds (b)-(e) to be subds (d)-(g).

2011 Amendment: (1) Substituted "upon application for" for "prior to the effective date of his or her" in the introductory clause of subd (a); **(2)** amended subd (b) by **(a)** substituting "retirement application" for "form prescribed by the system, which shall be duly executed and filed with the system at the time of the member's retirement" in the first sentence; and **(b)** adding the second sentence; and **(3)** substituted "no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system" for "at any time prior to the effective date of the member's retirement under this part" in the first sentence of subd (c).

§ 24300.2. Change of option; Window period; January 1, 2007 through June 30, 2007

(a) A member who retired and elected an option pursuant to Section 24300 may elect to change options, subject to all of the following:

(1) A member who elected Option 2 may elect to change to the 100-percent beneficiary option described in paragraph (1) or the 75-percent beneficiary option described in paragraph (2) of subdivision (a) of Section 24300.1.

(2) A member who elected Option 3, Option 4, or Option 5 may elect to change to the 75-percent beneficiary option described in paragraph (2) or the 50-percent beneficiary option described in paragraph (3) of subdivision (a) of Section 24300.1.

(3) A member who elected Option 6 or Option 7 may elect to change to the 75-percent beneficiary option described in paragraph (2) of subdivision (a) of Section 24300.1.

(4) A member who elected Option 8 may elect to have any designated percentage of his or her unmodified allowance changed in accordance with paragraph (1), (2), or (3).

(5) The election by a member under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(6) The member designates the same beneficiary that was designated under the prior option elected by the member, if the option and beneficiary designation were effective on or before December 31, 2006.

(7) The member and the option beneficiary are not afflicted with a known terminal illness and the member declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, he or she and the option beneficiary are not afflicted with a known terminal illness.

(8) The option beneficiary has not predeceased the member as of the effective date of the change in the option by the member.

(b) The change in the option by the member shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a member's election document, the system shall mail an acknowledgment notice to the member that sets forth the new option elected by the member.

(d) If the member and the option beneficiary are alive and not afflicted with a known terminal illness, a member may cancel the election to change options and elect to receive the benefit according to the preexisting option election. After cancellation, the member may elect to make a one-time change from the preexisting option to any other option provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the member on or before June 1, 2007, or prior to the end of the election period, provided that the member and the option beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a member to cancel the election to change options and elect to receive the benefit according to the preexisting option election. After cancellation, the member may elect to make a one-time change from the preexisting option to any other option provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 days following the date of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(f) If the member elects to change his or her option as described in subdivision (a), the retirement allowance of the member shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) The member shall not change options in derogation of a spouse's or former spouse's community property rights as specified in a court order.

Added by Stats 2006 ch 655 § 33 (SB 1466), effective January 1, 2007. Amended by Stats 2007 ch 130 § 56 (AB 299), effective January 1, 2008.

Amendments

2007 Amendment: (1) Added hyphens to percent references in subds (a)(1)–(a)(3); and **(2)** substituted "his or her" for "their" after "designated percentage of" in subd (a)(4).

§ 24300.5. Death of option beneficiary

An option beneficiary who is receiving an allowance pursuant to the option elected by the member may designate a beneficiary to receive any allowance that has accrued and is unpaid, and any remaining balance of the retired member's accumulated retirement contributions payable pursuant to Section 23881, upon the death of the option beneficiary.

Added by Stats 2000 ch 74 § 55 (AB 1509). Amended by Stats 2001 ch 803 § 20 (SB 501).

Amendments

2001 Amendment: Added **(1)** "allowance that has accrued and is unpaid, and any"; and **(2)** the comma after "Section 23881".

§ 24300.6. Unmarried retirees (Election of an option; New spouse)

(a) Any retired member who was unmarried and not in a registered domestic partnership on the effective date of retirement who did not elect an option pursuant to Section 24300 or 24300.1, and who thereafter marries or registers in a domestic partnership, may, after the effective date of the member's retirement under this part, elect an option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1, naming his or her new spouse or registered domestic partner as the option beneficiary, subject to all of the following:

(1) The retired member shall have been married or registered in a domestic partnership 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 properly executed form provided by the system, of the election of the option and the designation of the member's new spouse or registered domestic partner as the option beneficiary. That notice shall include a certified copy of the marriage certificate or the certificate of registration of domestic partnership.

(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 the compound option described in paragraph (4) of subdivision (a) of Section 24300.1.

(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 or registered domestic partner are then living. If the effective date of the new option election is on or after January 1, 2007, at the time of the new election the retired member shall elect an option from the options described in Section 24300.1.

(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 or registered domestic partner. 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 or registered domestic partner as of the effective date of the election.

Added by Stats 2000 ch 1020 § 8 (AB 820), operative July 1, 2001. Amended by Stats 2005 ch 418 § 6 (SB 973), effective January 1, 2006; Stats 2006 ch 655 § 34 (SB 1466), effective January 1, 2007; Stats 2007 ch 323 § 13 (AB 757), effective January 1, 2008.

Amendments

2005 Amendment: (1) Amended the introductory language of subd (a) by **(a)** adding "and not in a registered domestic partnership"; **(b)** substituting "marries or registers in a domestic partnership," for "marries,"; and **(c)** adding "or registered domestic partner"; **(2)** amended subd (a)(1) by adding "or registered in a domestic partnership"; **(3)** amended subd (a)(2) by adding "or registered domestic partner"; **(4)** amended subd (a)(4) by adding "or registered domestic partner"; and **(5)** amended subd (b) by **(a)** substituting "spouse or registered domestic partner." for "spouse."; and **(b)** adding "or registered domestic partner".

2006 Amendment: (1) Amended subd (a) by **(a)** adding "or 24300.1" after "pursuant to Section 24300"; and **(b)** substituting "paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1" for "paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300" after "option described in"; **(2)** added "properly executed" after "in writing on a" in subd (a)(2); **(3)** substituted "the compound option described in paragraph (4) of subdivision (a)

of Section 24300.1" for "Option 8" after "member may not elect" in subd (a)(3); **(4)** added the last sentence in subd (a)(4); and **(5)** deleted former subd (c) which read: "(c) This section shall be operative July 1, 2001."

2007 Amendment: Added the second sentence in subd (a)(2).

§ 24301. Election of actuarially modified disability retirement allowance; Death prior to election

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

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

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

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 92 (AB 3171), effective September 27, 1994; Stats 1995 ch 524 § 5 (AB 1441); Stats 1996 ch 634 § 234 (SB 2041); Stats 1998 ch 965 § 196 (AB 2765); Stats 2006 ch 655 § 35 (SB 1466), effective January 1, 2007; Stats 2009 ch 304 § 24 (SB 634), effective January 1, 2010.

Former Sections: Former § 24301, relating to reinstatement after retirement, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1990 ch 83 § 8, effective May 1, 1990.

Amendments

1994 Amendment: (1) Added the third sentence in subd (b); and **(2)** substituted "death benefits shall be payable under Chapter 23 (commencing with Section 23850)" for "member will be considered to have died while in active status" in subd (d).

1995 Amendment: Deleted the comma after "Section 24300" in subd (a).

1996 Amendment: Substituted **(1)** "acknowledgment" for "notice" after "the mailing of the" in the third sentence of subd (a); **(2)** "become" for "be" after "The option shall" in the first sentence of subd (b); and **(3)** "retired member and the designated" for "disability retirant and the named" after "on the ages of the" in the second sentence of subd (b).

1998 Amendment: Added "under this part" in the first sentence of subd (a).

2006 Amendment: Added "or 24300.1" after "provided in Section 24300" in subd (a).

2009 Amendment: Added "Except as provided in Sections 24300, 24300.1, 24300.6, 24305, 24305.5, and 24306," in subd (c).

§ 24302. Effect on reinstatement of option elected at time of retirement

Upon termination of a service retirement allowance pursuant to Section 24208, any option elected pursuant to Section 24300 or 24300.1 and in effect at the time of reinstatement shall be considered to be a preretirement election of an option elected as of the effective date of that retirement and shall be subject to the same provisions as an option elected under Section 24307.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 524 § 6 (AB 1441); Stats 1996 ch 634 § 235 (SB 2041); Stats 2006 ch 655 § 36 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24302, relating to reinstatement after disability allowance, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1990 ch 83 § 9, effective May 2, 1990.
Historical Derivation: Former Ed C § 24204.5, as added Stats 1990 ch 83 § 4.

Amendments

1995 Amendment: (1) Substituted "reinstatement from service retirement" for "a member's reinstatement to membership; **(2)** deleted "at the time of retirement" after "option elected"; **(3)** added "and in effect at the time of reinstatement"; and **(4)** substituted "that" for "the prior".
1996 Amendment: Substituted "termination of a service retirement allowance" for "reinstatement from service retirement" before "pursuant to Section 24208".
2006 Amendment: Added "or 24300.1" after "pursuant to Section 24300" in subd (a).

§ 24303. Effect on reinstatement on specified options elected

Termination of the service retirement allowance pursuant to Section 24208 shall not cancel an option elected under the provisions of Section 24300, 24300.1, or 24307. The option elected shall remain in effect, unchanged, and shall be reapplied to the allowance payable upon the subsequent service retirement. The effective date of the option shall be considered the effective date of the terminated service retirement allowance as described in Section 24302.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 524 § 7 (AB 1441); Stats 1996 ch 634 § 236 (SB 2041); Stats 2006 ch 655 § 37 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24303, similar to present Ed C § 24211, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 51, Stats 1987 ch 330 § 18, and repealed Stats 1990 ch 1201 § 4, effective September 24, 1990.
Historical Derivation: Former Ed C § 24204.6, as added Stats 1990 ch 83 § 5.

Amendments

1995 Amendment: Substituted "from service retirement pursuant to Section 24208 shall" for "to membership pursuant to Section 24208 does".
1996 Amendment: Substituted "Termination of the service retirement allowance" for "Reinstatement from service retirement" at the beginning of the first sentence.
2006 Amendment: (1) Added "or 24300.1" after "of Section 24300,"; **(2)** added "elected" after "or 24307. The option"; **(3)** added ", unchanged," after "remain in effect"; and **(4)** added the last sentence.

§ 24304. Elected option voided on reinstatement to membership; Further election

Upon termination of a disability retirement allowance pursuant to Section 24117, any option elected at the time of retirement pursuant to Section 24301 shall be void as of the effective date of the reinstatement. The preretirement election of option subsequent to termination of the allowance pursuant to Section 24117 shall be subject to the following:

(a) A member may not make a preretirement election of option pursuant to Section 24307 prior to becoming qualified to make application for service retirement under Section 24201 or Section 24203.

(b) A member who was receiving an unmodified disability retirement allowance prior to termination of the allowance may not make a preretirement election of option earlier than six months following the date on which the disability retirement allowance was terminated pursuant to Section 24117.

(c) A member who has elected an option pursuant to Section 24301, and is otherwise eligible to make a preretirement election of an option, may make the election anytime during the six months following the date on which the disability retirement allowance was terminated pursuant to Section

24117. The member shall elect the same option and designate the same option beneficiary as designated under Section 24301 when making the election during the six–month period following the date the disability retirement allowance was terminated.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 93 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 237 (SB 2041).

Amendments

1994 Amendment: Substituted "has" for "is" after "member who" near the beginning of subd (c).

1996 Amendment: (1) Substituted the introductory clause and subd (a) for the former introductory clause and subd (a) which read:

"Upon reinstatement of a retirant to membership from disability retirement pursuant to Section 24117, any option elected at the time of retirement pursuant to Section 24301 shall be voided as of the effective date of the reinstatement. The preretirement election of option subsequent to reinstatement pursuant to Section 24117 is subject to the following:

"(a) Members may not make a preretirement election of option pursuant to Section 24307 prior to attaining 55 years of age.";

(2) substituted "A" for "Any" at the beginning of subds (b) and (c); **(3)** amended subd (b) by substituting **(a)** "termination of the allowance" for "reinstatement" after "allowance prior to"; and **(b)** "disability retirement allowance was terminated" for "member reinstated" after "on which the"; **(4)** substituted "disability retirement allowance was terminated" for "member reinstated" after "on which the" in the first sentence of subd (c); and **(5)** amended the second sentence in subd (c) by substituting **(a)** designate the same option beneficiary as designated" for "retain the same option beneficiary as made"; and **(b)** "the disability retirement allowance was terminated" for "of reinstatement from disability retirement" at the end.

§ 24305. Cancellation of elected option in event of dissolution of marriage or order of separation

(a) An option elected under Section 24300 or 24300.1 may be canceled by a retired member if the option beneficiary is the retired member's spouse or former spouse and a final decree of dissolution of marriage or a judgment of nullity has been entered or an order of separate maintenance has been made on or after January 1, 1978, by a court of competent jurisdiction. A retired member may cancel the option before or after issuance of the first retirement allowance payment.

(b) The retired member shall notify the board in writing of cancellation of the option. Notification shall not be earlier than the effective date of the decree, judgment, or order and shall include a certified copy of the final decree of dissolution, or judgment of nullity, or an order of separate maintenance, and any property settlement agreement.

(c) Upon notification to the board, the retired member may elect (1) to receive the unmodified retirement allowance from the date of receipt of the notification; or (2) a new joint and survivor option under Section 24300.1 and may designate one or multiple new option beneficiaries. Modification of the retirement allowance because of the newly elected option or newly designated beneficiary or beneficiaries shall be based on the ages of the retired member and the new option beneficiary or beneficiaries as of the effective date of the new option. The election of a new joint and survivor option or the designation of a new option beneficiary or beneficiaries shall be consistent with the final decree of dissolution, judgment of nullity, order of separate maintenance, or property settlement agreement, and shall not result in any additional liability to the Teachers' Retirement Fund. The effective date of the change shall be the date notification is received by the board.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 524 § 8 (AB 1441); Stats 1996 ch 634 § 238 (SB 2041); Stats 2006 ch 655 § 38 (SB 1466), effective January 1, 2007.

Historical Derivation: Former Ed C § 24200.1, as added Stats 1977 ch 619 § 2, amended Stats 1979 ch 520 § 15, Stats 1984 ch 1308 § 3.

Amendments

1995 Amendment: (1) Amended subd (a) by substituting **(a)** "An option elected under Section 24300 may be canceled by a retirant" for "A retirant may cancel the option elected as provided in Section 24300"; **(b)** "and a" for "in the event a"; and **(c)** "cancel the option before or after issuance of" for "make the cancellation before or after"; **(2)** amended subd (b) by **(a)** adding "of his or her cancellation of the option"; **(b)** substituting "earlier" for "sooner"; and **(c)** substituting "decree, judgement, or order. Notification shall include a certified copy of the final decree of dissolution, or judgment of" for "judgment or order and shall include a certified copy of the final decree of dissolution, or judgment of"; and **(3)** amended subd (c) by **(a)** substituting "allowance" for "benefit"; **(b)** adding "the" after "of receipt of"; **(c)** substituting "and may name" for ", naming"; **(d)** deleting "The" in the beginning of the second sentence; **(e)** substituting "newly elected option" for "new option elected"; **(f)** substituting "new option beneficiary as of the effective date of the new option" for "nominated option beneficiary at the date the election was received"; and **(g)** substituting the third and last sentences for the former third and last sentences which read: "However, a retirant may not elect a joint and survivor option that would result in any additional liability to the fund. The election shall be consistent with the final judgment or property settlement agreement."

1996 Amendment: (1) Substituted "retired member" for "retirant" wherever it appears; **(2)** substituted "retired member's" for "retirant's" after "beneficiary is the" in the first sentence of subd (a); **(3)** substituted subd (b) for former subd (b) which read: "(b) The retirant shall notify the board in writing of his or her cancellation of the option, and notification shall not be earlier than the effective date of the decree, judgment, or order. Notification shall include a certified copy of the final decree of dissolution, or judgment of nullity, or an order of separate maintenance, and any property settlement agreement."; and **(4)** amended subd (c) by **(a)** substituting "designate" for "name" after "Section 24300 and may" in the first sentence; **(b)** substituting "because of the newly elected option or newly designated beneficiary" for "under the newly elected option" in the second sentence; **(c)** adding "or the designation of a new option beneficiary" after "and survivor option" in the third sentence; and **(d)** substituting "change" for "unmodified allowance or the new option" after "date of the" in the fourth sentence.

2006 Amendment: (1) Added "or 24300.1" after "under Section 24300" in subd (a); and **(2)** amended subd (c) by **(a)** substituting "Section 24300.1" for "Section 24300" after "survivor option under"; **(b)** substituting "one or multiple new option beneficiaries" for "a new option beneficiary" after "and may designate"; and **(c)** added "or beneficiaries" wherever it appears.

§ 24305.3. Joint and survivor annuity

(a) A member who is receiving a joint and survivor annuity under the Defined Benefit Supplement Program may change the annuity or the annuity beneficiary elected pursuant to Section 25011, 25011.1, 25018, or 25018.1, provided all of the following conditions are met:

(1) The annuity beneficiary is the member's spouse or former spouse.

(2) A final decree of dissolution of marriage is granted, or a judgment of nullity is entered, or an order of separate maintenance is made by a court of competent jurisdiction with respect to the member and the spouse or former spouse on or after the beginning of the initial plan year designated by the board pursuant to Section 22156.05.

(3) The change is consistent with the final decree of dissolution, judgment of nullity, or order of separate maintenance.

(b) A member may change the annuity pursuant to subdivision (a) before or after the first annuity payment is issued.

(c) The member shall notify the system in writing of the change in the annuity. The notification shall not be earlier than the effective date of the final decree of dissolution, judgment of nullity, or order of separate maintenance and shall include a certified copy of the final decree of dissolution, judgment of nullity, or order of separate maintenance, and any property settlement agreement.

(d) A change in the annuity or annuity beneficiary or both shall become effective on the date the notification of change is received by the system. The annuity amount payable to the member upon the change elected by the member shall be determined as of the effective date of the change and shall be the actuarial equivalent of the lump sum that would otherwise be payable to the member as of the date of the change. If the member elects a joint and survivor annuity, the amount payable under the annuity shall be modified consistent with the annuity elected by the member.

Added by Stats 2000 ch 74 § 56 (AB 1509), ch 1021 § 39 (AB 2700). Amended by Stats 2006 ch 655 § 39 (SB 1466), effective January 1, 2007.

Amendments

2006 Amendment: Substituted ", 25011.1, 25018, or 25018.1," for "or 25018" after "pursuant to Section 25011" in subd (a).

§ 24305.5. Designation of spouse as new option beneficiary by retired member

(a) An option elected under Section 24300 or 24300.1 may be canceled by a retired member if the option beneficiary is not the retired member's spouse or former spouse. A retired member may cancel the option before or after issuance of the first retirement allowance payment and shall designate his or her spouse as the new option beneficiary and the same or a different joint and survivor option described in Section 24300.1.

(b) The retired member shall notify the board, in writing on a properly executed form provided by the system, of the designation of the new option beneficiary. Notification shall include a certified copy of the marriage certificate and a properly executed form for the change.

(c) The effective date of the new election shall be six months following the date notification is received by the board, provided both the retired member and the new designated option beneficiary are then living. If the effective date of the new option election is on or after January 1, 2007, at the time of the new election the retired member shall elect an option from the options described in Section 24300.1.

(d) The election of the option and designation of the option beneficiaries under this section and Section 24300.1 shall be subject to an actuarial modification of the retirement allowance. In no event may a retired member elect a joint and survivor option that would result in any additional liability to the fund. A retired member may not elect the compound option described in paragraph (4) of subdivision (a) of Section 24300.1. Modification of the retirement allowance because of the new option beneficiary and the new option shall be based on the ages of the retired member and the new option beneficiary as of the effective date of the new election.

Added by Stats 1998 ch 262 § 1 (SB 1486). Amended by Stats 1999 ch 939 § 72 (SB 1074); Stats 2006 ch 655 § 40 (SB 1466), effective January 1, 2007.

Amendments

1999 Amendment: (1) Added the second sentence of subd (b); **(2)** substituted "then" for "both" before "living" at the end of subd (c); **(3)** amended the first sentence of subd (d) by **(a)** substituting "section" for "subdivision" after "option under this"; **(b)** substituting "shall be subject to a further actuarial modification" for "is subject to an actuarial modification in the amount"; and **(c)** adding "retirement" before "allowance" at the end; and **(4)** amended the second sentence of subd (d) by **(a)** substituting "In no event may" for "However,"; **(b)** deleting "may" after "retired member" the first time it appears; and **(c)** deleting the comma after "and the new option".

2006 Amendment: (1) Added "or 24300.1" after "under Section 24300" in subd (a); **(2)** added "properly executed" after "in writing on a" in subd (b); **(3)** added the last sentence in subd (c); and **(4)** amended subd (d) by **(a)** substituting "election" for "selection" after "The"; **(b)** substituting "option and designation of the option beneficiaries" for "new option beneficiary and the new option" after "election of the"; **(c)** substituted "Section 24300.1" for "Section 24300" after "under this section and"; **(d)** substituting "an" for "a further" after "be subject to"; **(e)** deleting "modified" after "modification of the"; and **(f)** adding the next to last sentence.

§ 24306. Designation of new option beneficiary or different joint and survivor option when option beneficiary predeceases retired member

(a)(1) If an option beneficiary designated in the election of an Option 2, Option 3, Option 4, or Option 5 as described in Section 24300 predeceases the retired member, the retired member may elect a

new joint and survivor option described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 24300.1 and designate one or multiple new option beneficiaries.

(2) If an option beneficiary designated in the election of Option 2, Option 3, Option 4, or Option 5 within Option 8, predeceases the member, the member may elect a new joint and survivor option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1 and designate a new option beneficiary for the portion of the retirement allowance that was modified for the prior option beneficiary. The member may not elect the compound option described in paragraph (4) of subdivision (a) of Section 24300.1.

(3) The effective date of the change shall be six months following the date notification is received by the board, provided both the retired member and the designated option beneficiary are then living. Notification shall include proof of death of the predeceased beneficiary and a properly executed form provided by the system. If the effective date of the new option election is on or after January 1, 2007, at the time of the new election the retired member shall elect an option from the options described in Section 24300.1.

(4) The election of the new joint and survivor option under this subdivision and Section 24300.1 is subject to an actuarial modification of the retirement allowance. In no event may a retired member elect a joint and survivor option that would result in any additional liability to the fund.

(b) If an option beneficiary designated in the election of an Option 6 or Option 7 or in the election of Option 6 or Option 7 within Option 8, pursuant to Section 24300 predeceases the retired member, that portion of the retirement allowance attributable to Option 6 or Option 7 without modification for the option shall be payable to the retired member upon notification to the board and shall commence to accrue to the retired member as of the day following the date of the death of the option beneficiary. Notification to the board shall include proof of death of the beneficiary.

(c) If an option beneficiary designated in the election of an option pursuant to paragraphs (1) to (3), inclusive, of subdivision (a) of Section 24300.1 predeceases the member, that portion of the retirement allowance attributable to the option without modification for the option shall be payable to the member upon notification to the board and shall commence to accrue to the retired member as of the day following the date of the death of the option beneficiary. Notification to the board shall include proof of death of the beneficiary.

Added by Stats 1998 ch 349 § 4 (SB 2047), operative January 1, 2000. Amended by Stats 1999 ch 939 § 73 (SB 1074), operative January 1, 2000; Stats 2006 ch 655 § 41 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24306, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 94, effective September 27, 1994, Stats 1996 ch 634 § 239, Stats 1998 ch 349 § 3, and repealed, operative January 1, 2000, by its own terms.

Historical Derivation: Former Ed C § 24200.2, as added Stats 1980 ch 1269 § 1, amended Stats 1984 ch 1308 § 4, Stats 1993 ch 920 § 7.

Amendments

1999 Amendment: Substituted "six months" for "one year" in the first sentence of subd (a)(2).

2006 Amendment: (1) Amended subd (a)(1) by **(a)** substituting "as described in Section 24300" for ", or in the election of Option 2, Option 3, Option 4, or Option 5 under Option 8," after "Option 4, or Option 5"; **(b)** adding "elect a new joint and survivor option described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 24300.1 and" after "retired member may"; and **(c)** substituting "one or multiple new option beneficiaries." for "either or both of the following:" after "Section 24300.1 and designate"; **(2)** deleted former subds (a)(1)(A) and (a)(1)(B) which read: (A) A new option beneficiary. (B) A different joint and survivor option described in Section 24300."; **(3)** added subd (a)(2); **(4)** redesignated former subds (a)(2) and (a)(3) to be subds (a)(3) and (a)(4); **(5)** substituted "provided by the system. If the effective date of the new option election is on or after January 1, 2007, at the time of the new election the retired member shall elect an option from the options described in Section 24300.1" for "for the change" after "properly executed form" in subd (a)(3); **(6)** amended subd (a)(4)

by **(a)** substituting "election" for "selection" after "The"; **(b)** substituting "Section 24300.1 is subject to an" for "Section 24300 is subject to a further" after "under this subdivision and"; and **(c)** deleting "modified" after "modification of the"; and **(7)** amended subd (b) by **(a)** substituting "within" for "under" after "Option 6 or Option 7"; **(b)** deleting "or 24307" after "pursuant to Section 24300"; and **(c)** substituting subd (c) for former subd (c) which read: "(c) This section shall become operative on January 1, 2000."

§ 24306.5. Election to change optional settlements

(a) A member who retired for service under Option 2 or Option 3 with an effective date prior to January 1, 1991, may elect to change Option 2 to Option 6 or Option 3 to Option 7 under all of the following conditions:

(1) The election is made during the six-month period commencing July 1, 1994, and ending December 31, 1994.

(2) The same beneficiary under Option 2 or Option 3 is named as beneficiary under Option 6 or Option 7.

(3) The change in options is consistent with Sections 22453 and 24305.

(4) The option beneficiary is not afflicted with any known terminal illness and the retired member shall state under penalty of perjury that to the best of his or her knowledge the option beneficiary is not afflicted with any known terminal illness.

(5) The option beneficiary has not predeceased the retired member as of the effective date of the change in options.

(b) The change in options shall be effective on the date the election is signed, provided that the election is received at the system's headquarters office, as established pursuant to Section 22375, within 30 days after the date of the signature.

(c) If an election to change options is made pursuant to this section, the modified allowance shall be reduced in a manner determined by the board to ensure that no additional liability shall be incurred by the plan pursuant to this section.

Added by Stats 1993 ch 911 § 1 (SB 754) as Ed C § 24200.3. Amended and renumbered by Stats 1994 ch 933 § 82 (AB 3171), effective September 27, 1994. Amended by Stats 1996 ch 634 § 240 (SB 2041); Stats 2005 ch 351 § 27 (AB 224), effective January 1, 2006.

Amendments

1994 Amendment: Substituted "Sections 22453 and 24305" for "Sections 22401.6 and 24200.1" in subd (a)(3).

1996 Amendment: Substituted **(1)** "A member who retired for service" for "Any service retirant who retired" at the beginning of subd (a); **(2)** "retired member" for "service retirant" after "illness and the" in subd (a)(4); **(3)** "retired member" for "retirant" after "predeceased the" in subd (a)(5); **(4)** "at the system's office" for "in the office of the system" after "election is received" in subd (b); and **(5)** "plan" for "system" after "incurred by the" in subd (c).

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento".

§ 24306.7. Election to change options for members retired under Option 4 or Option 5; Conditions; Effective date; Further modification of modified retirement allowance

(a) Any member who retired for service under Option 4 or Option 5 with an effective date prior to January 1, 1991, may elect to change Option 4 to Option 6 or Option 5 to Option 7 if all of the following conditions are met:

(1) The election is made during the three-month period commencing January 1, 1999, and ending March 31, 1999.

(2) The same beneficiary under Option 4 or Option 5 is named as beneficiary under Option 6 or Option 7.

(3) The change in options is consistent with Sections 22453 and 24305.

(4) The option beneficiary is not afflicted with any known terminal illness.

(5) The option beneficiary has not predeceased the retired member as of the effective date of the change in option.

(6) The election to change the option under this section is received at the system's headquarters office as described in Section 22375 at least 30 days prior to the death of the option beneficiary.

(b) Failure to satisfy all of the conditions in subdivision (a) shall render the change of election invalid.

(c) The change in options under this section shall be effective on the date the election is signed, provided all the conditions set forth in subdivision (a) are satisfied and the election is received at the system's headquarters office, as established pursuant to Section 22375, within 30 days after the date of the signature.

(d) The election of a new joint and survivor option under this section is subject to a further modification of the modified retirement allowance. In no event may a retired member elect a joint and survivor option that would result in any additional liability to the fund.

Added by Stats 1998 ch 349 § 5 (SB 2047). Amended by Stats 2005 ch 351 § 28 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 42 (SB 1466), effective January 1, 2007.

Amendments

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento".

2006 Amendment: (1) Amended subd (a)(6) by **(a)** adding "at the system's headquarters office as described" after "section is received"; and **(b)** substituting "Section 22375" for "the system's office in Sacramento" after "as described in"; and **(2)** substituted "election" for "selection" after "The" in subd (d).

§ 24307. Preretirement election of option; Death of member prior to retirement; Subsequent retirement for service without canceling elected option

(a) A member who qualifies to apply for retirement under Section 24201 or 24203 may make a preretirement election of an option, as provided in Section 24300.1 without right of revocation or change after the effective date of retirement, except as provided in this part. The preretirement election of an option shall become effective as of the date of the member's signature on a properly executed form prescribed by the system, subject to the following requirements:

(1) The form includes the signature of the member's spouse or registered domestic partner, if applicable, the signature is dated, and the date of the signature is within 30 days of the member's signature.

(2) The date the form is received at the system's headquarters office, as established pursuant to Section 22375, is within 30 days of the date of the member's signature and within 30 days of the date of the spouse or registered domestic partner's signature, if applicable.

(b) A member who makes a preretirement election of an Option 2, Option 3, Option 4, Option 5, Option 6, or Option 7 pursuant to Section 24300, or an election as described in paragraph (1), (2), or (3) of Section 24300.1 may subsequently make a preretirement election of the compound option described in paragraph (4) of subdivision (a) of Section 24300.1. The member may retain the same option and the same option beneficiary as named in the prior preretirement election for a designated percentage within the compound option.

(c) Upon the member's death prior to the effective date of retirement, the beneficiary who was designated under the option elected and who survives shall receive an allowance calculated under the option, under the assumption that the member retired for service pursuant to Chapter 27 (commencing with Section 24201) on the date of death. The payment of the allowance to the option beneficiary shall be in lieu of the family allowance provided in Section 23804, the payment provided in paragraph (1) of subdivision (a) of Section 23802, the survivor benefit allowance provided in Section 23854, and the payment provided in subdivisions (a) and (b) of Section 23852, except that if the beneficiary dies be-

fore all of the member's accumulated retirement contributions are paid, the balance, if any, shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the death payment provided in Sections 23801 and 23851 shall be paid to the beneficiary in a lump sum.

(d) If the member subsequently retires for service, and the elected option has not been canceled pursuant to Section 24309, a modified service retirement allowance computed under Section 24300 or 24300.1 and the option elected shall be paid.

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

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

(g) The system shall inform members who are qualified to make a preretirement election of an option, through the annual statements of account, that the election of an option can be made.

Added by Stats 1998 ch 349 § 7 (SB 2047), operative January 1, 2000. Amended by Stats 1999 ch 939 § 74 (SB 1074), operative January 1, 2000; Stats 2000 ch 1025 § 34 (AB 816); Stats 2001 ch 803 § 21 (SB 501); Stats 2005 ch 351 § 29 (AB 224), effective January 1, 2006, ch 418 § 7 (SB 973), effective January 1, 2006 (ch 418 prevails); Stats 2006 ch 655 § 43 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24307, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 95, effective September 27, 1994, Stats 1995 ch 524 § 9, Stats 1996 ch 634 § 241, Stats 1998 ch 349 § 6, and repealed, operative January 1, 2000, by its own terms.

Historical Derivation: Former Ed C § 24203, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 124, ch 619 § 3, Stats 1978 ch 870 § 18, Stats 1979 ch 796 § 16, Stats 1984 ch 1308 § 5, Stats 1986 ch 208 § 1, Stats 1990 ch 97 § 3, Stats 1992 ch 1166 § 29, Stats 1993 ch 1144 § 13.

Amendments

1999 Amendment: (1) Substituted "a properly executed form prescribed by the system" for "the election" in subd (a); **(2)** substituted "makes" for "elects" after "A member who" in subd (b); **(3)** amended subd (c) by **(a)** deleting the commas after "member's death" near the beginning and after "23851" near the end; and **(b)** substituting "under" for "upon" before "the assumption" in the first sentence; **(4)** deleted the comma after "before retirement" in the first sentence of subd (e); and **(5)** amended subd (g) by **(a)** deleting "application for" after "qualified to make"; and **(b)** "substituting "election of an option can be made" for "option is available" at the end.

2000 Amendment: (1) Added "pursuant to Section 24202, 24202.5, 24203, 24203.5, 24206, 24209, 24210, 24211, or 24212" in subd (c); and **(2)** substituted "as of" for "at" after "under the option," in the second sentence of subd (e).

2001 Amendment: Substituted "Chapter 27 (commencing with Section 24201)" for "pursuant to Section 24202, 24202.5, 24203, 24203.5, 24206, 24209, 24210, 24211, or 24212" in subd (c).

2005 Amendment: Amended subd (a) by **(1)** substituting "as of" for "on"; **(2)** adding "of the member's signature on"; **(3)** substituting "system, subject to the following requirements:" for "system is signed, providing the election is received in the system's office in Sacramento within 30 days after the date of signature."; and **(4)** adding subd (a)(1) and (a)(2). (As amended by ch 418, compared to the section as it read prior to 2005. This section was also amended by an earlier chapter, ch 351. See Gov C § 9605.)

2006 Amendment: (1) Substituted "Section 243001.1" for "Section 24300" after "as provided in" in subd (a); **(2)** amended subd (b) by **(a)** adding "pursuant to Section 24300, or an election as described in paragraph (1), (2), or (3) of Section 24300.1" after "Option 6, or Option 7"; **(b)** substituting "the compound option described in paragraph (4) of subdivision (a) of Section 24300.1" for "Option 8" after "preretirement election of"; **(c)** substituting "for a designated percentage within the compound" for "as an" after "prior preretirement election"; and **(d)** deleting "under Option 8" after "the compound option"; **(3)** added "or 24300.1" after "under Section 24300"

in subd (d); **(4)** substituted "by" for "under" after "service retirement allowance" in subd (e); and **(5)** deleted former subd (h) which read: "(h) This section shall become operative on January 1, 2000."

§ 24307.5. Modification of allowance (Preretirement election of an option)

Upon retirement for service, the member who filed a preretirement election of an option under Section 24307 shall have his or her allowance modified by the greater of the option factor as of the effective date of the preretirement election, or the option factor at the time the member's retirement became effective.

Added by Stats 1998 ch 349 § 8 (SB 2047).

§ 24308. Effect of election on other benefits

(a) The election of an option as provided in Section 24307 shall preclude the payment of a family allowance to any beneficiary under this part.

(b) The preretirement election of an option made by the member pursuant to Section 24307 shall be voided by the board as of the effective date of an approved disability retirement under this part. Members receiving a disability retirement allowance pursuant to Chapter 26 (commencing with Section 24100) may not file an election of option as provided in Section 24307.

(c) The election of an option as provided in Section 24307 shall preclude the payment of a survivor benefit allowance pursuant to Chapter 23 (commencing with Section 23850) and shall preclude the payment of the remaining balance of the member's accumulated retirement contributions prior to the death of the option beneficiary.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 96 (AB 3171), effective September 27, 1994; Stats 1998 ch 965 § 197 (AB 2765).

Amendments

1994 Amendment: (1) Substituted "family allowance to" for "disability allowance or family allowance to the member or" in subd (a); and **(2)** added subd (c).

1998 Amendment: Added "under this part" at the end of subd (a) and at the end of the first sentence of subd (b).

§ 24309. Changes or cancellation of election

(a) A member may change or cancel the election of an option made pursuant to Section 24307. The change or cancellation shall be on a properly executed form provided by the system and received at the system's headquarters office, as established pursuant to Section 22375, within 30 days of the date of the member's signature and, if applicable, the spouse's signature, and no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system. The change or cancellation shall become effective as of the date of the member's signature or the day prior to the member's retirement date, whichever is earlier.

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

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

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the

day following the date of death and the member's subsequent retirement allowance under this part shall be subject to the allowance reduction prescribed in this section.

(c) If the option elected pursuant to Section 24307 is "Option 8" as described in paragraph (7) of subdivision (a) of Section 24300 or the compound option as described in paragraph (4) of subdivision (a) of Section 24300.1, a member may cancel the designation of an option beneficiary. If the member cancels the designation of the option beneficiary or the option beneficiary predeceases the member prior to the member's retirement, the member may elect to receive that portion of the retirement allowance without modification for the option or elect one or multiple new or existing option beneficiaries as described in Section 24307. Any change or cancellation of the designation of the option beneficiary under this subdivision shall result in the allowance reduction prescribed in this section.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 97 (AB 3171), effective September 27, 1994; Stats 1995 ch 524 § 10 (AB 1441); Stats 1996 ch 634 § 242 (SB 2041); Stats 1998 ch 965 § 198 (AB 2765); Stats 2006 ch 655 § 44 (SB 1466), effective January 1, 2007; Stats 2007 ch 323 § 14 (AB 757), effective January 1, 2008; Stats 2009 ch 304 § 25 (SB 634), effective January 1, 2010; Stats 2010 ch 207 § 23 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 29 (SB 349), effective January 1, 2012.

Amendments

1994 Amendment: (1) Designated the former section to be subd (a); **(2)** deleted "Section" after "24208 or" in subd (a); and **(3)** added subd (b).

1995 Amendment: Amended subd (a) by **(1)** substituting "A member may cancel" for "If a member cancels" in the beginning; **(2)** adding "providing" after "Section 24307,"; **(3)** substituting "is" for "shall be" after "written cancellation"; and **(4)** substituting "an amount determined by the board to be the actuarial equivalent of the coverage the member received as a result of the preretirement election and that does not result in any adverse funding to the system" for "one–half of 1 percent for each year or partial year that Option 3, Option 5, or Option 7 is in effect, or by six–tenths of 1 percent for each year or partial year that Option 4 is in effect, or by three–fourths of 1 percent for each year or partial year that Option 2 or Option 6 is in effect" at the end.

1996 Amendment: Amended subd (a) by substituting **(1)** "termination of the retirement allowance" for "reinstatement" after "the period between" in the first sentence; and **(2)** "plan" for "system" after "funding to the" at the end of the second sentence.

1998 Amendment: Added "under this part" both times it appears in the first sentence of subd (a) and after "allowance" in subd (b).

2006 Amendment: (1) Substituted "cancellation is on a properly executed form provided by the system and" for "written" after "Section 24307, providing" in subd (a); and **(2)** added subd designation (c).

2007 Amendment: (1) Amended subd (a) by **(a)** adding "change or" after "A member may"; **(b)** substituting ". The change or cancellation shall be" for ", providing cancellation is"; **(c)** substituting "received at the system's headquarters office, as established pursuant to Section 22375, within 30 days of the date of the member's signature and on or before" for "received by the board on or before the day preceding"; and **(d)** added the last sentence; **(2)** added subd (a)(1); **(3)** added subdivision designation (a)(2); **(4)** substituted "a change made to an election of an option or a cancellation of an option shall result in the reduction of that allowance" for "that allowance shall be reduced" in subd (a)(2); and **(5)** added the last sentence in subd (c).

2009 Amendment: Added "and, if applicable, the spouse's signature," in the second sentence of subd (a).

2010 Amendment: (1) Amended the second sentence of the first paragraph of subd (a) by **(a)** deleting "on or" after "spouse's signature, and"; and **(b)** substituting "Section 24117 or 24208" for "Section 24208 or 24117"; and **(2)** added the quotation marks around "Option 8" in the first sentence of subd (c).

2011 Amendment: (1) Amended the first paragraph of subd (a) by **(a)** substituting "no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system" for "before the effective date of retirement under this part or during the period between termination of the retirement allowance pursuant to Section 24117 or 24208 and the effective date of the subsequent retirement under this part" in the second sentence; and **(b)** adding "or the day prior to the member's retirement date, whichever is earlier" in the last sentence; and **(2)** substituted " 'Option 8' as" for " 'Option 8'as" in the first sentence of subd (c).

§ 24310. Right of reelection following cancellation

If a member cancels an election under Section 24309, the member may again elect an option under Section 24307. If the member elects to change an option during any year, the reduction for that year shall be that for the option to which the greater reduction under Section 24309 as it read on December 31, 1995, is applicable.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1995 ch 524 § 11 (AB 1441); Stats 1996 ch 634 § 243 (SB 2041).

Historical Derivation: Former Ed C § 24206, as enacted Stats 1976 ch 1010 § 2, amended Stats 1984 ch 1308 § 7.

Amendments

1995 Amendment: Substituted **(1)** Section 24309" for "Section 24307; and **(2)** "Section 24307" for "the provisions of that section".

1996 Amendment: Added "as it read on December 31, 1995," in the second sentence.

§ 24311. Change of preretirement option election

(a) A member who has a preretirement election of an option in effect on December 31, 1990, may change his or her preretirement election of Option 2, Option 3, Option 4, or Option 5, to either Option 6 or Option 7 without the allowance reduction prescribed in Sections 24309 and 24310, provided the change is made on or after January 1, 1991, and prior to the earlier of January 1, 1992, or the member's retirement under this part.

(b) If the member elects to change his or her option under this section, then the member shall retain the same option beneficiary as named in the prior preretirement election. The election to change the preretirement election under this section shall be void if not received in the system's headquarters office, as established pursuant to Section 22375, at least 30 days prior to the death of the option beneficiary.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 199 (AB 2765); Stats 2005 ch 351 § 30 (AB 224), effective January 1, 2006.

Historical Derivation: Former § 24206.5, as added Stats 1990 ch 97 § 6.

Amendments

1998 Amendment: Added "under this part" at the end of subd (a).

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento" in subd (b).

§ 24312. Change without reduction

(a) A member who has a preretirement election of an option in effect on December 31, 1999, may change his or her preretirement election of Option 2, Option 3, Option 4, Option 5, Option 6 or Option 7 to Option 8 without the allowance reduction prescribed in Sections 24309 and 24310, provided the change is made on or after January 1, 2000, and prior to the earlier of July 1, 2000, or the member's effective date of retirement.

(b) If the member elects to change his or her option under this section then the member shall retain the same option and the same option beneficiary as named in the prior preretirement election of an option as one of the options under Option 8. The election to change the preretirement election under

this section shall be void if not received in the system's headquarters office, as established pursuant to Section 22375, at least 30 days prior to the death of the option beneficiary.

(c) This section shall become operative on January 1, 2000.

Added by Stats 1998 ch 349 § 9 (SB 2047), operative January 1, 2000. Amended by Stats 2005 ch 351 § 31 (AB 224), effective January 1, 2006.

Amendments

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento" in subd (b).

§ 24312.1. Preretirement election under Section 24300.1; Conditions

(a) A member who has a preretirement election of an option in effect on December 31, 2006, pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300 may change his or her preretirement election to an option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1 without the allowance reduction described in Sections 24309 and 24310, provided the change is made on or after January 1, 2007, and prior to July 1, 2007.

(b) A member who has a preretirement election of Option 8 as described in Section 24300 in effect on December 31, 2006, and in that Option 8 election has an option pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300, may change any of the options under paragraphs (1) to (6), inclusive, of subdivision (a) of Section 24300 to an option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1 without the allowance reduction described in Sections 24309 and 24310, if change is made on or after January 1, 2007, and prior to July 1, 2007. A member may not change the portion of the unmodified benefit that would be modified pursuant to that prior option.

(c) The election to change the option by a member as described in this section shall be subject to all of the following:

(1) The member may not change the option beneficiary that was designated in the prior preretirement option election.

(2) The change in options under this section shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and received at the system's headquarters office, as described in Section 22375, within 30 days of the date of the signature.

(d) If the member elects to change options as described in this section, the age of the member and the option beneficiary on the effective date of the prior preretirement option election shall be the age used to calculate the member's benefit at the time of retirement.

Added by Stats 2006 ch 655 § 45 (SB 1466), effective January 1, 2007.

§ 24313. Retirement allowance without modification for option

(a) Any member who retired for service under Option 2 or Option 3 with an effective date prior to January 1, 1991, whose option beneficiary had died prior to January 1, 1995, shall receive, effective January 1, 1999, the retirement allowance without modification for the option if all of the following conditions are met:

(1) The retired member is living as of January 1, 1999.

(2) The retired member has not elected a new option beneficiary under Section 24306.

(3) The retirement allowance without modification for the option payable as of January 1, 1999, is greater than the amount payable under the option, plus the amounts from annual benefit improvements, ad hoc benefit increases and payments from the Supplemental Benefit Maintenance Account.

(4) The retired member does not inform the system in writing, on a form provided by the system, within 30 days of receipt of the notification of the change to the retirement allowance without modification for the option, of his or her election to continue to receive the option allowance.

(b) Any member who retired for service under Option 4 or Option 5 with an effective date prior to January 1, 1991, whose option beneficiary had died prior to January 1, 1999, shall receive effective January 1, 1999, the retirement allowance without modification for the option if all the following conditions are met:

(1) The retired member is living as of January 1, 1999.

(2) The retired member has not elected a new option beneficiary under Section 24306.

(3) The retirement allowance without modification for the option payable as of January 1, 1999, is greater than the amount payable under the option, plus the amount from annual benefit improvements, ad hoc benefit increases and payments from the Supplemental Benefit Maintenance Account.

(4) The retired member does not inform the system in writing, on a form provided by the system, within 30 days of receipt of the notification of the change to the retirement allowance without modification for the option, of his or her election to continue to receive the option allowance.

(c) The change to the retirement allowance without modification for the option, shall be consistent with Section 22453.

(d) A member retired for service who receives the retirement allowance without modification for the option provided under this section, shall not elect a new option beneficiary under Section 24306.

(e) The cost of this section shall be paid by the transfer for that purpose of the one–time gain accrued to the State Teachers' Retirement System from the difference between the contributions received pursuant to Sections 22901 and 22950 in the 1997–98 fiscal year minus the normal cost as displayed in the June 30, 1997, actuarial valuation.

Added by Stats 1998 ch 832 § 1 (SB 2224).

CHAPTER 29. BENEFIT MAINTENANCE

§ 24400. Legislative intent (Report on erosion of purchasing power)

The Legislature recognizes that inflation erodes the purchasing power of benefits paid under the plan under this part. It is the intent of the Legislature to understand the degree of erosion of these benefits.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 244 (SB 2041); Stats 1998 ch 965 § 200 (AB 2765); Stats 2005 ch 351 § 32 (AB 224), effective January 1, 2006; Stats 2012 ch 728 § 31 (SB 71), effective January 1, 2013 (ch 728 prevails). Repealed Stats 2012 ch 864 § 15 (AB 2663).

Former Sections: Former § 24400, similar to present Ed C § 24403, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 24700, as added Stats 1979 ch 802 § 1.

Amendments

1996 Amendment: Substituted **(1)** "plan" for "State Teachers' Retirement System" at the end of the first and third sentences; and **(2)** "under the plan" for "by the system" at the end of the fourth sentence.
1998 Amendment: (1) Added "under this part" at the end of the first sentence; **(2)** substituted "Defined Benefit Program" for "plan" at the end of the third sentence; and **(3)** substituted "by the Defined Benefit Program" for under the plan" in the fourth sentence.
2005 Amendment: Substituted "June" for "April" in the third sentence.
2012 Amendment: Deleted the former third through last sentences which read: "The board shall report to the Governor and Legislature no later than June 1 of each year on the extent to which inflation has eroded the purchasing power of benefits provided under the Defined Benefit Program. The board shall indicate the amount of supplementary increases in retirement allowances required to preserve the purchasing power of benefits provided by the Defined Benefit Program. The board shall also determine and report on the increases."

§ 24401. Exclusion

This chapter does not give any retired member, or a retired member's successors in interest or beneficiary, any claim against the board, system, or plan for any increase in any allowance paid or payable prior to July 1, 1972.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 246 (SB 2041).

Former Sections: Former § 24401, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted the section for the former section which read: "This chapter does not give any retirant, or his or her successors in interest, or his or her beneficiary, any claim against the system for any increase in any allowance paid or payable prior to July 1, 1972."

§ 24402. Application of benefit improvement factor

(a) Service retirement allowances, disability allowances, disability retirement allowances, family allowances, and survivor benefit allowances payable pursuant to this part shall be increased by application of the benefit improvement factor.
(b) Allowances payable to beneficiaries on account of options elected under Section 24300, 24300.1, 24301, or 24307 shall be increased by application of the improvement factor. This factor

shall be applicable on the same date when it would have been applied to the allowance of the deceased person.

(c) The benefit improvement factor shall not be applied to an annuity that is the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of a service or disability retirement.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 2000 ch 74 § 57 (AB 1509); Stats 2001 ch 803 § 22 (SB 501); Stats 2006 ch 655 § 46 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24402, similar to present § 24405, was added Stats 1978 ch 931 § 2, effective September 20, 1978, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 24207, as enacted Stats 1976 ch 1010 § 2, amended Stats 1992 ch 1166 § 32.

Amendments

2000 Amendment: (1) Amended subd (a) by adding **(a)** "retirement annuities,"; and **(b)** "disability annuities,"; and **(2)** added "and annuities payable to annuity beneficiaries under the Defined Benefit Supplement Program" in subd (b).

2001 Amendment: (1) Amended subd (a) by deleting **(a)** "Service retirement annuities," after "retirement allowances,"; and **(b)** "disability annuities," after "disability retirement allowances"; and **(2)** deleted "and annuities payable to annuity beneficiaries under the Defined Benefit Supplement Program" after "24307" in subd (b).

2006 Amendment: Added "24300.1," after "under Section 24300," in subd (b).

§ 24403. Increase procedure (Pre-7/1/72 allowances)

The allowances that commenced to accrue prior to July 1, 1972, and payable on August 1, 1972, exclusive of annuities from the Annuity Deposit Fund and tax–sheltered annuities payable under former Sections 14193, 14280 and 14284, as those sections read on June 30, 1972, shall be increased by application of the benefit improvement factor on September 1, 1973, and annually thereafter.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 24403, similar to present § 24406, was added Stats 1977 ch 36 § 423, effective April 29, 1977, operative April 30, 1977, as § 24104, amended and renumbered by Stats 1978 ch 502 § 11, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former §§ 23809, 24400, as enacted Stats 1976 ch 1010 § 2.

§ 24404. Increase of certain benefits

(a) Effective July 1, 1973, the benefits of persons eligible for survivor benefits pursuant to former Section 14186 as it read on June 30, 1972, shall be increased as follows:

(1) Those eligible for ninety dollars ($90) per month shall be increased to one hundred five dollars ($105) per month.

(2) Those eligible for one hundred eighty dollars ($180) per month shall be increased to two hundred ten dollars ($210) per month.

(3) Those eligible for two hundred fifty dollars ($250) per month shall be increased to two hundred ninety–five dollars ($295) per month.

(b) These benefits shall be subject to the provisions of Sections 22140 and 24403 with the first annual improvement to occur on September 1, 1974, and annually thereafter.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 98 (AB 3171), effective September 27, 1994; Stats 2001 ch 803 § 23 (SB 501).

1994 Amendment: Substituted "former Section 14186" for "Section 23804" in the introductory clause of subd (a).

2001 Amendment: Substituted "Sections 22140" for "Sections 22139" in subd (b).

§ 24405. Scheduled increases

The first three hundred dollars ($300) of the monthly allowances payable to retired members, disabled members, and beneficiaries are increased as of July 1, 1976, as follows if the member had 20 or more years of credited service:

(a) For those with effective dates prior to July 1, 1972, 9 percent.

(b) For those with effective dates from July 1, 1972, to June 30, 1973, 6 percent.

(c) For those with effective dates from July 1, 1973, to June 30, 1974, 3 percent.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 247 (SB 2041).

Former Sections: Former § 24405, similar to present Ed C § 24407, was added Stats 1979 ch 1036 § 3 and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24402, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "to retired members, disabled members" for "by the system to retirants, disabilitants" after "allowances payable" in the introductory clause.

§ 24406. Prescribed amounts for member with less than specified years of credited service (Ad hoc increase; Less than 20 years service)

The first three hundred dollars ($300) of the monthly allowances payable to retired members, disabled members, and beneficiaries are increased as of July 1, 1978, for those members receiving allowances on July 1, 1978, if the member had less than 20 years of credited service, as follows:

(a) For those with effective dates prior to July 1, 1972, 9 percent.

(b) For those with effective dates from July 1, 1972, to June 30, 1973, 6 percent.

(c) For those with effective dates from July 1, 1973, to June 30, 1974, 3 percent.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 248 (SB 2041).

Historical Derivation: Former Ed C § 24403, as added Stats 1977 ch 36 § 423, as § 24104, amended and renumbered Stats 1978 ch 502 § 11.

Amendments

1996 Amendment: Substituted "to retired members, disabled members" for "by the system to retirants, disabilitants" after "allowances payable" in the introductory clause.

§ 24407. Monthly allowances to retirants, disabilitants, and beneficiaries (Purchasing power ad hoc increase)

(a) The monthly allowances payable to retired members, disabled members, and beneficiaries are increased as of January 1, 1980, for those persons receiving allowances with respect to members who retired or died prior to June 30, 1973, to the amount that results when the initial allowance that was received by those members is multiplied by the percentage set forth opposite the year of retirement or death in the following schedule:

Period During Which Retirement or Death Occurred	Percentage
On or before June 30, 1958	180.4

Period During Which Retirement or Death Occurred	Percentage
12 months ending June 30, 1959	175.8
12 months ending June 30, 1960	172.2
12 months ending June 30, 1961	169.8
12 months ending June 30, 1962	167.8
12 months ending June 30, 1963	165.5
12 months ending June 30, 1964	163.0
12 months ending June 30, 1965	159.8
12 months ending June 30, 1966	156.7
12 months ending June 30, 1967	153.1
12 months ending June 30, 1968	147.5
12 months ending June 30, 1969	141.6
12 months ending June 30, 1970	134.5
12 months ending June 30, 1971	128.7
12 months ending June 30, 1972	124.5
12 months ending June 30, 1973	119.6

(b) For those retired members, disabled members, and beneficiaries receiving an allowance with an effective date prior to July 1, 1965, the initial allowance, for purposes of this section, shall be deemed to be the allowance payable on July 1, 1965. However, for purposes of determining the allowance payable under this section, the percentage corresponding to the actual year of retirement shall be applied.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1994 ch 933 § 99 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 249 (SB 2041).

Former Sections: Former § 24407, similar to present Ed C § 24408, was added Stats 1980 ch 1286 § 2 and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24405, as added Stats 1979 ch 1036 § 3.

Amendments

1994 Amendment: Redesignated former subd (B) to be subd (b).

1996 Amendment: Substituted **(1)** "to retired members, disabled members" for "by the system to retirants, disabilitants" after "allowances payable" in the introductory clause of subd (a); and **(2)** "retired members, disabled members" for "retirants, disabilitants" after "For those" in the first sentence of subd (b).

§ 24408. Minimum unmodified allowance of retired person after increase

(a) The minimum unmodified allowance, exclusive of annuities from accumulated annuity deposit and tax–sheltered contributions, of a person retired prior to January 1, 1981, shall be an amount equal to at least sixteen dollars ($16) per month multiplied by the years of credited service. This guaranteed amount shall be increased as of October 1, 1980, and shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited under this part. If the retirement was effective at less than age 60 years, this allowance shall be reduced by one–half of 1 percent for each full month or fraction of a month that would have elapsed until the retired member would have reached age 60 years. If the retired member elected to have the allowance modified under Option 2 or 3, the increase in the retired member's allowance shall be modified under the option selected.

(b) The board may make lump sum payments for increases between October 1, 1980, and January 1, 1981.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 250 (SB 2041).

Historical Derivation: Former Ed C § 24407, as added Stats 1980 ch 1286 § 2.

Amendments

1996 Amendment: (1) Substituted "under this part" for "by this system" at the end of the second sentence of subd (a); **(2)** substituted "retired member" for "retirant" after "elapsed until the" in the third sentence of subd (a); and **(3)** amended the last sentence in subd (a) by substituting **(a)** "retired member elected to have the" for "retirant elected to have his or her" after "If the"; and **(b)** "retired member's" for "retirant's" after "increase in the".

§ 24409. Minimum unmodified allowance; Reduction

The minimum unmodified allowance, exclusive of annuities from accumulated annuity deposit and tax–sheltered contributions, of (a) a person who retired on or before December 31, 1981, (b) the option beneficiary of a person who retired on or before December 31, 1981, or (c) a person receiving a monthly allowance in lieu of the death benefit payable on account of the death of a member whose death occurred prior to July 1, 1972, shall be an amount equal to at least eighteen dollars ($18) per month multiplied by the years of credited service. This guaranteed amount is increased as of September 1, 1981, and is applicable to allowances paid on and after September 1, 1981. If the retirement was effective at less than age 60 years, this allowance shall be reduced by one–quarter of 1 percent for each full month or fraction of a month that would have elapsed until the retired member reached age 55 years, and the allowance shall be reduced by one–half of 1 percent for each full month or fraction of a month between age 55 and age 60 years. If the retired member elected to have his or her allowance modified under Option 2 or 3, the increase in the retired member's allowance shall be modified under the option selected.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 251 (SB 2041).

Historical Derivation: Former Ed C § 24407.5, as added Stats 1981 ch 1089 § 2.

Amendments

1996 Amendment: Substituted **(1)** "retired member" for "retirant" after "elapsed until the" in the third sentence, and after "If the" in the fourth sentence; and **(2)** "retired member's" for "retirant's" after "increase in the" in the fourth sentence.

§ 24410. Base date for applicable postretirement increases

(a) If projected final compensation is used to calculate the service retirement allowance following the termination of the disability allowance or if the disability allowance is continued as the lesser of the two allowance calculations under Section 24212 or 24213, then the original disability allowance effective date shall be retained as the base date for purposes of determining postretirement benefit increases.

(b) This section shall be applicable for determining the base date for applicable postretirement increases made on or after January 1, 1982.

(c) This section shall only apply to service retirements effective the day after the termination date of the disability allowance.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 252 (SB 2041).

Historical Derivation: Former Ed C § 23912, as added Stats 1987 ch 327 § 1, amended Stats 1988 ch 382 § 6, Stats 1989 ch 118 § 4, Stats 1992 ch 1165 § 6.

Amendments

1996 Amendment: Amended subd (a) by **(1)** deleting "the" after "If" at the beginning; **(2)** substituting "lesser" for "smaller" after "continued as the"; and **(3)** substituting "Section 24212 or 24213" for "Section 24213 or 24212".

§ 24410.5. Annual allowance payable to retired member, option beneficiary, or surviving spouse

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

20 years of credited service	$15,000
21 years of credited service	$15,500
22 years of credited service	$16,000
23 years of credited service	$16,500
24 years of credited service	$17,000
25 years of credited service	$17,500
26 years of credited service	$18,000
27 years of credited service	$18,500
28 years of credited service	$19,000
29 years of credited service	$19,500
30 years or more of credited service	$20,000

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

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

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

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

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

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

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

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

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

(e) A retired member, option beneficiary, or surviving spouse subject to this section shall receive the annual minimum allowance pursuant to this section unless the system receives in writing, on a form prescribed by the system, notification from the member, option beneficiary, or surviving spouse before May 1, 2000, of his or her election not to receive the increase provided under this section.

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

Added by Stats 1999 ch 632 § 1 (SB 713). Amended by Stats 2000 ch 1025 § 35 (AB 816), ch 1026 § 2 (SB 1505).

Amendments

2000 Amendment: Deleted ", and excluding those provided pursuant to Section 24410.7" at the end of the introductory clause of subd (a). (As amended Stats 2000 ch 1026, compared to the section as it read prior to 2000. This section was also amended by an earlier chapter, ch 1025. See Gov C § 9605.)

§ 24410.6. Allowance payable to retired member, option beneficiary, or surviving spouse (Minimum guarantee)

(a) Notwithstanding any provision of this part, including, but not limited to, subdivision (e) of Section 22664, and except as provided in subdivisions (b) and (c), the annual allowance payable on the effective date of this section to a retired member, an option beneficiary, or a surviving spouse receiving an allowance pursuant to either Section 23805 or 23855 shall not be less than the amount identified in the following schedule for the number of years of the member's credited service under the Defined Benefit Program at the time of the member's retirement, disability, or death, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, after the application of all allowances and allowance increases authorized by this part, including those specified in Sections 24412 and 24415, as those sections read on December 31, 2000, and excluding increases authorized by Section 24410.7 and annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions:

20 years of credited service	$15,000
21 years of credited service	$15,500
22 years of credited service	$16,000
23 years of credited service	$16,500
24 years of credited service	$17,000
25 years of credited service	$17,500
26 years of credited service	$18,000
27 years of credited service	$18,500
28 years of credited service	$19,000
29 years of credited service	$19,500
30 years or more of credited service	$20,000

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

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

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

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

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

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

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

(c) A benefit shall be paid pursuant to this section if both of the following apply:

(1) The retired member, the option beneficiary, or the surviving spouse had an allowance payable on January 1, 2000, and was not eligible to receive a benefit pursuant to Section 24410.5.

(2) The retired member or the member whose service was the basis of the allowance payable to the option beneficiary or surviving spouse was one of the following:

(A) A member who retired prior to the age of 55 years, provided the minimum allowance specified in subdivision (a) shall be reduced to an amount equal to that minimum allowance multiplied by the ratio of the percentage of final compensation per year of credited service on which the member's initial allowance was based to 1.4.

(B) A member who was paid a retirement allowance pursuant to Section 24211, 24212, or 24213, if the member's credited service, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, was less than 20 years but whose projected service to normal retirement age, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, was equal to or greater than 20 years, provided that the minimum allowance payable shall be based on 20 years of credited service.

(C) A member who retired as an inactive member.

(D) A member who retired prior to March 21, 1974, with 19.5 years or more of credited service, provided that the minimum allowance payable shall be based on 20 years of credited service.

(E) A member who retired on or after March 21, 1974, and prior to January 1, 2000, and whose credited service, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, was less than 20 years, but whose credited service, excluding service credited pursuant to Sections 22714, 22715, and 22826, but including service credited pursuant to Section 22717, was equal to or greater than 20 years, provided that the minimum allowance payable shall be based on 20 years of credited service.

(F) A member whose credited service, excluding service credited pursuant to Sections 22714, 22715, and 22826, but including credited service that a court has ordered be awarded to the member's nonmember spouse pursuant to Section 22652, equaled at least 20 years, provided that the amount payable to the member pursuant to this section shall be based on the amount of service credited to the member, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, and the amount awarded to the nonmember spouse, and further provided that the minimum allowance specified in subdivision (a) shall be reduced to an amount equal to that minimum allowance multiplied by the ratio of (i) the amount of service credited to the member, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, to (ii) the sum of the amount of service credited to the member, excluding service credited pursuant to Sections 22714, 22715, 22717, and 22826, and the amount awarded to the nonmember spouse.

(d) A benefit shall be paid pursuant to this section to a retired member receiving a benefit pursuant to Section 24410.5 if (1) the member meets the criteria of subparagraph (F) of paragraph (2) of subdivision (c), and (2) the allowance payable under that subparagraph, after the application of all allowances and allowance increases authorized by this part, including those specified in Sections 24412 and 24415, is greater than the allowance payable under Section 24410.5, after the application of all allowances and allowance increases authorized by this part, including those specified in Sections 24412 and 24415.

(e) A retired member, option beneficiary, or surviving spouse subject to this section shall receive the annual minimum allowance pursuant to this section unless the system receives in writing, on a form prescribed by the system, notification from the member, option beneficiary, or surviving spouse of his or her election not to receive the increase provided under this section.

(f) Benefits payable under this section shall be initially paid by the system on or before September 1, 2001.

(g) The amendments to this section made by the act adding this subdivision does not constitute a change in, but is declaratory of, the existing law.

Added by Stats 2000 ch 1026 § 3 (SB 1505). Amended by Stats 2001 ch 803 § 24 (SB 501); Stats 2006 ch 654 § 9 (SB 1465), effective January 1, 2007.

Amendments

2001 Amendment: Added "increases authorized by Section 24410.7 and" in the introductory clause of subd (a).

2006 Amendment: Added **(1)** "24211, 24212, or" before "24213" in subd (c)(2)(B); and **(2)** subd (g).

§ 24410.7. Monthly allowance increases

(a) The monthly allowance payable on the effective date of this section, excluding annuities payable from accumulated annuity deposit contributions and tax-sheltered annuity contributions and benefits payable pursuant to Sections 24410.5 and 24410.6, to retired members and nonmember spouses, disabled members, and beneficiaries, including option beneficiaries, shall be increased by the percentage set forth opposite the applicable period during which retirement, disability, or death occurred set forth in the following schedule:

Period during which retirement, disability, or death occurred:	Percentage:
36 months ending Dec. 31, 2000	0.0 %
12 months ending Dec. 31, 1997	1.0 %
24 months ending Dec. 31, 1996	2.0 %
60 months ending Dec. 31, 1994	3.0 %
60 months ending Dec. 31, 1989	4.0 %
120 months ending Dec. 31, 1984	5.0 %
Dec. 31, 1974 or earlier	6.0 %

(b) The increase provided pursuant to this section is in addition to any payments received by a retired member or nonmember spouse, disabled member, or beneficiary, including an option beneficiary, under Section 24415.

(c) If the monthly allowance payable is adjusted after the effective date of this section, the percentage increase applied on the effective date of this section shall be applied to the adjusted monthly allowance payable.

(d) Benefits payable under this section shall be initially payable by the system on or before July 1, 2001.

Added by Stats 2000 ch 1027 § 2 (AB 429). Amended by Stats 2007 ch 323 § 15 (AB 757), effective January 1, 2008.

Amendments

2007 Amendment: (1) Added subd (c); and **(2)** redesignated former subd (c) to be subd (d).

§ 24411. [Repealed]

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 253 (SB 2041); Stats 2000 ch 74 § 58 (AB 1509); Stats 2001 ch 840 § 1 (AB 135). Repealed Stats 2008 ch 751 § 11 (AB 1389), effective September 30, 2008. The repealed section related to cost-of-living adjustments in excess of amount authorized by law.

Historical Derivation: Former Ed C § 24701, as added Stats 1982 ch 1606 § 1, amended Stats 1983 ch 323 § 13, ch 780 § 1, Stats 1989 ch 116 § 1.

§ 24412. Appropriation and distribution of revenues (School lands income)

(a) The annual revenues deposited to the Teachers' Retirement Fund pursuant to Section 6217.5 of the Public Resources Code are continuously appropriated without regard to fiscal year for the purposes of this section and shall be distributed annually in quarterly supplemental payments commencing on September 1 of each year to retired members, disabled members, and beneficiaries under the Defined Benefit Program. The amount available for distribution in any year shall be the income for that year from the sale or use of school lands and lieu lands, as estimated by the State Lands Commission prior to the beginning of the fiscal year, adjusted by the difference between the estimated and actual income for the preceding fiscal year. The board shall deduct from the revenues an amount necessary for administrative expenses to implement this section.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances under the Defined Benefit Program, after applying the annual improvement factor as defined in Section 22140, if any, are below 80 percent of the original purchasing power. The purchasing power calculation for each individual allowance shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of the distribution. The allocation shall provide a pro rata share of the amount needed to restore the allowance payable, after application of the current year annual improvement factor to 80 percent of the original purchasing power.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax–sheltered annuity contributions.

(d) In any year that the net revenues from school lands and lieu lands is greater than that needed to adjust the allowances of all retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, under the Defined Benefit Program to 80 percent of the original purchasing power, the net revenues in excess of that needed for distribution shall be used by the board to reduce the unfunded actuarial obligation of the fund, if any.

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

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 254 (SB 2041); Stats 2000 ch 74 § 59 (AB 1509); Stats 2001 ch 840 § 2 (AB 135); Stats 2008 ch 751 § 12 (AB 1389), effective September 30, 2008.

Historical Derivation: Former Ed C § 24702, as added Stats 1983 ch 1213 § 1.

Amendments

1996 Amendment: (1) Substituted "retired members, disabled members" for "retirants, disabilitants" before ", and beneficiaries" in the first sentences of subds (a) and (b), and in subd (d); **(2)** substituted "Section 22140" for "Section 22139" after "as defined in" in the first sentence of subd (b); and **(3)** deleted "retirement" after "part of the base" in subd (e).

2000 Amendment: (1) Added "under the Defined Benefit Program" in the first sentence of subd (a); **(2)** amended subd (b) by **(a)** adding ", as defined in subdivision (a) of Section 22107,"; **(b)** adding "under the Defined Benefit Program"; **(c)** substituting "specified" for "defined" after "supplemental payment as"; and **(d)** adding "the" before "original purchasing" in the first and third sentences; and **(3)** amended subd (d) by adding **(a)** ", as defined in subdivision (a) of Section 22107, under the Defined Benefit Program"; and **(b)** "the" before "original purchasing".

2001 Amendment: (1) Substituted "80 percent" for "75 percent" wherever it appears; and **(2)** added ", if any" at the end of subd (d).

2008 Amendment: (1) Amended the first sentence of subd (b) by deleting **(a)** "sequentially" after "Defined Benefit Program, after"; and **(b)** "and the annual supplemental payment as specified in Section 24411" after

"Section 22140"; and **(2)** amended the last sentence of subd (b) by deleting **(a)** "sequential" after "payable, after"; and **(b)** "and the supplemental payment under Section 24411," after "improvement factor".

§ 24413. Revenues from lands within Elk Hills Naval Petroleum Reserve

Notwithstanding Section 24412, revenues from school lands or lieu lands related to the claim of the State of California to the school lands within the area referred to as the Elk Hills Naval Petroleum Reserve, shall be deposited in the Supplemental Benefit Maintenance Account.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1997 ch 939 § 5 (SB 1026).

Historical Derivation: Former § 24702.1, as added Stats 1988 ch 985 § 3.

Amendments

1997 Amendment: (1) Substituted "Supplemental Benefit Maintenance Account" for "School Land Bank Fund established by Section 8711 of the Public Resources Code"; and **(2)** deleted the former last sentence which read: "Interest earnings from this source of revenue deposited in the School Land Bank Fund shall be transmitted to the retirement fund pursuant to Section 6217.5 of the Public Resources Code and shall be distributed pursuant to Section 24412."

§ 24415. Supplemental Benefit Maintenance Account; Distribution and allocation of proceeds

(a) The proceeds of the Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments commencing on September 1, 1990, to retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 85 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Section 24412, and excluding those provided pursuant to Sections 24410.5, 24410.6, and 24410.7.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as specified in Section 24412, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of distribution. In any year in which the purchasing power of the allowances of all retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, equals not less than 85 percent and additional funds remain from the allocation authorized by this section, those funds shall remain in the Supplemental Benefit Maintenance Account for allocation in future years.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax–sheltered annuity contributions.

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

(e) The adjustments authorized by this section are vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954 and the adjustments made by the board pursuant to Section 24415.5. The adjustments authorized by this section shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections 22140 and 22141.

(f) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Section 24410.5 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between January 2000 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Section 24410.5.

(g) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Sections 24410.6 and 24410.7 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between January 2001 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Sections 24410.6 and 24410.7.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 255 (SB 2041); Stats 1997 ch 939 § 6 (SB 1026); Stats 1998 ch 1006 § 10 (AB 1102); Stats 2000 ch 74 § 60 (AB 1509), ch 1025 § 36.5 (AB 816), ch 1026 § 4 (SB 1505), ch 1027 § 3 (AB 429); Stats 2001 ch 840 § 3 (AB 135); Stats 2008 ch 751 § 13 (AB 1389), effective September 30, 2008.

Historical Derivation: Former Ed C § 24703, as added Stats 1989 ch 116 § 2.

Amendments

1996 Amendment: (1) Substituted "retired members, disabled members" for "retirants, disabilitants" before ", and beneficiaries" wherever it appears in subds (a) and (b); **(2)** substituted "Sections 22140 and 22141" for "Sections 22139 and 22140" in subds (b) and (e); and **(3)** deleted "retirement" after "part of the base" in subd (d).

1997 Amendment: Amended subds (a) and (b) by substituting "75 percent" for "68.2 percent" both times it appears.

1998 Amendment: (1) Deleted ", except as otherwise provided by Section 24414, after "Supplemental Benefit Maintenance Account shall" in the first sentence of subd (a); and **(2)** substituted "vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954" for "not vested" in subd (e).

2000 Amendment: (1) Amended subd (a) by adding **(a)** ", as defined in subdivision (a) of Section 22107" at the ned of the first sentence; and **(b)** ", and excluding those provided pursuant to Sections 24410.5, 24410.6, and 24410.7" at the end of the second sentence; **(2)** amended subd (b) by **(a)** adding ", as defined in subdivision (a) of Section 22107," both times it appears; and **(b)** substituting "specified" for "defined" after "payment as" in the first sentence; **(3)** substituted "increases" for "benefits" in subd (d); and **(4)** added subds (f) and (g). (As amended Stats 2000 ch 1027, compared to the section as it read prior to 2000. This section was also amended by three earlier chapters, ch 74, ch 1025, ch 1026. See Gov C § 9605.)

2001 Amendment: Substituted "80 percent" for "75 percent" wherever it appears.

2008 Amendment: (1) Substituted "85 percent" for "80 percent" in subds (a), (b), (f), and (g); and **(2)** divided the former sentence of subd (e) into the present first and second sentences of subd (e) by adding "the adjustments made by the board pursuant to Section 24415.5. The adjustments authorized by this section".

Notes of Decisions

1. Generally

Both the plain language of Ed C § 22954 and the legislative history indicate that Assem. Bill. No. 1102 contractually obligates the State to make an annual contribution of 2.5 percent of creditable compensation into the California Teachers' Retirement Fund's Supplemental Benefit Maintenance Account (SBMA), and reducing the income stream available to pay the supplemental benefits by $500 million through Senate Bill 20 (SB 20) increases the risk to California State Teachers' Retirement System members that the SBMA funds will be insufficient to make the supplemental benefit payments in the future. Because SB 20 does not compensate the members for this increased risk or provide a comparable new advantage in place of the $500 million, SB 20 impairs the

contractual rights bestowed by Assem. Bill. No. 1102 in violation of the state and federal constitutions. Teachers' Retirement Bd. v. Genest (2007, 3d Dist) 2007 Cal App LEXIS 1438.

§ 24415.5. Adjustment of purchasing power protection benefits payable to the Supplemental Benefit Maintenance Account

(a) Notwithstanding any other provision of this chapter, the board shall adjust the purchasing power protection benefits payable pursuant to Sections 24415, 24416, and 24417 in accordance with subdivisions (b) and (c) of this section.

(b) If the board, in adopting the actuarial projection described in subdivision (a) of Section 22954.1, determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be less than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be sustainable over that term, as specified in subdivision (c) of Section 22954.1. The board, upon making the determination specified in subdivision (c) of Section 22954.1, shall reduce the purchasing power protection benefits payable pursuant to Sections 24415, 24416, and 24417 to the maximum sustainable level identified under this subdivision, except that these benefits shall not be adjusted below the 80 percent purchasing power protection level unless the board has made the determination of insufficient funds described in subdivision (a) of Section 24416.

(c) If the board, in adopting the actuarial projection described in subdivision (a) of Section 22954.1, determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be more than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be sustainable over that term, as specified in subdivision (b) of Section 22954.1. The board, upon making the determination specified in subdivision (b) of Section 22954.1, shall increase the purchasing power protection benefits payable pursuant to Sections 24415, 24416, and 24417 to the maximum sustainable level identified under this subdivision, except that these benefits shall not be adjusted above the 85 percent purchasing power protection level.

(d) If the board identifies, pursuant to subdivision (b) of Section 22954.1, that the maximum level of purchasing power protection benefits it expects to be sustainable over the term established by the board is greater than the 85 percent level, it shall develop one or more proposals for options for the use of the anticipated Supplemental Benefit Maintenance Account moneys in excess of those believed to be necessary to sustain purchasing power protection benefits at the 85 percent level over the term established by the board. The options that the board proposes for use of these moneys shall be for the exclusive benefit of members and beneficiaries, and at least one of these proposed options shall be an increase in benefits for any surviving members who retired prior to January 1, 1999, and any surviving beneficiaries of members who retired prior to January 1, 1999. The board shall either include a summary of these proposed options in the report described in subdivision (f) of Section 22954.1 or, within 60 days after submission of that report, submit a separate letter to the recipients of the report described in subdivision (f) of Section 22954.1 that contains a summary of these proposed options. The board shall also submit a summary of these proposed options to the Governor.

(e) The board shall adopt and, after such adoption, may amend and repeal regulations concerning its powers described in this section, and it shall file these regulations, and amended and repealed regulations, with the Secretary of State. The adoption, amendment, or repeal of a regulation authorized by this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Added Stats 2008 ch 751 § 14 (AB 1389), effective September 30, 2008.

§ 24416. Board's authority upon certain findings (Supplemental Benefit Maintenance Account; Insufficient funding)

(a) If the board determines by June 30 of the then current fiscal year that the Supplemental Benefit Maintenance Account will not have sufficient funds to provide purchasing power protection benefits, as established in this chapter, of at least 80 percent for the subsequent fiscal year, the board, for that year, may do either, or a combination of the following:

(1) Increase the employer contribution rate commencing in the next fiscal year by an amount that would provide sufficient funds for no more than the estimated difference between the funds in the Supplemental Benefit Maintenance Account and the amount needed to pay the benefit level specified by the board, provided the benefit level is no more than 85 percent. Notwithstanding any other provision of this part, the increase in the employer contribution rate shall only become operative if the increase is approved or authorized in the Budget Act.

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

(b) If the board finds that there is no unfunded obligation, as determined by the board's professional consulting actuary and affirmed by the Director of Finance, then in addition to the authority pursuant to subdivision (a), the board may transfer to an auxiliary Supplemental Benefit Maintenance Account, from any funds that are in excess of the amount needed to fund fully the benefits for which the Teachers' Retirement Fund is liable, an amount that would provide sufficient funds for no more than the estimated difference between the funds in the Supplemental Benefit Maintenance Account and the amount needed to pay the benefit level specified by the board, provided the benefit level is no more than 85 percent.

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

Added Stats 1997 ch 939 § 7 (SB 1026). Amended Stats 2001 ch 840 § 4 (AB 135); Stats 2008 ch 751 § 15 (AB 1389), effective September 30, 2008.

Amendments

2001 Amendment: (1) Deleted "Beginning in the 1997–98 fiscal year," at the beginning of subd (a); **(2)** substituted "80 percent" for "75 percent" wherever it appears; and **(3)** substituted "that" for "which" after "amount" in subd (a)(2).

2008 Amendment: Substituted **(1)** "protection benefits, as established in this chapter, of at least 80 percent" for "of up to 80 percent" in the introductory clause of subd (a); and **(2)** "85 percent" for "80 percent" in subds (a)(1) and (b).

§ 24417. Distributions authorized (Auxiliary Supplemental Benefit Maintenance Account)

(a) The proceeds of an auxiliary Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments, commencing when funds in the Supplemental Benefit Maintenance Account are insufficient to support 85 percent, to retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 85 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Sections 24412 and 24415, and excluding those provided pursuant to Sections 24410.5, 24410.6, and 24410.7.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the

annual supplemental payment as specified in Sections 24412 and 24415, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of the benefit effective date and June of the fiscal year preceding the fiscal year of distribution.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax–sheltered annuity contributions.

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

(e) The distributions authorized by this section are vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954 and the adjustments made by the board pursuant to Section 24415.5. The distributions authorized by this section shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections 22140 and 22141.

(f) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Section 24410.5 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between January 2000 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Section 24410.5.

(g) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Sections 24410.6 and 24410.7 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between January 2001 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Sections 24410.6 and 24410.7.

Added Stats 1997 ch 939 § 8 (SB 1026). Amended Stats 1998 ch 965 § 201 (AB 2765), ch 1006 § 11 (AB 1102); Stats 2000 ch 74 § 61 (AB 1509), ch 1025 § 37.5 (AB 816), ch 1026 § 5 (SB 1505), ch 1027 § 4 (AB 429); Stats 2001 ch 840 § 5 (AB 135); Stats 2008 ch 751 § 16 (AB 1389), effective September 30, 2008.

Amendments

1998 Amendment: Substituted "vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954" for "not vested" in subd (e). (As amended Stats 1998 ch 1006, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

2000 Amendment: (1) Amended subd (a) by **(a)** adding ", as defined in subdivision (a) of Section 22107" at the end of the first sentence; **(b)** substituting "Sections" for "Section" before "24412" in the second sentence; and **(c)** adding ", and excluding those provided pursuant to Sections 24410.5, 24410.6, and 24410.7" at the end; **(2)** amended subd (b) by **(a)** adding ", as defined in subdivision (a) of Section 22107,"; **(b)** substituting "specified in Sections 24412 and" for "defined in Section 24412 and Section"; and **(c)** adding "the" after "calendar year of" in the second sentence; **(3)** substituted "increases" for "benefits" near the beginning of subd (d); **(4)** substituted "Sections" for "Section" near the end of subd (e); and **(5)** added subds (f) and (g). (As amended Stats 2000 ch 1027, compared to the section as it read prior to 2000. This section was also amended by three earlier chapters, ch 74, ch 1025, ch 1026. See Gov C § 9605.)

2001 Amendment: Substituted "80 percent" for "75 percent" wherever it appears.

2008 Amendment: (1) Substituted "85 percent" for "80 percent" each time it appears in subds (a), (f), and (g); and **(2)** divided the former sentence of subd (e) into the present first and second sentences of subd (e) by adding "the adjustments made by the board pursuant to Section 24415.5. The distributions authorized by this section".

CHAPTER 30. SUBROGATION

§ 24500. Right of recovery from third person or entity on behalf of plan

Notwithstanding Sections 11042 and 11043 of the Government Code, if a disability retirement allowance, disability allowance, family allowance, or survivor benefit allowance is payable under this part due to the injury to or death of a member and the injury or death is the proximate consequence of the act of a third person or entity, other than the member's employer, the board may, upon adoption of a resolution, recover from that person or entity on behalf of the plan, an amount equal to the actuarial equivalent of benefits paid under the plan because of the injury to or death of the member less any amounts the system may be obligated to pay under the plan without regard to the actions of the third party. This chapter shall be deemed to create a right of subrogation only to amounts paid as disability retirement allowances, disability allowances, family allowances, or survivor benefit allowances.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 256 (SB 2041).

Former Sections: Former § 24500, similar to present Ed C § 24601, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1985 ch 347 § 2, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 23300, as added Stats 1988 ch 380 § 1, amended Stats 1992 ch 1166 § 13.

Amendments

1996 Amendment: Amended the first sentence by **(1)** substituting "plan" for "system" after "on behalf of the"; **(2)** "under the plan" for "by the system" after "of benefits paid"; and **(3)** adding "under the plan" after "obligated to pay".

§ 24501. Recovery by board under contract (Authorization to contract with State Fund or Attorney General for recovery from third persons)

The board may act on its own or contract with the State Compensation Insurance Fund or Attorney General for recovery on behalf of the plan of any amounts recoverable from third persons under this chapter, Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, Section 11662 of the Insurance Code, or otherwise.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 257 (SB 2041).

Former Sections: Former § 24501, relating to losses and limitation of payments of estimated allowances, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 23301, as added Stats 1988 ch 380 § 1.

Amendments

1996 Amendment: Substituted "plan" for "system" after "on behalf of the".

§ 24502. Permissible actions by board or agents under contract

In the exercise of its rights under this part, the board or the agent under contract may commence or prosecute actions, file liens, intervene in court proceedings, join parties to the action and consolidate actions all in the same manner and to the same extent provided in Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code except that recovery shall not be made from benefits payable under this part because of the injury or death.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 24502, similar to present § 24603, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1985 ch 347 § 3, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 23302, as added Stats 1988 ch 380 § 1.

§ 24503. Authority to compromise claims

The State Compensation Insurance Fund or Attorney General as agent for the board may compromise claims before or after commencement of suit or entry of judgment for an amount as may be approved by a person duly authorized by the board for that purpose.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 24503, relating to estimated allowance when member expresses interest in option, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1978 ch 277 § 4.
Historical Derivation: Former § 23304, as added Stats 1988 ch 380 § 1.

§ 24504. Application of amount recovered

Any amount recovered by way of subrogation by the board on behalf of the member, shall be applied first to the amount which the plan paid or is obligated to pay including court costs, attorney fees, and expenses.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 258 (SB 2041).

Historical Derivation: Former Ed C § 23303, as added Stats 1988 ch 380 § 1.

Amendments

1996 Amendment: Substituted "plan" for "system" after "amount which the".

§ 24505. Limitation of actions; Time of fixing liability

Actions brought by the board or its agent under contract pursuant to this chapter shall be commenced within three years after the liability of the system to pay benefits under the plan is fixed. Liability of the plan is fixed at the time the board approves the payment of benefits under this plan.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 259 (SB 2041); Stats 1998 ch 965 § 202 (AB 2765).

Historical Derivation: Former Ed C § 23305, as added Stats 1988 ch 380 § 1.

Amendments

1996 Amendment: (1) Added "under the plan" after "system to pay benefits" in the first sentence; and **(2)** amended the second sentence by substituting **(a)** "plan" for "system" after "Liability of the"; and **(b)** "the plan" for "this part" at the end.
1998 Amendment: Substituted "this" for "the" before "plan" at the end.

CHAPTER 31. PROCEDURES CONCERNING PAYMENT

§ 24600. Accrual and termination dates of allowances and payments; Compliance with federal law in making distributions

(a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) (1) Except as provided in paragraph (2), a child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(2) A child's portion of a disability retirement allowance under Chapter 26 (commencing with Section 24100) ceases on the earlier of either:

(A) The termination date of the child's eligibility.

(B) The termination of the allowance for reasons other than death.

(g) Supplemental payments issued under this part pursuant to Sections 24412 and 24415 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24412 and 24415 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986 and related regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38 (commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

Added Stats 1996 ch 1165 § 36 (AB 3032). Amended Stats 1998 ch 965 § 203 (AB 2765); Stats 2000 ch 1021 § 40 (AB 2700), operative until January 1, 2002; Stats 2001 ch 802 § 6 (SB 499); Stats 2005 ch 661 § 1 (SB 525), effective January 1, 2006; Stats 2008 ch 751 § 17 (AB 1389), effective September 30, 2008; Stats 2011 ch 703 § 30 (SB 349), effective January 1, 2012.

Former Sections: Former § 24600, similar to the present section, was added Stats 1993 ch 893 § 2, amended Stats 1994 ch 933 § 101, effective September 27, 1994, and repealed Stats 1996 ch 1165 § 35.

Former § 24600, similar to the present section, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1977 ch 36 § 125, effective April 29, 1977, operative April 30, 1977, Stats 1978 ch 502 § 13, Stats 1979 ch § 16, Stats 1992 ch 1166 § 33, effective September 29, 1992, Stats 1993 ch 861 § 4, repealed Stats 1993 ch 893 § 1 (ch 861 prevails), and repealed Stats 1994 ch 933 § 102, effective September 27, 1994.

There was another section of this number, similar to the present section, which was added Stats 1996 ch 1165 § 36.5, operative January 1, 2002, amended Stats 1998 ch 965 § 204, operative January 1, 2002, Stats 1999 ch 939 § 75, operative January 1, 2002, Stats 2000 ch 74 § 62, and repealed Stats 2000 ch 1021 § 41.

There was another section of this number, similar to the present section, which was added Stats 2000 ch 1021 § 42, to become operative January 1, 2002, and repealed Stats 2001 ch 802 § 7.

Amendments

1998 Amendment: (1) Added "under this part" near the beginning of subds (a)–(g); **(2)** amended subd (h) by **(a)** substituting "with respect to the Defined Benefit Program" for "by the system" the first time it appears; and **(b)** adding "with respect to the Defined Benefit Program" the second time it appears; and **(3)** substituted "under the Defined Benefit Program" for "by the plan" in subd (i).

2000 Amendment: (1) Added "is" before "terminated" in subd (c); **(2)** substituted the introductory paragraph of subd (h) for the former introductory paragraph of subd (h) which read: "Notwithstanding any other provision of this part or other law, distributions from the plan with respect to the Defined Benefit Program shall be made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder, and the required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program shall be as follows:"; **(3)** amended subd (h)(1) by **(a)** substituting "Chapter 18" for "Chapter 12"; and **(b)** adding "of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit supplement account, as described in Chapter 38 (commencing with Section 25000) of this part"; **(4)** substituted "Section 22166" for "Section 22150" in subd (h)(2); **(5)** added the colon at the end of the introductory clause of subd (i); and **(6)** substituted subds (i)(1) and (i)(2) for "the termination of employment subject to coverage under the Defined Benefit Program or the termination of employment in a position requiring or permitting membership in another public retirement system in this state the compensation from which may be included in final compensation under Section 22127."

2001 Amendment: (1) Deleted former subds (f)(1) and (f)(2) which read: "(1) Until January 1, 2002, a person who on December 31, 1996, is between 18 and 22 years of age and who is eligible as a full–time student to receive a child's portion of an allowance shall continue to be eligible for a child's portion until the person attains 22 years of age or until the first day of the month following the end of the school quarter or semester that is in progress in the month the person attains 22 years of age provided prior verification of full–time student status is received by the board. If verification is not received by the board prior to the date the person attains 22 years of age, the allowance or the child's portion of the allowance shall cease on the day the full–time student attains 22 years of age."

"(2) Notwithstanding subdivision (e) of Section 22123, until January 1, 2002, a person who on December 31, 1996, is between 18 and 22 years of age and who is not eligible as a full–time student to receive a child's portion of an allowance, may return to school on a full–time basis on or after January 1, 1997, and become eligible for a child's portion from the date of return to full–time student status until 22 years of age or until the first day of the month following the end of the school quarter or semester that is in progress in the month the person attains 22

years of age provided prior verification of full–time student status is received by the board. If verification is not received by the board prior to the date the person attains 22 years of age, the allowance or the child's portion of the allowance shall cease on the day the full–time student attains 22 years of age. No benefits shall be payable under this paragraph for a person who does not return to school as a full–time student prior to attaining 22 years of age.";

(2) substituted "Sections 24411, 24412, and 24415" for "Section s24701, 24702, and 24703" both times it appears in subd (g); **(3)** added "related" before "regulations" at the end of the first sentence of subd (h); **(4)** amended subd (h)(1) by **(a)** deleting "both of the following: (A)" after "following the later of"; and **(b)** substituting "of age or the" for ". (B)" after "70½ years"; **(5)** amended subd (h)(2) by **(a)** deleting "beginning" after "Section 22166,"; and **(b)** substituting "70½ years of age" for "age 70½ years;"; and **(6)** deleted former subd (j) which read: "(j) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date."

2005 Amendment: (1) Deleted ", as amended," after Internal Revenue Code of 1986" in subd (h); **(2)** amended subd (h)(1) by **(a)** adding "(A)" after "the later of "; and **(b)** substituting "the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B)" for "age 70 1/2 years of age or" before "the calendar year in which the member terminates employment within the meaning of subdivision (i)"; and **(3)** substituted "the age at which the Internal Revenue Code of 1986 requires a distribution of benefits" for "70 1/2 years of age" after "the calendar year in which the member attains" in subd (h)(2).

2008 Amendment: Substituted "Sections 24412 and 24415" for "Sections 24411, 24412, and 24415" both times it appears in subd (g).

2011 Amendment: Added **(1)** subdivision designation (f)(1); **(2)** "Except as provided in paragraph (2)," in subd (f)(1); and **(3)** subd (f)(2).

Note—Stats 2008 ch 751 provides:

SEC. 81. It is the intent of the Legislature that Sections 4 to 17, inclusive, and Section 80 of this act constitute a comprehensive package of modifications to appropriations for, and benefits of, the State Teachers' Retirement System. It is the intent of the Legislature that this comprehensive package of modifications provides members of the State Teachers' Retirement System with comparable new advantages for members of the system in accordance with the standard articulated in Allen v. Long Beach (1955) 45 Cal. 2d 128. Accordingly, the Legislature finds and declares that Sections 5, 6, 9, 10, 13, 14, 15, 16, and 80 of this act would not have been enacted except for their inclusion as part of this comprehensive package, and, therefore, it is the intent of the Legislature that these sections of the act not be interpreted as separable from one another.

§ 24601. Authorization for payment of estimated allowances

Whenever the system determines that payments in the correct amount due cannot be made when payable because required information or documentation is not yet on file in the system, payment of estimated allowances based on preliminary information in the possession of the system may be made, the system may present claims therefore, and the Controller shall draw warrants in payment of the claims.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 24601, similar to present § 24605, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1990 ch 560 § 9, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former § 24500, as enacted Stats 1976 ch 1010 § 2, amended Stats 1985 ch 347 § 2.

§ 24602. Special account and procedures for emergency payments

The board may establish a special account and procedures to pay, on an emergency basis, allowances, death payments and up to 75 percent of the return of the balance of the accumulated retirement contributions as a result of termination of employment or death. Disbursements under the special account shall be by checks issued by the system and subject to the auditing requirements of the Controller. Payments under the special account shall be deducted from allowances, death benefits, and payment of accumulated retirement contributions, otherwise due.

Added by Stats 1993 ch 893 § 2 (AB 1796).

Former Sections: Former § 24602, similar to present § 24608, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1978 ch 502 § 14, Stats 1979 ch 520 § 17, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former § 24615, as added Stats 1993 ch 347 § 4, amended Stats 1989 ch 327 § 3.

§ 24603. Adjustment of incorrect estimated allowances

If any estimated allowances under this part are more or less than the correct amount due, the difference between the correct amount and the estimated allowance shall be adjusted in subsequent payments or the Controller may state an account with the retired member, disabled member, or beneficiary, pursuant to Section 12419 of the Government Code.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 260 (SB 2041); Stats 1998 ch 965 § 205 (AB 2765).

Former Sections: Former § 24603, similar to present Ed C § 24613, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1986 ch 717 § 15, Stats 1992 ch 163 § 70, operative January 1, 1994, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 24502, as enacted Stats 1976 ch 1010 § 2, amended Stats 1985 ch 347 § 3.

Amendments

1996 Amendment: Substituted "retired member, disabled member" for "retirant, disabilitant" after "an account with the".
1998 Amendment: Added "under this part".

§ 24604. Monthly disbursements; Copy of benefit payment information; Discharge

(a) A member, nonmember spouse, or beneficiary under this part shall specify whether monthly benefit payments are to be disbursed by: (1) direct deposit (electronic funds transfer); (2) direct mail to a financial or other institution; or (3) mailing to a payment address provided by the member, nonmember spouse, or beneficiary.
(b) A member, nonmember spouse, or beneficiary under this part to whom a lump-sum payment or benefit is to be disbursed, and who is receiving payment for an ongoing benefit by electronic funds transfer, may have the lump-sum payment disbursed by electronic funds transfer to the financial institution on file for payment of the ongoing benefit.
(c) A member, nonmember spouse, or beneficiary under this part who is not receiving payment for an ongoing benefit by electronic funds transfer and to whom a lump-sum payment or benefit is to be disbursed shall specify the address to which the payment shall be mailed.
(d) (1) The system shall make available an electronic copy of the benefit payment information to any member, nonmember spouse, or beneficiary under this part who receives a monthly benefit payment.
(2) The board shall notify the member, nonmember spouse, or beneficiary that he or she has the right to request that a copy of the benefit payment information be mailed. The board shall send a copy of the benefit payment information if the system has received a written request from that person.
(3) The system shall send a copy of the benefit payment information to any member, nonmember spouse, or beneficiary under this part when there is an adjustment in the allowance due to an annual benefit enhancement, pursuant to Sections 22140 and 24402, or a change in any amount deducted from the allowance due to an adjustment to an income tax withholding tax table made by the Internal Revenue Service or the Franchise Tax Board, unless the person has notified the system that he or she does not want to receive a copy of the benefit payment information.

(e) A payment disbursed as specified by the member, nonmember spouse, or beneficiary under this part shall fully discharge the board, system, and plan from any claim resulting from actions taken under this section.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1994 ch 933 § 104 (AB 3171), effective September 27, 1994; Stats 1996 ch 634 § 261 (SB 2041); Stats 1998 ch 965 § 206 (AB 2765); Stats 2009 ch 90 § 3 (AB 232), effective January 1, 2010; Stats 2012 ch 864 § 16 (AB 2663), effective January 1, 2013.

Former Sections: Former § 24604, similar to present Ed C § 24609, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1986 ch 717 § 16, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: (a) Former Ed C § 24600.1, as added Stats 1993 ch 1082 § 8, amended Stats 1993 ch 1083 § 3.

(b) Former Ed C § 24600.1, as added Stats 1990 ch 560 § 10.

Amendments

1994 Amendment: Substituted the section for the former section which read: "(a) Upon the receipt of a request from any retirant, disabilitant, or beneficiary, the board may transmit payments to a bank, savings and loan association, or credit union for deposit in the retirant's, disabilitant's, or beneficiary's account by electronic fund transfer or by mail. The transmittal of the payment shall fully discharge the board and the system from any claim resulting from actions taken under this section."(b) The board shall send a copy of the benefit payment information to any retirant, disabilitant, or beneficiary who has payments transmitted directly by electronic fund transfer or by mail to a financial institution."

1996 Amendment: (1) Substituted "retired member, disabled member" for "retirant, disabilitant" wherever it appears; **(2)** substituted "the" for "his or her" after "payment notice, of" in subd (c)(2); and **(3)** amended subd (d) by **(a)** deleting ", retirant, disabilitant," after "by the member"; and **(b)** substituting ", system, and plan" for "and the system" after "discharge the board".

1998 Amendment: Added "under this part" in subds (a), (b), (c)(1), and (d).

2009 Amendment: (1) Substituted "member, nonmember spouse" for "retired member, disabled member" both times it appears in subd (a); **(2)** added subd (b); **(3)** redesignated former subds (b)–(d) to be subds (c)–(e); **(4)** added ", nonmember spouse," in subds (c) and (e); **(5)** added "who is not receiving payment for an ongoing benefit by electronic funds transfer and" in subd (c); and **(6)** substituted subd (d) for former subd (d) which read: "(d)(1) The board shall send a copy of the benefit payment information to any retired member, disabled member, or beneficiary under this part who has payments transmitted directly by electronic funds transfer or by mail to a financial institution, unless the board has received a written request from that person not to send a copy of the information."(2) The board shall notify the retired member, disabled member, or beneficiary, in the monthly benefit payment notice, of the right to request that no copy of the benefit payment information be mailed, pursuant to paragraph (1)."

2012 Amendment: Amended subd (d)(3) by adding **(1)** "due to an annual benefit enhancement, pursuant to Sections 22140 and 24402"; and **(2)** "due to an adjustment to an income tax withholding tax table made by the Internal Revenue Service or the Franchise Tax Board, unless the person has notified the system that he or she does not want to receive a copy of the benefit payment information".

§ 24605. Issuance of duplicate warrant on proof of loss

Upon receipt of proof satisfactory to the board, that a warrant drawn in payment of a retirement allowance or in payment of any other account due from the plan under this part, has been lost or that payment transmitted electronically cannot be credited to an account, the Controller upon the request of the board shall issue a replacement warrant in payment of the same amount, without requiring a bond from the payee, and any loss incurred in connection therewith shall be charged against the fund from which the payment was derived.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 262 (SB 2041); Stats 1998 ch 965 § 207 (AB 2765).

Former Sections: Former § 24605, similar to present Ed C § 24610, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1981 ch 124 § 52, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24601, as enacted Stats 1976 ch 1010 § 2, amended Stats 1990 ch 560 § 9.

Amendments

1996 Amendment: Substituted "plan" for "system" after "account due from the".

1998 Amendment: Added "under this part" after "due from the plan".

§ 24606. Unclaimed warrants

(a) If any warrant drawn in payment of contributions or accumulated contributions or benefits under this plan remains unclaimed or the legal claimant cannot be found, the board shall redeposit the proceeds of the warrant in the retirement fund, and shall hold the proceeds for the legal claimant without further accumulation of interest. The redeposit does not operate to establish the membership of the claimant in this plan.

(b) Subdivision (a) applies to warrants drawn and canceled by the Controller pursuant to Section 17070 of the Government Code, except that, upon notice of cancellation, the proceeds revert to and become a part of the retirement fund, and shall be applied to meet the liabilities of the retirement fund.

(c) The board may at any time after reversion of proceeds, as provided above to the retirement fund, and upon receipt of proper information satisfactory to it, return from the retirement fund an amount equal to those proceeds to the credit of the legal claimant.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 263 (SB 2041); Stats 1998 ch 965 § 208 (AB 2765); Stats 2003 ch 859 § 25 (SB 627).

Former Sections: Former § 24606, similar to present Ed C § 24611, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1983 ch 842 § 14, operative January 1, 1985, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24608, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "plan" for "system" wherever it appears in subd (a).

1998 Amendment: Added **(1)** "under this part" after "under this plan" in subd (a); and **(2)** "with respect to the Defined Benefit Program" at the end of subd (b).

2003 Amendment: (1) Amended subd (a) by **(a)** substituting "If" for "Whenever" at the beginning; **(b)** deleting "under this part" after "under this plan" in the first sentence; and **(c)** substituting ". The redeposit does" for ", and the redeposit shall"; **(2)** amended subd (b) by **(a)** substituting "applies" for "shall apply"; **(b)** adding the comma after "except that"; and **(c)** deleting "with respect to the Defined Benefit Program" at the end; and **(3)** substituted "after reversion of proceeds, as provided above to the retirement fund," for ", after reversion of proceeds as provided above to the retirement fund" in subd (c).

§ 24607. Warrant paid for month in which retired or disabled member dies

Any warrant in an amount less than two thousand dollars ($2,000) paid by the system under this part, for the month in which a retired member or disabled member dies, shall not be invalidated by the system, except upon the request of the beneficiary of the retired member or disabled member.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 264 (SB 2041); Stats 1998 ch 965 § 209 (AB 2765).

Former Sections: Former § 24607, similar to present Ed C § 24612, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23923, as added Stats 1985 ch 1532 § 3.

Amendments

1996 Amendment: Substituted "retired member or disabled member" for "retirant or disabilitant" wherever it appears.

1998 Amendment: Added "under this part".

§ 24608. Authorized deductions from allowances

(a) Persons entitled to receive allowances under the plan under this part may authorize deductions to be made from those allowances, in accordance with procedures established by the board.

(b) The board shall determine the additional cost involved in making deductions under this section, and may require the public agency, association, insurance carrier, or unit thereof to pay the amount of the additional cost to the board for deposit in the retirement fund to the credit of the Defined Benefit Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 265 (SB 2041); Stats 1998 ch 965 § 210 (AB 2765).

Former Sections: Former § 24608, similar to present Ed C § 24606, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1983 ch 842 § 14, operative January 1, 1985, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24602, as enacted Stats 1976 ch 1010 § 2, amended Stats 1978 ch 502 § 14, Stats 1979 ch 520 § 17.

Amendments

1996 Amendment: Substituted "the plan" for "this system" after "allowances under" in subd (a).

1998 Amendment: Added **(1)** "under this part" in subd (a); and **(2)** "to the credit of the Defined Benefit Program" in subd (b).

§ 24609. Payment of accrued retirement allowance

Any allowance payable under this part to a retired member, that has accrued and remains unpaid at the time of his or her death, shall be paid to either of the following:

(a) The option beneficiary entitled to payment in accordance with an option elected by the member.

(b) The beneficiary entitled to receive the lump–sum death benefit provided upon death of a retired member if the member has not elected an option.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 266 (SB 2041); Stats 1998 ch 965 § 211 (AB 2765).

Former Sections: Former Ed C § 24609, relating to distribution of accrued allowance on death of retirant, was added Stats 1993 ch 920 § 10 and repealed Stats 1994 ch 933 § 105, effective September 27, 1994.

Former Ed C § 24609, similar to present § 22310, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, amended Stats 1980 ch 244 § 13, repealed and added Stats 1993 ch 893 §§ 1, 2 (ch 920 prevails), and repealed Stats 1993 ch 920 § 9.

Historical Derivation: Former Ed C § 24604, as enacted Stats 1976 ch 1010 § 2, amended Stats 1986 ch 717 § 16.

Amendments

1996 Amendment: Substituted **(1)** "allowance payable to a retired member" for "retirement allowance payable to a retirant" in the introductory clause; and **(2)** "retired member" for "retirant" after "upon death of a" in subd (b).

1998 Amendment: (1) Added "under this part" in the introductory clause; **(2)** amended subd (a) by **(a)** adding "option" after "The"; and **(b)** substituting "option elected" for "optional settlement chosen"; and **(3)** substituted "elected an option" for "chosen an optional settlement" in subd (b).

§ 24610. Payment of accrued allowance on death of disabled member

Any disability allowance under this part that has accrued and remains unpaid to a disabled member at the time of death shall be paid to the person entitled to receive a family allowance under this part or, if none, to the beneficiary entitled to receive the death payment under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 267 (SB 2041); Stats 1998 ch 965 § 212 (AB 2765).

Former Sections: Former § 24610, similar to present Ed C § 24614, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 24605, as enacted Stats 1976 ch 1010 § 2, amended Stats 1981 ch 124 § 52.

Amendments

1996 Amendment: Substituted "disabled member" for "disabilitant" after "unpaid to a".
1998 Amendment: Added "under this part" wherever it appears.

§ 24611. Applicable provisions in simultaneous death and similar situations

Part 5 (commencing with Section 220) of Division 2 of the Probate Code, when applicable, shall govern the distribution of the proceeds of any death benefit payable under this part. In applying Part 5 (commencing with Section 220) of Division 2 of the Probate Code with respect to proceeds payable to a beneficiary, membership shall be considered as having the same status as an insurance policy issued after December 31, 1984.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 268 (SB 2041).

Former Sections: Former § 24611, similar to present Ed C § 24620, was enacted Stats 1976 ch 1010 § 2, operative April 30, 1977, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 24606, as enacted Stats 1976 ch 1010 § 2, amended Stats 1983 ch 842 § 14.

Amendments

1996 Amendment: (1) Substituted "this part" for "the system" at the end of the first sentence; and **(2)** deleted "in the system" after "beneficiary, membership" in the second sentence.

§ 24612. Payment to person entitled to custody of minor

(a) If any person entitled to a benefit from the plan under this part is a minor who has no guardian of his or her estate, the benefit, not to exceed two thousand dollars ($2,000), may be paid to the person entitled to the custody of the minor to hold for the minor, upon the written statement, duly acknowledged and verified, of the person that the total estate of the minor does not exceed two thousand five hundred dollars ($2,500) in value.
(b) The payment shall constitute full discharge of any and all liabilities of the board, system, and plan.
(c) The person shall account to the minor for the money when the minor reaches the age of majority.

(d) Notwithstanding any other provision of this section, a natural parent or an adoptive parent having custody of the minor shall not be required to establish a guardianship for the purpose of collecting a survivor benefit, family benefit, or death benefit under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 269 (SB 2041); Stats 1998 ch 965 § 213 (AB 2765).

Former Sections: Former § 24612, relating to payment to person entitled to custody of minor, was added Stats 1982 ch 1428 § 1.8, amended Stats 1989 ch 327 § 1, Stats 1990 ch 560 § 11, repealed Stats 1993 ch 893 § 1 (ch 920 prevails), amended Stats 1993 ch 920 § 11, and repealed Stats 1994 ch 933 § 106, effective September 27, 1994.

Historical Derivation: Former Ed C § 24607, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted **(1)** "plan" for "system" after "benefit from the" in subd (a); and **(2)** ", system, and plan" for "and system" at the end of subd (b).

1998 Amendment: Added "under this part" near the beginning of subd (a) and at the end of subd (d).

§ 24613. Discharge and release from liability

(a) Payment pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons under this part constitutes a complete discharge and release of the board, system, and plan from liability for that payment.

(b) Notwithstanding Sections 751 and 1100 of the Family Code relating to community property interests, whenever payment or refund is made by this system to a member, former member, or beneficiary of a member pursuant to this part, the payment shall fully discharge the board, system, and plan from all adverse claims thereto unless, before payment is made, a written notice of adverse claim is received at the system's headquarters office, as established pursuant to Section 22375.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 270 (SB 2041); Stats 1998 ch 965 § 214 (AB 2765); Stats 2005 ch 351 § 33 (AB 224), effective January 1, 2006.

Former Sections: Former § 24613, similar to present Ed C § 22322, was added Stats 1982 ch 1428 § 5, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 24603, as enacted Stats 1976 ch 1010 § 2, amended Stats 1986 ch 717 § 15, Stats 1992 ch 163 § 70.

Amendments

1996 Amendment: Substituted **(1)** "board, system, and plan" for "system" after "release of the" in subd (a), and after "fully discharge the" in subd (b); and **(2)** "a written notice of adverse claim is received at the system's office in Sacramento" for "the system has received at its office in Sacramento a written notice of adverse claim" at the end of subd (b).

1998 Amendment: Added "under this part" in subd (a).

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375." for "office in Sacramento." in subd (b).

§ 24614. Continued payments to persons who retired prior to discontinuance of retirement plan of certain district

(a) This section shall only be applicable to a district retirement salary plan in a unified district presently having an average daily attendance of less than 200,000 pupils and which was discontinued by the governing board of the district.

(b) The district shall continue to pay monthly to teachers and other persons who were retired prior to the date of the discontinuance an amount equal to the amount by which the retirement allowance to which any of the retired teachers or other persons were entitled under the district plan exceeds the increase in the teacher's or other person's retirement allowance under this part resulting from the discontinuance. The arrangement under which those amounts are paid by the district shall not be considered to be a local retirement system for the purposes of this part, nor shall those amounts be taken into account in the calculation of retirement allowances under this part.

(c) The reserve fund created by the district from the assets delivered to it by the discontinued district retirement plan under subdivision (c) of former Section 14690 prior to its repeal is continued in existence and the amounts payable under subdivision (b) of this section shall be paid from that reserve fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 271 (SB 2041).

Historical Derivation: Former Ed C § 24610, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Amended subd (b) by **(1)** adding "district" after "entitled under the" in the first sentence; and **(2)** substituting "this plan" for "the State Teachers' Retirement System" after "allowance under" in the first sentence, and at the end of the second sentence.

§ 24615. Collection of contributions that are due from retired member, disabled member or person who has died

(a) If the board determines that contributions are due the system under this part from a retired member, disabled member, or a person who has died, and the person is unable to pay the amount due, the board may withhold all or part of subsequent payments due the retired member, disabled member, or survivor, until the amounts withheld equal the contributions due plus regular interest to the date of payment. Total contributions plus regular interest due shall be recovered by the system within 18 months.

(b) Any payment of contributions that a member or beneficiary is required by law to make to the system shall be paid upon receipt of written notice from the system. Payment may be made either in a lump sum or installments, as permitted by the system. Payment of contributions due the system not discovered or unpaid, for whatever reason, prior to the time of retirement, disability, or death shall be paid prior to granting an allowance or benefit to the member or beneficiary unless, in the opinion of the board, the making of the payment prior to receipt of an allowance or benefit would impose an undue hardship, in which case payment may be made by the system withholding not more than 18 consecutive monthly installments from payments due from the system. Those installments may not be less than twenty–five dollars ($25) per month, except for the last installment, which may be less than twenty–five dollars ($25).

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 272 (SB 2041); Stats 1998 ch 965 § 215 (AB 2765); Stats 1999 ch 939 § 76 (SB 1074); Stats 2003 ch 859 § 26 (SB 627).

Former Sections: Former § 24615, similar to present Ed C § 24602, was added Stats 1985 ch 347 § 4, amended Stats 1989 ch 327 § 3, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23009, as added Stats 1979 ch 520 § 3.

Amendments

1996 Amendment: Substituted "retired member, disabled member" for "retirant, disabilitant" wherever it appears in the first sentence.

1998 Amendment: Added "under this part" in the first sentence.

1999 Amendment: (1) Designated the former section to be subd (a); and **(2)** added subd (b).

2003 Amendment: (1) Added the comma after "person who has died" in the first sentence of subd (a); and **(2)** amended subd (b) by **(a)** adding the comma after "installments" in the second sentence; **(b)** substituting "of retirement" for "or retirement" in the third sentence; **(c)** substituting "may not be less" for "shall not be less" in the last sentence; and **(d)** substituting "which may be less than twenty–five dollars ($25)" for "that may be less" in the last sentence.

§ 24616. Authority to collect overpayments from any subsequent benefit

Any overpayment made to or on behalf of any member, former member, or beneficiary, including but not limited to contributions, interest, benefits of any kind, federal or state tax, or insurance premiums, shall be deducted from any subsequent benefit that may be payable under either the Defined Benefit Program, the Defined Benefit Supplement Program, or the Cash Balance Benefit Program, except as provided in Section 24616.5. These deductions shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of the recovery the extent of liability for restitution.

Added Stats 1993 ch 893 § 2 (AB 1796). Amended Stats 1996 ch 634 § 273 (SB 2041); Stats 2000 ch 1021 § 43 (AB 2700); Stats 2003 ch 859 § 27 (SB 627); Stats 2010 ch 207 § 24 (AB 2260), effective January 1, 2011.

Former Sections: Former § 24616, relating to recovery of overpayments due to staff error or inaccurate or nonsubmission of information by recipient, was enacted Stats 1986 ch 1006 § 1, amended Stats 1987 ch 330 § 20, and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23010, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 659 § 7, Stats 1979 ch 373 § 66.

Amendments

1996 Amendment: Amended the first sentence by substituting **(1)** "or beneficiary" for "beneficiary, disabilitant, or retirant" after "former member,"; and **(2)** "under this part" for "by the system" at the end.

2000 Amendment: Substituted "either the Defined Benefit Program or the Defined Benefit Supplement Program" for "this part".

2003 Amendment: Amended the first sentence by **(1)** substituting the comma for "or" after "Defined Benefit Program"; and **(2)** adding ", or the Cash Balance Benefit Program".

2010 Amendment: Added ", except as provided in Section 24616.5" in the first sentence.

§ 24616.5. Report of erroneous information by employer

If an employer reports erroneous information, the system shall calculate the actuarial present value of the expected payments from the member, the former member, or beneficiary pursuant to Sections 22008 and 24617. The employer shall pay the difference between the total amount of the overpayment and the calculation of the actuarial present value of expected payments.

Added Stats 2010 ch 207 § 25 (AB 2260), effective January 1, 2011.

§ 24617. Collection of overpayments

(a) To recover an amount overpaid under this part or Part 14 (commencing with Section 26000), the corrected monthly allowance payable under the Defined Benefit Program or benefit payable under the Defined Benefit Supplement Program or the Cash Balance Benefit Program may be reduced by no more than 5 percent if the overpayment was due to error by the system, the county superintendent of schools, a school district, or a community college district, and by no more than 15 percent if the error was due to inaccurate information or nonsubmission of information by the recipient of the allowance or benefit.

(b) This section does not apply to the collection of overpayments due to fraud or intentional misrepresentation of facts by the recipient of the allowance or benefit.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 274 (SB 2041); Stats 1998 ch 965 § 216 (AB 2765); Stats 2000 ch 1021 § 44 (AB 2700); Stats 2003 ch 859 § 28 (SB 627); Stats 2007 ch 323 § 16 (AB 757), effective January 1, 2008.

Former Sections: Former § 24617, similar to present Ed C § 24619, was added Stats 1986 ch 1006 § 2 and repealed Stats 1993 ch 893 § 1.

Amendments

1996 Amendment: Substituted "the system" for "system staff" after "due to error by" in subd (a).
1998 Amendment: Added "under this part" near the beginning of the first sentence.
2000 Amendment: (1) Amended subd (a) by adding **(a)** "payable under the Defined Benefit Program or benefit payable under the Defined Benefit Supplement Program"; and **(b)** "or benefit" at the end; and **(2)** added "or benefit" at the end of subd (b).
2003 Amendment: (1) Added the "or the Cash Balance Benefit Program" in subd (a); and **(2)** substituted "does not apply" for "shall not apply" in subd (b).
2007 Amendment: Added "or Part 14 (commencing with Section 26000)" in subd (a).

§ 24618. Overpayments or underpayments; Debiting or crediting appropriate reserve in retirement fund (Write-off)

Losses or gains resulting from overpayment or underpayment of contributions or other amounts under this part within the limits set by the California Victim Compensation and Government Claims Board for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoffs by the California Victim Compensation and Government Claims Board, shall be debited or credited, as the case may be, to the appropriate reserve in the retirement fund.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 217 (AB 2765); Stats 2006 ch 538 § 98 (SB 1852), effective January 1, 2007.

Former Sections: Former § 24618, similar to present § 22323, was added Stats 1986 ch 1006 § 3 and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 23011, as enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Added "under this part".
2006 Amendment: (1) Substituted "California Victim Compensation and Government Claims" for "State" after "limit set by the"; **(2)** deleted "of Control" after "Government Claims Board"; and **(3)** substituted "California Victim Compensation and Government Claims Board" for "State Board of Control" after "writeoffs by the".

§ 24619. Report on underpayments or overpayments

The system shall annually report to the board the following information:
(a) The amount of underpayment made to recipients under this part.
(b) The amount to be recovered because of overpayments and the number of overpayments under this part.
(c) The actions taken by the board and the system to reduce the number and amount of overpayments and underpayments under this part.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 218 (AB 2765).

Historical Derivation: Former Ed C § 24617, as added Stats 1986 ch 1006 § 2.

Amendments

1998 Amendment: Added "under this part" at the end of subds (a)–(c).

§ 24620. Continuance of special reserve resulting from discontinuance of district retirement plan

(a) The special reserve resulting from the discontinuance of a district retirement salary plan as provided in former Section 14690 prior to its repeal, and a part of which is used annually in the interest of the employees of the district at the discretion of the governing board, is continued in existence and shall continue to be used first as provided in this section.

(b) The district in which the district retirement plan was discontinued and that credited each teacher or other person employed by the district at the time of discontinuance, in a status requisite for membership in this plan, with an amount that bears the same ratio to the portion of the assets delivered to the district pursuant to former subdivision (c) of Section 14690 prior to its repeal, that remained after the creation of the reserve fund for payments under former subdivision (d) of Section 14690 prior to its repeal, as required by former subdivision (e) of Section 14690 prior to its repeal, as the accumulated contributions credited to the member in his or her individual contribution account under the discontinued retirement plan at the time of discontinuance, bore to the total accumulated contributions so credited to all such teachers and persons, but this credit to any active member shall not exceed the amount of the member's accumulated contributions so credited at that time. The amount so credited to any person shall continue to be increased by interest at rates approved from time to time by the governing board of the district. The accumulated amount at the date upon which the person retires for service or disability under the system shall continue to be applied according to rates and tables adopted by the governing board and then in effect, to provide an annuity payable to the person throughout the balance of his or her life or a lump–sum payment of the total account balance on the date of retirement at the option of the governing board. If the person dies prior to retirement, the amount, with credited interest, shall be paid to his or her designated beneficiary, as it appears on the records of the district, if any, otherwise to the member's estate. If the person ceases to be employed by the district for any reason other than death, retirement, or attainment of the age at which his or her classification as a permanent employee ceases, he or she shall no longer be credited with or have any right to the accumulated amount, but the amount shall revert to and belong to the district. The arrangement under which annuities and death benefits are paid by a district under this subdivision shall not be considered to be a local retirement system for the purposes of this part, nor shall those payments be taken into account in the calculation of retirement allowances under this plan.

(c) The reserve fund created by the district from the assets delivered to it pursuant to subdivision (c) of former Section 14690 prior to its repeal is continued in existence and in the amount equal in amount to the total contributions credited to employees of the district, under former subdivision (b) of former Section 14691 prior to its repeal, and the annuities and death benefits payable under subdivision (b) of former Section 14691 prior to its repeal shall continue to be paid from this reserve fund. If the reserve fund as first created proves insufficient to make the payments required under subdivision (b) of former Section 14691, the district shall continue to make any additions to the reserve fund necessary to provide for those payments.

(d)(1) In addition to any other investments authorized by law for the investment of those funds, the funds of any specialized reserve or reserve fund established pursuant to former Section 14690 or former Section 14691 prior to their repeal may continue to be invested as authorized by Section 31595 of the Government Code for the investment of the funds of a county employees' retirement system.

(2) The governing board may employ investment advisers to advise it on these investments and the fees for these services may be paid from the special reserve or reserve funds.

(e) The governing board may make additional cost–of–living adjustments in the payments to persons who retired prior to January 1, 1953.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 275 (SB 2041).

Historical Derivation: Former Ed C § 24611, as enacted Stats 1976 ch 1012 § 2.

Amendments

1996 Amendment: Substituted "this plan" for "the system" after "for membership in" in the first sentence of subd (b), and at the end of the last sentence in subd (b).

CHAPTER 32. SAN FRANCISCO LOCAL SYSTEM

§ 24700. Membership in plan; Exclusion from federal coverage

On July 1, 1972, and thereafter all persons who first enter employment in the San Francisco Unified School District or the San Francisco Community College District to perform creditable service subject to coverage under the Defined Benefit Program are members of the plan in accordance with Section 22501. These new members are excluded from coverage under Subchapter II (commencing with Section 401) of Chapter 7 of Title 42 of the United States Code, for service performed as a member of the plan.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 276 (SB 2041); Stats 1998 ch 965 § 219 (AB 2765).

Former Sections: Former § 24700, similar to present Ed C § 24400, was added Stats 1979 ch 802 § 1 and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 23501, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted **(1)** "to perform creditable service subject to coverage by the plan" for "in positions requiring membership in the system" in the first sentence; and **(2)** "plan" for "system" at the end of the second sentence.
1998 Amendment: Amended the first sentence by substituting **(1)** "or" for "and" after "School District"; and **(2)** "under the Defined Benefit Program are members of the plan" for "by the plan are members of the system".

§ 24701. Other concurrent certificated service

Those credentialed members of the San Francisco Employees' Retirement System on June 30, 1972, who make an irrevocable election to be covered only by the State Teachers' Retirement Plan under this part for prior and future service performed in San Francisco, shall be allowed to be covered for other certificated service concurrently, where the provisions of the city and county charter permit. This shall not include any credited service, as defined in Section 22121.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 277 (SB 2041); Stats 1998 ch 965 § 220 (AB 2765); Stats 2005 ch 351 § 34 (AB 224), effective January 1, 2006.

Former Sections: Former § 24701, similar to present Ed C § 24411, was added Stats 1982 ch 1606 § 1, effective September 30, 1982, amended Stats 1983 ch 323 § 13, effective July 21, 1983, ch 780 § 1, effective September 14, 1983, Stats 1989 ch 116 § 1, and repealed Stats 1993 ch 893 § 1.
Historical Derivation: Former Ed C § 23505, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "State Teachers' Retirement System Defined Benefit Plan" for "State Teachers' Retirement System" in the first sentence.
1998 Amendment: Substituted **(1)** "State Teachers' Retirement Plan under this part" for "State Teachers' Retirement System Defined Benefit Plan"; and **(2)** "Section 22121" for "Section 22120" at the end of the second sentence.
2005 Amendment: Deleted "City and County" before "Employees' Retirement System".

§ 24702. Persons on retirement roll on June 30, 1972; Retired death benefit

(a) All persons on the San Francisco system retired rolls on June 30, 1972, shall remain on the local rolls. The State Teachers' Retirement System shall continue the subvention in Section 24706 for those

persons, shall apply the percentage update and annual improvement factor to payments being made under the Defined Benefit Program directly to those persons, and shall pay the retired death payment upon their death.

(b) The allowance that would have been payable had the member retired solely under the Defined Benefit Program, including the percentage update calculated under Sections 14332, 14333, and 14334, as enacted by Chapter 2 of the Statutes of 1959, as those sections read on December 31, 1974, shall be taken into account in computing the amount of increase for the ten dollar ($10) a month per year of service minimum unmodified allowance.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 278 (SB 2041); Stats 1998 ch 965 § 221 (AB 2765).

Former Sections: Former § 24702, similar to present Ed C § 24412, was added Stats 1983 ch 1213 § 1 and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23506, as enacted Stats 1976 ch 1010 § 2, amended Stats 1977 ch 36 § 106, Stats 1992 ch 1166 § 14.

Amendments

1996 Amendment: (1) Substituted "from the Defined Benefit Plan directly to those persons" for "State Teachers' Retirement System directly to the retirant" in the second sentence of subd (a); and **(2)** amended subd (b) by **(a)** substituting "Defined Benefit Plan" for "State Teachers' Retirement System" after "solely under the"; and **(b)** deleting "of the Education Code" before ", as enacted by".

1998 Amendment: (1) Substituted "under the Defined Benefit Program" for "by the from the Defined Benefit Plan" in subd (a); and **(2)** amended subd (b) by substituting **(a)** "Defined Benefit Program" for "Defined Benefit Plan"; and **(b)** "unmodified allowance" for "benefit" at the end.

§ 24703. Classified or other noncertificated service

Persons who select to be covered only by the Defined Benefit Program and already have credit for classified or other noncertificated service in the San Francisco system shall not have that credit transferred to the Defined Benefit Program.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 279 (SB 2041); Stats 1998 ch 965 § 222 (AB 2765); Stats 2006 ch 655 § 47 (SB 1466), effective January 1, 2007.

Former Sections: Former § 24703, similar to present Ed C § 24415, was added Stats 1989 ch 116 § 2 and repealed Stats 1993 ch 893 § 1.

Historical Derivation: Former Ed C § 23510, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted "Defined Benefit Plan" for "State Teachers' Retirement System" wherever it appears.

1998 Amendment: Substituted "Defined Benefit Program" for "Defined Benefit Plan" both times it appears.

2006 Amendment: Deleted "local" after "in the San Francisco".

§ 24704. Concurrent retirement benefits

The San Francisco Employees' Retirement System shall provide concurrent retirement benefits for classified and other noncertificated service in the San Francisco system according to the provisions applicable to miscellaneous employees of the time of the concurrent retirement for:

(a) Members of that system who transfer to the Defined Benefit Program after June 30, 1972.

(b) Persons who were members of both the San Francisco system and the Defined Benefit Program on June 30, 1972.

(c) A person who could have qualified under subdivision (b) if he or she had not taken a refund from either the San Francisco system or the Defined Benefit Program, but not both, provided the person qualifies for and redeposits prior to retirement.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 280 (SB 2041); Stats 1998 ch 965 § 223 (AB 2765); Stats 2005 ch 351 § 35 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 48 (SB 1466), effective January 1, 2007.

Historical Derivation: Former Ed C § 23511, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Substituted **(1)** "Defined Benefit Plan" for "State Teachers' Retirement System" in subd (a); **(2)** "the San Francisco system and the Defined Benefit Plan" for "retirement systems" in subd (b); and **(3)** "the San Francisco System or the Defined Benefit Plan, but not both, provided the person" for "but not both systems, provided he or she" in subd (c).

1998 Amendment: Substituted "Defined Benefit Program" for "Defined Benefit Plan" wherever it appears.

2005 Amendment: Deleted "City and County" before "Employees' Retirement System" in the introductory clause.

2006 Amendment: Amended subd (c) by **(1)** substituting "A" for "Any" at the beginning; and **(2)** substituting "system" for "System" after "either the San Francisco".

§ 24705. Concurrent retirement and credit for services performed in other states, etc.

Notwithstanding the provisions in Section 24201, a member of the San Francisco system may retire concurrently and receive credit for service performed in other states of the United States, its territories and possessions, and in Canada.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 2002 ch 375 § 20 (AB 2982); Stats 2006 ch 655 § 49 (SB 1466), effective January 1, 2007.

Historical Derivation: Former § 23512, as enacted Stats 1976 ch 1010 § 2.

Amendments

2002 Amendment: Deleted "provided that person is eligible under Section 22707" at the end.

2006 Amendment: Deleted "local" after "of the San Francisco".

§ 24706. Subvention payments

The system shall pay from the fund to the San Francisco Unified School District and the San Francisco Community College District the amounts due for subventions required prior to July 1, 1972, on account of persons who retired or died prior to that date.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 281 (SB 2041).

Historical Derivation: Former Ed C § 23526, as enacted Stats 1976 ch 1010 § 2.

Amendments

1996 Amendment: Added "to the fund" after "system shall pay".

CHAPTER 33. LOS ANGELES UNIFIED SCHOOL DISTRICT PLAN

§ 24750. Members who took refund and who have permanent fund contributions

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 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.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1998 ch 965 § 224 (AB 2765); Stats 2000 ch 1020 § 9 (AB 820), operative July 1, 2001; Stats 2005 ch 351 § 36 (AB 224), effective January 1, 2006.

Historical Derivation: Former Ed C § 23614, as enacted Stats 1976 ch 1010 § 2.

Amendments

1998 Amendment: Added "under this part" at the end of subd (a).

2000 Amendment: Added "all or a portion of the accumulated retirement" in subd (a).

2005 Amendment: Deleted "City and County" before "Employees' Retirement System," in the introductory clause.

§ 24751. Members who took refund but did not redeposit (Local service credit)

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 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 who 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.

Added by Stats 1993 ch 893 § 2 (AB 1796). Amended by Stats 1996 ch 634 § 282 (SB 2041); Stats 1998 ch 965 § 225 (AB 2765); Stats 2000 ch 1020 § 10 (AB 820), operative July 1, 2001; Stats 2005 ch 351 § 37 (AB 224), effective January 1, 2006.

Historical Derivation: Former Ed C § 23615, as enacted Stats 1976 ch 1010 § 2, amended Stats 1979 ch 520 § 7.

Amendments

1996 Amendment: Added "Defined Benefit Plan" after "State Teachers' Retirement System" wherever it appears in the first sentence.

1998 Amendment: (1) Substituted "with respect to the Defined Benefit Program" for "Defined Benefit Plan" both times it appears; and **(2)** added "under this part" at the end of the second sentence.

2000 Amendment: Amended the first sentence by **(1)** adding "retirement" after "their accumulated" near the beginning; and **(2)** substituting "all or a portion of the accumulated retirement" for "the" after "Program, shall redeposit".

2005 Amendment: (1) Deleted "City and County" before "Employees' Retirement System,"; and **(2)** added "who" before "did not redeposit".

CHAPTER 34. ADMINISTRATION OF THE DISTRICT RETIREMENT SALARY PLAN

§§ 24800 – 24813 apply only to the Los Angeles Unified School District.

CHAPTER 35. JOINT DISTRICT SALARY RETIREMENT PLAN

§§ 24900 – 24944 apply only to the Los Angeles Unified School District.

CHAPTER 36. ANNUITY CONTRACT AND CUSTODIAL ACCOUNTS

§ 24950. Requirement that account be offered; Investment options; Contributions

(a) An annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986 shall be offered to:

(1) All employees of any state agency who are members of the plan under this part.

(2) Any employee of a local public agency or political subdivision of this state that employs persons to perform creditable service subject to coverage by the plan under this part.

(3) Any state employee of a state employer under the uniform state payroll system, excluding the California State University System, eligible to participate in an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986.

(b) The following criteria shall apply to that annuity contract and custodial account:

(1) The annuity contract and custodial account shall be offered for at least five years.

(2) The annuity contract and custodial account may be administered by a qualified third-party administrator that shall, under agreement with the system, provide custodial, investment, recordkeeping, or administrative services, or any combination thereof. The third-party administrator may not provide investment options other than pursuant to a shareholders' services agreement between the third-party administrator and the investment manager.

(3) The investment options offered shall be determined by the board consistent with those annuity contract and custodial accounts described in Section 403(b) of the Internal Revenue Code of 1986.

(4) The system's investment staff shall make recommendations to the board as to the appropriate investment options. At a minimum, the board shall offer at least three investment options. The board shall have sole responsibility for the selection of service providers.

(5) All contributions made in accordance with the provisions of Section 403(b) of the Internal Revenue Code of 1986 and this section shall be remitted directly to the administrator and held by the administrator in a custodial account on behalf of the employee. Any investment gains or losses shall be credited to those accounts. The forms of payment and disbursement procedure shall be consistent with those generally offered by similar annuity contracts and custodial accounts and applicable federal and state statutes governing those contracts and accounts.

(6) Any employer, other than the state, may elect to make contributions to the employee's annuity contract and custodial account on behalf of the employee. The employer shall take whatever action is necessary to implement this section, including the adoption of an annuity contract and custodial account, or provide the appropriate authorization in accordance with the provision of Section 403(b) of the Internal Revenue Code of 1986. Employer contributions made under this section are excluded from the definition of creditable compensation as provided in Section 22119.2.

(7) The design and administration of the annuity contract and custodial account shall comply with the applicable provisions of the Internal Revenue Code of 1986 and the Revenue and Taxation Code. Section 770.3 of the Insurance Code shall not be applicable.

Added Stats 1994 ch 291 § 5 (AB 3064). Amended Stats 1996 ch 634 § 283 (SB 2041); Stats 1997 ch 482 § 28 (SB 471); Stats 1998 ch 965 § 226 (AB 2765); Stats 2002 ch 375 § 21 (AB 2982); Stats 2008 ch 230 § 1 (AB 2191), effective January 1, 2009.

Amendments

1996 Amendment: (1) Amended the first sentence by substituting **(a)** "plan" for "system" after "are members of the"; and **(b)** "to perform creditable service subject to coverage by the plan" for "in positions requiring membership in the system" at the end; **(2)** substituted "at least" for "not less than" in subd (a); and **(3)** amended subd (e) by substituting **(a)** the first sentence for the former first sentence which read: "All contributions made by participants shall be remitted directly to the administrator and held by the administrator under custody."; and **(b)** "those" for "participant" after "be credited to" in the second sentence.

1997 Amendment: Amended the last sentence of subd (f) by substituting **(1)** "Employer contributions made under" for "Contributions made by an employer under"; **(2)** "creditable compensation" for "compensation" and "salary"; and **(3)** "Section 22119.2" for "Section 22114".

1998 Amendment: Added "under this part" both times it appears in the first sentence of the section.

2002 Amendment: Amended the last sentence of subd (b) by **(1)** substituting "may" for "shall" after "administrator"; and **(2)** adding "other than pursuant to a shareholders' services agreement between the third–party administrator and the investment manager".

2008 Amendment: (1) Divided the former introductory paragraph of the section into the introductory clause of subd (a), into subds (a)(1) and (a)(2), and into the introductory clause of subd (b) by adding the colon after "shall be offered to" and by substituting the period for "or" at the end of subd (a)(1); **(2)** added subd (a)(3); and **(3)** redesignated former subds (a)-(g) to be subds (b)(1)-(b)(7).

§ 24950.5. System may administer Roth IRA for purpose of accepting a rollover as specified

(a) The system may administer an individual retirement plan as described in Section 408A of Title 26 of the United States Code for the purpose of accepting a rollover from an annuity contract or custodial account offered by the system pursuant to this chapter to the extent the rollover complies with Title 26 of the United States Code.

(b) The system may provide for the administration of the individual retirement plan described in subdivision (a) by a qualified third-party administrator who shall, by agreement with the system, provide custodial, investment, recordkeeping, or administrative services, or any combination thereof.

Added Stats 2008 ch 432 § 1 (AB 1480), effective January 1, 2009.

§ 24951. Election to terminate offering of annuity contract and custodial account

If the rate of participation in the annuity contract and custodial account is less than 2 percent of active members in the Defined Benefit Program upon the completion of the initial five years of administration, the board may elect to terminate the offering of the annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986. The board shall provide two years' notice to the annuity contract and custodial account participants of its intention to terminate.

Added by Stats 1994 ch 291 § 5 (AB 3064). Amended by Stats 1996 ch 634 § 284 (SB 2041); Stats 1998 ch 965 § 227 (AB 2765).

Amendments

1996 Amendment: Substituted "plan's active members" for "system's active membership" after "2 percent of the" in the first sentence.

1998 Amendment: Amended the first sentence by **(1)** deleting "the plan's" after "2 percent of"; and **(2)** adding "in the Defined Benefit Program".

§ 24952. Provision for recovery of costs and expenses of administration

(a) Any annuity contract and custodial account advertised, promoted, or offered through one or more third-party service providers, shall provide for recovery, from the employees who participate, of all costs and expenses of its own administration, including, but not limited to, advertising, promotion, legal, accounting, compliance, recordkeeping, and investment costs and expenses.

(b) Any annuity contract and custodial account administered by the system shall provide for the recovery of all costs and expenses of its administration.

(c) The system may promote and advertise an annuity contract and custodial account administered directly by the system or by a third-party administrator.

Added by Stats 1994 ch 291 § 5 (AB 3064). Amended by Stats 2006 ch 780 § 3 (AB 2462), effective January 1, 2007.

Amendments

2006 Amendment: Amended subd (a) by **(1)** adding ", from the employees who participate," after "shall provide for recovery"; and **(2)** adding "compliance," after "accounting,".

§ 24953. Contract for services regarding annuity contract and custodial account

(a) For purposes of this section, the following definitions shall apply:

(1) "Annuity contract" means an annuity contract described in Section 403(b) of the Internal Revenue Code that is available to employees as described in Section 770.3 of the Insurance Code.

(2) "Custodial account" means a custodial account described in Section 403(b)(7) of the Internal Revenue Code.

(3) "Third-party administrator" means a person or entity other than the system that provides administrative or compliance services to the system as described in subdivision (b).

(b) An employer that employs persons to perform creditable service subject to coverage by the plan under this part, or the Controller on behalf of any state employer under the uniform state payroll system, excluding the California State University System, that employs persons eligible to participate in an annuity contract or custodial account as described in Section 403(b) of the Internal Revenue Code of 1986, may enter into a written contract with the system for services regarding an annuity contract and custodial account provided by the employer. That contract may include any of the following:

(1) Services to ensure compliance with Section 403(b) of the Internal Revenue Code regarding the annuity contract and custodial account including, but not limited to, services that permit the system to do any of the following:

(A) Administer and maintain written plan documents governing the employer's plan.

(B) Review and authorize hardship withdrawal requests, transfer requests, loan requests and other disbursements permitted under Section 403(b) of the Internal Revenue Code.

(C) Review and determine domestic relations orders as qualified domestic relations orders as described in Section 414(p) of the Internal Revenue Code.

(D) Provide notice to eligible employees that is consistent with Title 26 of the Code of Federal Regulations that those employees may participate in an annuity contract and custodial account.

(E) Administer and maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.

(F) Monitor, from information provided either directly from the employee, as part of the common remitting services provided pursuant to paragraph (2), through information provided by the employer, or through information provided by vendors authorized by the employer to provide investment products, the maximum contributions allowed by employees participating in the annuity contract and custodial account as described in Sections 402(g), 414(v), and 415 of the Internal Revenue Code.

(G) Calculate and maintain vesting information for contributions made by the employer to the annuity contract and custodial account.

(H) Identify and notify employees that are required to take a minimum distribution of the funds in that employee's annuity contract and custodial account as described in Section 401(a)(9) of the Internal Revenue Code.

(I) Coordinate responses to the Internal Revenue Service if there is an Internal Revenue Service audit of the annuity contract and custodial account.

(2) Services to administer the annuity contract and custodial account that include, but are not limited to, all of the following:

(A) Common remitting services.

(B) General educational information to employees about the annuity contract and custodial account that includes, but is not limited to, the enrollment process, program eligibility, and investment options.

(C) Internal reports for the employer to ensure compliance with Section 403(b) of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.

(D) Consulting services related to the design, operation, and administration of the plan.

(E) Internal audits, on behalf of an employer, of a provider's plan compliance procedures with respect to the provider's annuity contract and custodial account offered under the employer's plan. These audits shall not be conducted more than once per year for a provider's plan, unless documented evidence indicates a problem in complying with Section 403(b) of the Internal Revenue Code.

(c) If the system elects to contract with a third-party administrator for the administrative or compliance services to employers described in subdivision (b), the system shall do all of the following:

(1) Determine that hiring the third-party administrator is in the best interest of the participants to the annuity contract and custodial account, their beneficiaries, and the employer that provides that annuity contract and custodial account.

(2) Require the third-party administrator to provide proof of liability insurance and a fidelity bond in an amount determined by the system to be sufficient to protect the assets of participants and beneficiaries in the annuity contract and custodial account.

(3) Require evidence, if the third-party administrator is related to or affiliated with a provider of investment products pursuant to Section 403(b) of the Internal Revenue Code, that data generated from the services provided by the third-party administrator are maintained in a manner that prevents the provider of investment products from accessing that data.

(d) Any personal information obtained by the system in providing services pursuant to this section shall be used by the system only to provide those services for the employer in accordance with the contract entered into with the employer pursuant to subdivision (b).

(e) Nothing in this section requires an employer to contract with the system for the administrative or compliance services described in subdivision (b). A written contract for the administrative or compliance services described in subdivision (b) shall be on behalf of and at the request of the employer.

(f) Nothing in this section shall be construed to interfere with either:

(1) The rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(2) The ability of an employer to establish nonarbitrary requirements upon providers of an annuity contract that, in the employer's determination, aid in the administration of its benefit programs and do not unreasonably discriminate against any provider of an annuity contract or interfere with the rights of employees or beneficiaries as described in Section 770.3 of the Insurance Code.

(g) The cost of providing administrative or compliance services pursuant to this section shall be deemed to be a cost incurred by the employer and subject to subdivision (b) of Section 44041 or subdivision (b) of Section 87040, as may be applicable.

(h) In any conflict between this section and Section 44041.5 or 87040.5, including, with respect to the provision of services provided pursuant to a contract between an employer and the system, the provisions of this section shall prevail.

(i) The system shall disclose to an employer seeking the services described in this section any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the system or a third-party administrator from any plan provider selected as a vendor of an annuity contract or custodial account by the employer. If the system or a third-party administrator is affiliated with or has a contractual relationship with a provider of annuity contracts or custodial accounts, the system or third-party administrator shall disclose the existence of that relationship to each employer and employee participating in the annuity contract or custodial account.

Added Stats 2006 ch 780 § 4 (AB 2462), effective January 1, 2007. Amended Stats 2008 ch 230 § 2 (AB 2191), effective January 1, 2009.

Amendments

2008 Amendment: (1) Added ", or the Controller on behalf of any state employer under the uniform state payroll system, excluding the California State University System, that employs persons eligible to participate in an annuity contract or custodial account as described in Section 403(b) of the Internal Revenue Code of 1986," in subd (b); and **(2)** added ", as may be applicable" at the end of subd (g).

CHAPTER 37. DEFERRED COMPENSATION PLANS

§ 24975. Development of deferred compensation plans

(a) The board may develop one or more deferred compensation plans under Section 457 of the Internal Revenue Code that an employer may choose to establish and offer to its employees who are members or participants of the plan under this part or Part 14 (commencing with Section 26000) or any employee of a local public agency or political subdivision of this state that employs persons to perform creditable service subject to coverage by the plan under this part.

(b) If an employer adopts a deferred compensation plan described in subdivision (a):

(1) The employer shall enter into a written contractual arrangement with the system under which the system, or a third–party administrator acting on behalf of the system, shall provide investment, recordkeeping, and administrative services for the deferred compensation plan.

(2) The initial period of the contractual arrangement described in paragraph (1) shall be for a term of five years.

(3) The deferred compensation plan shall continue to constitute a separate plan established and maintained by the adopting employer.

(4) The system shall be treated as acting on behalf of the employer in administering the deferred compensation plan.

(5) The terms and administration of the deferred compensation plan shall be in accordance with the applicable provisions of Section 457 of the Internal Revenue Code.

(6) In administering the deferred compensation plan on behalf of the employer, the board shall have the same investment authority and discretion and be subject to the same fiduciary standards pursuant to Chapter 4 (commencing with Section 22250), with respect to amounts deferred under the deferred compensation plan as applied by the system with respect to the Teachers' Retirement Fund.

(c) If an employer establishes and maintains a deferred compensation plan described in subdivision (a), the deferred compensation plan shall be offered to all of its employees who are eligible to participate pursuant to this section.

(d) An employee participating in a deferred compensation plan established by an employer under this section shall enter into a written agreement with the employer for the deferral of compensation prior to the performance of the services to which that compensation relates.

(e) If an employer chooses to establish and maintain a deferred compensation plan described in subdivision (a) that is to be administered by the system, the employer shall take all necessary or appropriate action to implement this section in cooperation with the system.

Added by Stats 1994 ch 489 § 2 (AB 3705), as Ed C § 25000. Amended by Stats 1996 ch 634 § 285 (SB 2041); Stats 1998 ch 965 § 228 (AB 2765). Amended and renumbered by Stats 1999 ch 740 § 1 (SB 159), effective October 10, 1999. Amended by Stats 2002 ch 375 § 22 (AB 2982). Amended by Stats 2003 ch 859 § 29 (SB 627).

Amendments

1996 Amendment: (1) Substituted "Defined Benefit Plan or participants of the Cash Balance Plan" for "system" at the end of subds (a) and (c); **(2)** amended subd (b) by **(a)** substituting "for the deferred compensation" for "in respect of the" after "administrative services" in subd (1); and **(b)** adding "deferred compensation" before "plan" wherever it appears in subds (3)–(7); and **(3)** added "deferred compensation" after "subdivision (a), the" in subd (c).

1998 Amendment: Substituted "plan under this part or Part 14 (commencing with Section 26000)" for "Defined Benefit Plan or participants of the Cash Balance Plan" at the end of subds (a) and (c).

1999 Amendment: (1) Substituted "that" for "which" after "Revenue Code" in subd (a); **(2)** substituted "If" for "In the event that" at the beginning of subds (b), (c), and (e); **(3)** deleted former subd (b)(6) which read: "(6) The interest of an employee, or his or her beneficiary, participating in the deferred compensation plan in the as-

sets, including amounts deferred under the plan and paid over to the Teachers' Deferred Compensation Fund described in Section 25001, of the employer sponsoring the deferred compensation plan shall not be senior to that of the general creditors of the employer."; and **(4)** redesignated former subd (b)(7) to be subd (b)(6).

2002 Amendment: (1) Added "or any employee of a local public agency or political subdivision of this state that employs persons to perform creditable service subject to coverage by the plan under this part" in subd (a); and **(2)** deleted "who are members of the plan under this part or Part 14 (commencing with Section 26000)" at the end of subd (c).

2003 Amendment: Added **(1)** "or participants" in subd (a); and **(2)** "who are eligible to participate pursuant to this section" in subd (c).

§ 24976. Teachers' Deferred Compensation Fund

(a)(1) The Teachers' Deferred Compensation Fund is hereby established to serve as the repository of funds received by the system pursuant to this chapter, Chapter 36 (commencing with Section 24950) or Chapter 39 (commencing with Section 25100).

(2) Except as described in paragraph (7), premium and fee revenues received by the system pursuant to Chapter 36 (commencing with Section 24950), except Section 24950.5, shall be deposited into the 403(b) Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of that chapter, excluding Section 24950.5.

(3) Premium and fee revenues received by the system pursuant to Section 24950.5 of Chapter 36 shall be deposited into the Roth IRA Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of that section.

(4) Premium and fee revenues received by the system pursuant to this chapter shall be deposited into the Deferred Compensation Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of this chapter.

(5) Compensation deferrals received by the system pursuant to this chapter shall be deposited into the Deferred Compensation Investment Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of this chapter.

(6) Fee revenues received by the system pursuant to Chapter 39 (commencing with Section 25100) shall be deposited into the 403(b) Vendor Registry Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of that chapter.

(7) Fee revenues received by the system pursuant to Sections 24953 and 24977, and any assets in the Teachers' Retirement Program Development Fund pursuant to Section 22307.5 as of January 1, 2008, shall be deposited into the Deferred Compensation Administrative and Compliance Services Operating Account within the Teachers' Deferred Compensation Fund, and shall only be used to carry out the purposes of Sections 24953 and 24977.

(8) Notwithstanding Section 13340 of the Government Code, all moneys in the Teachers' Deferred Compensation Fund shall be continuously appropriated without regard to fiscal year to carry out the purposes of this chapter, Chapter 36 (commencing with Section 24950), and Chapter 39 (commencing with Section 25100).

(b) With respect to deferred compensation plans administered pursuant to this chapter, and notwithstanding any other provision of law, the system may retain a bank or trust company, or a credit union, to serve as custodian of the moneys of the Teachers' Deferred Compensation Fund and to provide for safekeeping, recordkeeping, delivery, securities valuation, or investment performance reporting services, or services in connection with investment of the Teachers' Deferred Compensation Fund.

(c) With respect to deferred compensation plans administered pursuant to this chapter, the Teachers' Deferred Compensation Fund shall consist of the following sources and receipts, and disbursements shall be accounted for as set forth below:

(1) Premiums determined by the system and paid by participating employers and employees for the cost of administering the deferred compensation plan.

(2) Asset management fees as determined by the system assessed against investment earnings of investment option or of other investment funds. These fees shall be disclosed to employees participating in the deferred compensation plan.

(3) Compensation deferrals to be paid in monthly installments by employers sponsoring deferred compensation plans described in Section 24975 for investment by the system. The moneys shall be deposited in the investment corpus account within the Teachers' Deferred Compensation Fund and invested in accordance with the investment options selected by the participating employee.

(4) Disbursements to participating employees shall be paid from a disbursement account within the Teachers' Deferred Compensation Fund in accordance with applicable federal law pertaining to deferred compensation plans.

(5) Income, of whatever nature, earned on the Teachers' Deferred Compensation Fund shall be credited to the appropriate account. The accounts of participating employees of the employer shall be individually posted to reflect amounts of compensation deferred and investment gains and losses. A periodic statement shall be given to each participating employee.

(6) The system shall have exclusive control of the administration and investment of the Teachers' Deferred Compensation Fund.

(7) All of the system's costs of administering the deferred compensation plans pursuant to this chapter shall be recovered from the employees who participate in the plans or assets of the Teachers' Deferred Compensation Fund in a manner acceptable to the board.

Added Stats 1994 ch 489 § 2 (AB 3705), as Ed C § 25001. Amended Stats 1996 ch 634 § 286 (SB 2041). Amended and renumbered Stats 1999 ch 740 § 2 (SB 159), effective October 10, 1999. Amended Stats 2001 ch 430 § 3 (AB 743); Stats 2006 ch 655 § 49.5 (SB 1466), effective January 1, 2007; Stats 2007 ch 323 § 17 (AB 757), effective January 1, 2008; Stats 2008 ch 432 § 2 (AB 1480), effective January 1, 2009.

Amendments

1996 Amendment: (1) Amended subd (a) by substituting **(a)** "for" for "in respect of" after "repository of funds" in the first sentence; and **(b)** "Teachers' Deferred Compensation Fund" for "fund" at the end of the second sentence; and **(2)** amended subd (b) by **(a)** adding "deferred compensation" after "participating in the" in the second sentence of subd (2); and **(b)** substituting "participating employee" for "member" at the end of the third sentence in subd (5).

1999 Amendment: Substituted "Section 24975" for "Section 25000" in the first sentence of subd (b)(3).

2001 Amendment: Added ", or a credit union," in the second sentence of subd (a).

2006 Amendment: (1) Added subd designation (a)(1); **(2)** added ", Chapter 36 (commencing with Section 24950) or Chapter 39 (commencing with Section 25100)." at the end of subd (a)(1); (2) added subds (a)(2)-(a)(6); **(3)** added subd designation (b); **(4)** added "With respect to deferred compensation plans administered pursuant to this chapter, and" at the beginning of subd (b); **(5)** redesignated former subd (b) to be subd (c); **(6)** added "With respect to deferred compensation plans administered pursuant to this chapter," at the beginning of subd (c); **(7)** deleted former first sentence in subd (c)(4) which read: "All moneys in the Teacher's Deferred Compensation Fund for disbursement to participating employees shall be continuously appropriated without regard to fiscal year."; and **(8)** added "pursuant to this chapter" after "deferred compensation plans" in subd (c)(7).

2007 Amendment: (1) Added "Except as described in paragraph (6)," at the beginning of subd (a)(2); **(2)** added subd (a)(6); and **(3)** redesignated former subd (a)(6) to be subd (a)(7).

2008 Amendment: (1) Amended subd (a)(2) by **(a)** substituting "paragraph (7)" for "paragraph (6)"; **(b)** adding ", except Section 24950.5,"; and **(c)** adding ", excluding Section 24950.5" at the end; **(2)** added subd (a)(3); and **(3)** redesignated former subds (a)(3)-(a)(7) to be subds (a)(4)-(a)(8).

§ 24977. Contract for services regarding deferred compensation plan

(a) An employer that employs persons to perform creditable service subject to coverage by the plan under this part that offers a deferred compensation plan as described in Section 457 of the Internal

Revenue Code may enter into a written contract with the system for services regarding that deferred compensation plan provided by the employer. That contract may include any of the following services:

(1) Services to ensure compliance with Section 457 of the Internal Revenue Code regarding the deferred compensation plan including, but not limited to, services that permit the system to do any of the following:

(A) Administer and maintain written plan documents governing the employer's plan.

(B) Review and authorize requests for unforeseeable emergency withdrawals, transfer requests, loan requests and other disbursements permitted under Section 457 of the Internal Revenue Code.

(C) Review and determine domestic relations orders as qualified domestic relations orders as described in Section 414(p) of the Internal Revenue Code.

(D) Provide notice to eligible employees that is consistent with Title 26 of the Code of Federal Regulations that those employees may participate in the deferred compensation plan.

(E) Administer and maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.

(F) Monitor, from information provided either directly from the employee, as part of the common remitting services provided pursuant to paragraph (2), through information provided by the employer, or through information provided by vendors authorized by the employer to provide investment products, the maximum contributions allowed by employees participating in the deferred compensation plan as described in Sections 414(v) and 457 of the Internal Revenue Code.

(G) Calculate and maintain vesting information for contributions made by the employer to the deferred compensation plan.

(H) Identify and notify employees that are required to take a minimum distribution of the funds in that employee's deferred compensation plan as described in Section 401(a)(9) of the Internal Revenue Code.

(I) Coordinate responses to the Internal Revenue Service if there is an Internal Revenue Service audit of the deferred compensation plan.

(2) Services to administer the deferred compensation plan that include, but are not limited to, all of the following:

(A) Common remitting services.

(B) General educational information to employees about the deferred compensation plan that includes, but is not limited to, the enrollment process, program eligibility, and investment options.

(C) Internal reports for the employer to ensure compliance with Section 457 of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.

(D) Consulting services related to the design, operation, and administration of the plan.

(E) Internal audits, on behalf of an employer, of a provider's plan compliance procedures with respect to the provider's custodial account offered under the employer's plan. These audits shall not be conducted more than once per year for any provider's plan unless documented evidence indicates a problem in complying with Section 457 of the Internal Revenue Code.

(b) The system may contract with a third-party administrator for the administrative and compliance services to employers described in subdivision (a). For purposes of this subdivision, a "third-party administrator" shall mean a person or entity other than the system that provides administrative or compliance services as described in subdivision (a). If the system contracts with a third-party administrator, the system shall do all of the following:

(1) Determine that hiring a third-party administrator is in the best interest of the participants to the deferred compensation plan, their beneficiaries, and the employer that provides that deferred compensation plan.

(2) Require the third-party administrator to provide proof of liability insurance and a fidelity bond in an amount determined by the system to be sufficient to protect the assets of participants and beneficiaries in the deferred compensation plan.

(3) Require evidence, if the third-party administrator is related to or affiliated with a provider of investment products pursuant to Section 457 of the Internal Revenue Code, that data generated from the

services provided by the third-party administrator are maintained in a manner that prevents the provider of investment products from accessing that data.

(c) Nothing in this section requires an employer to contract with the system for the administrative or compliance services described in subdivision (a). A written contract for the administrative or compliance services described in subdivision (a) shall be on behalf of and at the request of the employer.

(d) Any personal information obtained by the system in providing services pursuant to this section shall be used by the system only to provide those services for the employer in accordance with the contract entered into with the employer pursuant to subdivision (b).

(e) The cost of providing administrative or compliance services pursuant to this section shall be deemed to be a cost incurred by the employer and subject to subdivision (b) of Section 44041 or subdivision (b) of Section 87040.

(f) In any conflict between this section and Section 44041.5 or 87040.5, including with respect to the provision of services provided pursuant to a contract between an employer and the system, the provisions of this section shall prevail.

(g) The system shall disclose to an employer seeking the services described in this section any fees, commissions, cost offsets, reimbursements, or marketing or promotional items received by the system or a third-party administrator from any plan provider selected as a vendor of a deferred compensation plan by the employer. If the system or a third-party administrator is affiliated with or has a contractual relationship with a provider of deferred compensation plans, the system or third-party administrator shall disclose the existence of that relationship to each employer and each individual participant in the deferred compensation plan.

Added by Stats 2006 ch 780 § 5 (AB 2462), effective January 1, 2007.

CHAPTER 38. DEFINED BENEFIT SUPPLEMENT PROGRAM

Article 1. General Provisions

§ 25000. Establishment of program

The Defined Benefit Supplement Program is hereby established to provide supplemental benefits for members of the Defined Benefit Program. The Teachers' Retirement Board shall administer the Defined Benefit Supplement Program in accordance with the provisions of this part.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 45 (AB 2700).

Former Sections: Former § 25000 was added Stats 1999 ch 740 § 3, effective October 10, 1999, renumbered Ed C § 25900 by Stats 2000 ch 74 § 63, amended and renumbered Ed C § 25900 by Stats 2000 ch 1032 § 2.

Former § 25000, relating to development of deferred compensation plans, was added Stats 1994 ch 489 § 2, amended Stats 1996 ch 634 § 285, Stats 1998 ch 965 § 228, and amended and renumbered Ed C § 24975 by Stats 1999 ch 740 § 1, effective October 10, 1999.

§ 25000.5. Amendment of plan (Compliance with federal and state tax codes)

The design and administration of the Defined Benefit Supplement Program shall comply with the applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code. The board may amend the plan with respect to the Defined Benefit Supplement Program to do any of the following:

(a) Comply with applicable federal law and regulations to the extent permitted by law.
(b) Adopt or amend actuarial assumptions.
(c) Designate the initial plan year.
(d) Declare the annual the minimum interest rate.
(e) Declare an additional earnings credit.
(f) Declare an additional annuity credit.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 46 (AB 2700).

§ 25000.7. Vested rights; Rollovers

(a) A member shall have a vested right to a benefit under the Defined Benefit Supplement Program in an amount equal to the balance of credits in the member's Defined Benefit Supplement account. That right shall accrue when the member's Defined Benefit Supplement account is established pursuant to Section 25004.

(b) If a person becomes entitled to a distribution from the program under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect, under terms and conditions established by the board, to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the program of the amount so designated, once distributable under the terms of the program, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

Added by Stats 2000 ch 74 § 69 (AB 1509).

§ 25000.9. "Nonmember spouse" and "Nonmember registered domestic partner" for Defined Benefit Supplement Program purposes

(a) For purposes of this chapter and Section 23300, "nonmember spouse" means a member's spouse or former spouse who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part.

(b) For purposes of this chapter and Section 23300, a member's registered domestic partner or former registered domestic partner who is being or has been awarded a community property interest in the service credit, accumulated retirement contributions, accumulated Defined Benefit Supplement account balance, or benefits of the member under this part shall be treated in the same manner as a nonmember spouse.

(c) A nonmember spouse may not be considered a member based upon his or her receipt of any of the following being awarded to the nonmember spouse as a result of legal separation, dissolution of marriage, or dissolution of domestic partnership:

(1) A separate account of service credit and accumulated retirement contributions, a retirement allowance, or an interest in the member's retirement allowance under the Defined Benefit Program.

(2) A separate account based on the member's Defined Benefit Supplement account balance, a retirement benefit, or an interest in the member's retirement benefit under the Defined Benefit Supplement Program.

Added by Stats 2002 ch 375 § 23 (AB 2982). Amended by Stats 2003 ch 859 § 30 (SB 627); Stats 2004 ch 912 § 24 (AB 2233)); Stats 2005 ch 418 § 8 (SB 973), effective January 1, 2006.

Amendments

2003 Amendment: Added "and Section 23300" in the first sentence of the introductory paragraph.

2004 Amendment: (1) Added ", and also includes a member's registered domestic partner or former registered domestic partner," in the first sentence; and **(2)** substituted ", dissolution of marriage, or dissolution of domestic partnership" for "or dissolution of marriage" at the end of the introductory clause.

2005 Amendment: (1) Designated the first sentence of the introductory language as subd (a); **(2)** in the first sentence of the introductory language, substituted "spouse" for "spouse, and also includes a member's registered domestic partner or former registered partner,"; **(3)** added subd (b); **(4)** designated the second sentence of the former introductory language to be the introductory language of subd (c); and **(5)** redesignated former subds (a) and (b) as subds (c)(1) and (c)(2), respectively.

Article 2. Program Accounts

§ 25001. Segregated account; Excess earnings (Gain and loss reserve)

(a) The board shall establish a segregated account within the retirement fund to be known as the Gain and Loss Reserve, and the board shall have sole authority over the reserve. The Gain and Loss Reserve shall be maintained for the Defined Benefit Supplement Program and may be used to credit interest at the minimum interest rate for plan years in which the board determines that the obligation cannot be met from investment earnings. The Gain and Loss Reserve may also be used to provide additions to the Annuitant Reserve for monthly annuities payable under the Defined Benefit Supplement Program.

(b) The board shall establish a goal for the balance of the Gain and Loss Reserve and periodically shall review the sufficiency of the reserve based on the recommendations of the actuary.

(c) The board may allocate excess earnings of the plan with respect to assets attributable to the Defined Benefit Supplement Program to the Gain and Loss Reserve. In addition, the board may allocate any liability gains and losses attributable to the Defined Benefit Supplement Program to the Gain and

Loss Reserve. Upon the recommendation of the actuary, the board shall determine annually the amount, if any, that is to be allocated to the Gain and Loss Reserve for that plan year. That determination shall be made upon recommendation of the actuary after adoption of the actuarial valuation undertaken following the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year. In determining whether to allocate excess earnings to the Gain and Loss Reserve, the board shall consider all of the following:

(1) Whether or not the plan has excess earnings attributable to the Defined Benefit Supplement Program.

(2) The sufficiency of the Gain and Loss Reserve in light of the goal established pursuant to subdivision (b).

(3) The amount required for the plan's administrative costs with respect to the Defined Benefit Supplement Program.

(4) The amount required for crediting members' accounts at the minimum interest rate.

(d) In determining whether to allocate liability gains and losses to the Gain and Loss Reserve, the board shall consider the matters described in paragraphs (2), (3), and (4) of subdivision (c).

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 47 (AB 2700).

Former Sections: Former § 25001 was added Stats 1994 ch 489 § 2, amended Stats 1996 ch 634 § 286, and amended and renumbered Ed C § 24976 by Stats 1999 ch 740 § 2, effective October 10, 1999.

§ 25002. Annuitant Reserve

The board shall establish and maintain a segregated account within the retirement fund to be known as the Annuitant Reserve and the board shall have sole authority over the reserve. The Annuitant Reserve shall be used for the payment of annuities under the Defined Benefit Supplement Program. The board shall transfer the balance of credits in a member's accumulated Defined Benefit Supplement account to the reserve when a benefit is to be paid as an annuity.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 48 (AB 2700).

§ 25003. Transfers of funds

The board may transfer amounts between the Gain and Loss Reserve and the Annuitant Reserve upon the recommendation of the actuary.

Added by Stats 2000 ch 74 § 69 (AB 1509).

§ 25004. Member accounts

Member accounts under the Defined Benefit Supplement Program shall be nominal accounts. Member contributions and employer contributions on behalf of the member that are specifically identified as creditable to the Defined Benefit Supplement Program shall be treated as credits to the member's Defined Benefit Supplement account, together with interest credited at the minimum interest rate and additional earnings credit thereon. The balance of credits in a member's account shall determine the amount to which the member is entitled under the Defined Benefit Supplement Program upon termination of employment subject to coverage by the plan. The member shall not have a right or claim to any specific assets of the account, program, plan, or retirement fund.

Added by Stats 2000 ch 74 § 69 (AB 1509).

§ 25005. Interest rates

(a) Prior to July 1 of the initial plan year, and prior to the beginning of each plan year thereafter, the board shall adopt a plan amendment with respect to the Defined Benefit Supplement Program to declare the rate at which interest shall be credited to Defined Benefit Supplement accounts for the following plan year.

(b) The minimum interest rate declared annually by the board shall be in accordance with applicable federal laws and related regulations and shall not be less than the rate at which interest is credited under the Defined Benefit Program.

(c) Interest shall be credited to Defined Benefit Supplement accounts and shall be computed at the minimum interest rate on the balance of credits in a member's account and shall be compounded daily.

(d) Credited interest shall not be applied to the balance of credits in a member's Defined Benefit Supplement account that has been transferred to the Annuitant Reserve.

Added by Stats 2000 ch 74 § 69 (AB 1509).

§ 25006. Additional earnings credit

(a) The board may declare an additional earnings credit to be applied to Defined Benefit Supplement accounts for a plan year. Prior to declaring an additional earnings credit, the board shall consider all of the following:

(1) Whether the plan's investment earnings with respect to the Defined Benefit Supplement Program for the plan year exceed the amount required to meet the liabilities identified in paragraphs (2), (3), and (4).

(2) The amount required for the plan year to credit interest on members' nominal accounts at the minimum interest rate.

(3) The amount of the plan's administrative expenses with respect to the Defined Benefit Supplement Program for the plan year.

(4) The sufficiency of the Gain and Loss Reserve and whether any additions must be made to that reserve.

(b) For any plan year that the board declares an additional earnings credit, the board shall specify the amount to be added to members' accounts as a percentage increase. The additional earnings credit shall be applied to the balance of credits in each member's nominal account as of the last day of the plan year and shall be applied as of the date specified by the board. The additional earnings credit shall not be added to the balance of credits transferred from a member's Defined Benefit Supplement account to the Annuitant Reserve.

(c) The declaration of an additional earnings credit shall be made as a plan amendment adopted by the board with respect to the Defined Benefit Supplement Program upon recommendation of the actuary after adoption of the actuarial valuation undertaken following the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 49 (AB 2700).

§ 25007. Additional annuity credit

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

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

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

Added Stats 2000 ch 74 § 69 (AB 1509). Amended Stats 2002 ch 375 § 24 (AB 2982); Stats 2009 ch 304 § 26 (SB 634), effective January 1, 2010.

Amendments

2002 Amendment: Amended the introductory paragraph by **(1)** adding "as of the date specified by the board pursuant to Section 25006" in the first sentence; and **(2)** substituting "lump sum" for "lump–sum" at the end of the second sentence.

2009 Amendment: (1) Substituted "annuity of the member and annuity beneficiaries for the plan year" for "balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve" in the first sentence of the introductory paragraph; and **(2)** amended the second sentence of the introductory paragraph by **(a)** deleting ", if declared by the board," after "annuity credit"; and **(b)** adding "to the members and annuity beneficiaries on the date specified by the board".

§ 25008. Member's right to balance of credits; Distributions

A member's right to an amount equal to the member's Defined Benefit Supplement account balance shall be vested at the time contributions are initially credited to the member's account.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 50 (AB 2700).

§ 25008.5. Distribution of balance of credits from Defined Benefit Supplement account

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

Added Stats 2009 ch 304 § 27 (SB 634), effective January 1, 2010.

Article 3. Retirement Benefits

§ 25009. Retirement benefits

(a) A member's retirement benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(b) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a retirement benefit. Any retirement benefit paid as an annuity under this chapter shall be subject to Section 25011 or 25011.1.

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

(d) A member may not apply a lump-sum payment made to the member pursuant to this section for any of the following purposes:

(1) Purchasing service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), or Chapter 14.5 (commencing with Section 22850).

(2) Redepositing previously refunded retirement contributions pursuant to Chapter 19 (commencing with Section 23200).

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 51 (AB 2700); Stats 2006 ch 655 § 50 (SB 1466), effective January 1, 2007; Stats 2007 ch 323 § 18 (AB 757), effective January 1, 2008.

Amendments

2006 Amendment: Added "or 25011.1" after "subject to Section 25011" in subd (b).

2007 Amendment: Added subd (d).

§ 25010. Eligibility requirements

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

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

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

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

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

Added Stats 2000 ch 74 § 69 (AB 1509). Amended Stats 2000 ch 1021 § 52 (AB 2700); Stats 2009 ch 304 § 28 (SB 634), effective January 1, 2010.

Amendments

2009 Amendment: Added subd (c).

§ 25011. Elections as to receipt of benefits

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

(b) If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

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

(3) A 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the single life annuity with a cash refund feature and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(4) A 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the single life annuity with a cash refund feature and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

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

(c) If a nonmember spouse elects to receive the retirement benefit as an annuity, the nonmember spouse shall elect the form of payment specified in paragraph (1), (2), or (5) of subdivision (b) and, in those paragraphs, references to a "member" shall apply to the nonmember spouse.

(d) On or after January 1, 2007, a member may not make a new election of a joint and survivor annuity described in subdivision (b), except as provided by subdivision (e) of Section 25011.1.

(e) Any member with a retirement effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 25011.1.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 53 (AB 2700); Stats 2001 ch 803 § 25 (SB 501); Stats 2002 ch 375 § 25 (AB 2982), ch 903 § 6 (SB 1983) (ch 903 prevails); Stats 2006 ch 655 § 51 (SB 1466), effective January 1, 2007.

Amendments

2001 Amendment: (1) Substituted "100–percent" for "100 percent" in the first sentence of subd (b)(3); **(2)** added "with a 'pop–up' feature" in the first sentences of subds (b)(3)and (b)(4); **(3)** substituted "form of payment" for "annuity" in the fourth sentences of subds (b)(3)and (b)(4); **(4)** substituted "50–percent" for "50 percent" in the first sentence of subd (b)(4); **(5)** substituted "in whole year increments over a period of years specified by the member" for "over a specified number of years" in the third sentence of subd (b)(5); and **(6)** deleted former subd (c) which read: "(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402."

2002 Amendment: (1) Amended subd (a) by adding **(a)** "or nonmember spouse"; and **(b)** "or nonmember spouse's respective"; **(2)** amended subd (b)(3) by adding **(a)** "However," at the beginning of the fourth sentence; and **(b)** the sixth through last sentences; **(3)** amended subd (b)(4) by adding **(a)** "However," at the beginning of the fourth sentence; and **(b)** the sixth through last sentences; **(4)** substituted "may" for "shall" after "annuity period" in the fourth sentence of subd (b)(5); and **(5)** added subd (c).

2006 Amendment: (1) Amended subd (b)(3) by **(a)** substituting "elected" for "selected" after "had the member"; **(b)** deleting the comma after "predeceases the member"; **(c)** substituting "designates a new option" for "may designate a new annuity" after "and the member"; **(d)** deleting "of the new designation" after "The effective date"; **(e)** deleting "designated" after "member and the new"; **(f)** deleting "selection of the" after "are then living. The"; **(g)** substituting "and" for ". A member" after "cash refund feature"; **(h)** deleting "designate a new annuity beneficiary if that designation would" after "and may not"; and **(i)** adding the last sentence; **(2)** amended subd (b)(4) by **(a)** substituting "elected" for "selected" after "had the member"; **(b)** substituting "and" for the comma after "predeceases the member"; **(c)** substituting "designates a new option" for "may designate a new annuity" after "and the member"; **(d)** adding "pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary" after "new option beneficiary"; **(e)** deleting "of the new designation" after "The effective date"; **(f)** deleting "designated" after "member and the new"; **(g)** deleting "selection of the" after "are then living. The"; **(h)** substituting "and" for ". A member" after "cash refund feature"; **(i)** deleting "designate a new annuity beneficiary if that designation would" after "and may not"; and **(j)** adding the last sentence; **(3)** added subd designation (d); and **(4)** added subd (e).

§ 25011.1. Election to receive the retirement benefit as an annuity payable in monthly installments

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

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

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

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

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

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

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

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member as the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300.1, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

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

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

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

Added Stats 2006 ch 655 § 52 (SB 1466), effective January 1, 2007. Amended Stats 2009 ch 304 § 29 (SB 634), effective January 1, 2010.

Amendments

2009 Amendment: Substituted "paragraph (1) or (5)" for "paragraph (1) or (6)" in subd (c).

§ 25011.5. Change of annuities

(a) A member who retired and elected an annuity pursuant to Section 25011 may elect to change annuities, subject to all of the following:

(1) A member who elected a single life annuity with or without a cash refund feature or elects a period certain annuity may not change his or her annuity.

(2) A member who elected an annuity under paragraph (3) or (4) of subdivision (a) of Section 25011 may elect an annuity under paragraph (3) of subdivision (a) of Section 25011.1.

(3) The election by the member under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The member designates the same beneficiary that was designated under the prior annuity election by the member, if the annuity and annuity designation was effective on December 31, 2006.

(5) The member and the annuity beneficiary are not afflicted with a known terminal illness and the member declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, he or she and the annuity beneficiary are not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the member as of the effective date of the change in the annuity by the member.

(b) The change in the annuity by the member shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a member's election document, the system shall mail an acknowledgment notice to the member that sets forth the new annuity elected by the member.

(d) If the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, a member may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the member on or before June 1, 2007, or prior to the end of the election period, provided that the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a member to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(f) If the member elects to change his or her annuity as described in subdivision (a), the annuity of the member shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) References to a "member" in paragraph (1) of subdivision (a) shall apply to the nonmember spouse.

(h) The member shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

Added by Stats 2006 ch 655 § 53 (SB 1466), effective January 1, 2007.

Article 4. Annuities

§ 25012. Determination of annuity

(a) An annuity payable under the Defined Benefit Supplement Program shall be determined as a value actuarially equivalent to the balance of credits in the member's Defined Benefit Supplement Program account on the member's retirement date and after any lump-sum payment. If a single life annuity is elected, the annuity shall be calculated using the age of the member on the member's retirement date. A member may elect a single life annuity only if the member did not elect to receive a modified allowance pursuant to Section 24300 or 24300.1. If a joint and survivor annuity is elected, the annuity shall be calculated using the age of the member and the age of the member's beneficiary on the member's retirement date. A member may elect a joint and survivor annuity only if the member elected to receive a modified allowance pursuant to Section 24300 or 24300.1.

(b) The beneficiary designation made pursuant to Section 24307 is not applicable to benefits payable under this chapter.

Added Stats 2000 ch 74 § 69 (AB 1509). Amended Stats 2000 ch 1021 § 54 (AB 2700); Stats 2002 ch 375 § 26 (AB 2982); Stats 2006 ch 655 § 54 (SB 1466), effective January 1, 2007; Stats 2011 ch 703 § 31 (SB 349), effective January 1, 2012.

Amendments

2002 Amendment: (1) Designated the former section to be subd (a); and **(2)** added subd (b).

2006 Amendment: Added "or 24300.1" after "Section 24300" both times it appears in subd (a).

2011 Amendment: (1) Amended the first sentence of subd (a) by **(a)** substituting "Defined Benefit Supplement Program" for "Defined Benefit Supplement"; and **(b)** substituting "member's retirement date" for "date the benefit becomes payable"; and **(2)** substituted "member's retirement date" for "date the benefit becomes payable" in the second and fourth sentence of subd (a).

§ 25013. Balance of credits to be transferred

Upon election by the member to receive a benefit payable under the Defined Benefit Supplement Program in the form of an annuity, the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve.

Added by Stats 2000 ch 74 § 69 (AB 1509).

§ 25014. Reinstatement; Termination of annuity

(a) If a member reinstates from service retirement under this part, payment of a retirement annuity based on the balance of credits that was transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall terminate. The member's Defined Benefit Supplement account shall be credited with the actuarial equivalent of the member's annuity as of the date the annuity is terminated and the Annuitant Reserve shall be reduced by the amount credited to the member's account.

(b) If the member subsequently retires again, an annuity or lump–sum payment based on the remaining balance of credits in the member's Defined Benefit Supplement account at the time of the subsequent retirement shall become payable pursuant to Section 24202.5 and the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve or paid to the member in the form of a lump–sum payment.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 55 (AB 2700); Stats 2001 ch 803 § 26 (SB 501).

Amendments

2001 Amendment: Amended subd (b) by adding **(1)** "or lump–sum payment"; and **(2)** "or paid to the member in the form of a lump–sum payment".

§ 25015. Joint and survivor annuity

(a) If a member elects to receive a benefit payable under the Defined Benefit Supplement Program as a joint and survivor annuity, the designation of the beneficiary made pursuant to Section 24300 or 24300.1 shall apply to the benefit payable under this chapter. The annuity beneficiary designation shall not be changed after the date the benefit becomes payable to the member, except as provided in Section 24305.3, 25011, 25011.1, 25018, or 25018.1, or Chapter 12 (commencing with Section 22650).

(b) If the member designates one or multiple option beneficiaries within Option 8 pursuant to Section 24300 or 24300.1, the percentage of the unmodified allowance attributable to each option beneficiary specified in that designation shall apply to the joint and survivor annuity payable under this chapter. The member shall elect one joint and survivor annuity type and this annuity type shall be applied the same for each beneficiary and each designated percentage of the member only annuity. If any percentage of the allowance was designated to remain unmodified, the member only annuity shall apply for the corresponding percentage of the annuity provided under this chapter. The annuity amount payable to the member during his or her lifetime shall be modified to be payable over the combined lives of the member and the annuity beneficiary or beneficiaries.

(c) If the member predeceases an annuity beneficiary, the annuity beneficiary may designate, on a properly executed form provided by the system, a payee to receive an amount that may be payable in a lump sum pursuant to Section 25023 upon the death of the annuity beneficiary.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 56 (AB 2700); Stats 2001 ch 803 § 27 (SB 501); Stats 2006 ch 655 § 55 (SB 1466), effective January 1, 2007.

Amendments

2001 Amendment: Added "or 24301" in the first sentence of subds (a) and (b).

2006 Amendment: (1) Amended subd (a) by **(a)** substituting "Section 24300.1" for "Section 24301" after "pursuant to Section 24300 or"; and **(b)** adding "Section 24305.3, 25011, 25011.1, 25018, or 25018.1, or" after "except as provided in"; **(2)** amended subd (b) by **(a)** substituting "one or multiple option beneficiaries within Option 8" for "multiple annuity beneficiaries in the designation of beneficiary made" after "the member designates"; **(b)** substituting "Section 24300.1" for "Section 24300" after "pursuant to Section 24300 or"; **(c)** substituting "unmodified allowance attributable to each option" for "annuity payable to each annuity" after "percentage of the"; **(d)** deleting "upon the death of the member" after "each option beneficiary"; **(e)** substituting "joint and survivor annuity" for "benefit" after "apply to the"; and **(f)** adding the last two sentences; and **(3)** added ", on a properly executed form provided by the system," after "beneficiary may designate" in subd (c).

Article 5. Disability Benefits

§ 25016. Disability benefits

(a) A member's disability benefit under the Defined Benefit Supplement Program shall be an amount equal to the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable.

(b) A disability benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the member on the application for a disability benefit. Any retirement benefit paid as an annuity under this chapter shall be subject to Section 25018 or 25018.1.

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

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 57 (AB 2700); Stats 2006 ch 655 § 56 (SB 1466), effective January 1, 2007.

Amendments

2006 Amendment: Added "or 25018.1" after "subject to Section 25018" in subd (b).

§ 25017. Date of receipt of disability benefits; Application form

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

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

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

Added Stats 2000 ch 74 § 69 (AB 1509). Amended Stats 2000 ch 1021 § 58 (AB 2700); Stats 2002 ch 375 § 27 (AB 2982); Stats 2009 ch 304 § 30 (SB 634), effective January 1, 2010.

Amendments

2002 Amendment: Amended subd (a) by **(1)** deleting "who meets the following eligibility requirements" after "A member"; **(2)** substituting "beginning on the effective date of the member's" for the former colon; **(3)** deleting former subd (a)(1) which read: "(1) The member has terminated all employment to perform creditable service subject to coverage by the plan. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated."; and **(4)** deleting former subdivision designation (a)(2) and "The member has been approved to receive a" before "disability allowance".

2009 Amendment: Added subd (c).

§ 25018. Form of disability benefit; Elections

(a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the

date the disability benefit becomes payable equals at least three thousand five hundred dollars ($3,500) after any lump-sum payment has been made from this account.

(b) If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

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

(3) For a member receiving an allowance pursuant to Chapter 26 (commencing with Section 24100), a 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(4) For a member receiving an allowance pursuant to Chapter 26 (commencing with Section 24100), a 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years. However, the

annuity period may not exceed the life expectancy of the member, or the life expectancy of the member and the member's annuity beneficiary. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's annuity beneficiary pursuant to Section 25022.

(c) Except as described in subdivision (d) of Section 25018.1, on or after January 1, 2007, a member may not make a new election for an annuity described in subdivision (b).

(d) On or after January 1, 2007, a member may not make a new election of a joint and survivor annuity described in subdivision (b), except as provided by subdivision (e) of Section 25018.1.

(e) Any member with a disability benefit effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 25018.1.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 59 (AB 2700); Stats 2001 ch 803 § 28 (SB 501); Stats 2002 ch 375 § 28 (AB 2982), ch 903 § 7 (SB 1983) (ch 903 prevails); Stats 2006 ch 655 § 57 (SB 1466), effective January 1, 2007; Stats 2012 ch 864 § 17 (AB 2663), effective January 1, 2013.

Amendments

2001 Amendment: (1) Substituted "100–percent" for "100 percent" in the first sentence of subd (b)(3); **(2)** added "with a 'pop–up' feature" in the first sentences of subds (b)(3)and (b)(4); **(3)** substituted "form of payment" for "annuity" in the fourth sentences of subds (b)(3)and (b)(4); **(4)** substituted "50–percent" for "50 percent" in the first sentence of subd (b)(4); **(5)** substituted "in whole year increments over a period of years specified by the member" for "over a specified number of years" in the third sentence of subd (b)(5); and **(6)** deleted former subd (c) which read: "(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402, unless the member elected a period certain annuity."

2002 Amendment: (1) Amended subds (b)(3) and (b)(4) by **(a)** adding "For a member receiving an allowance pursuant to Chapter 26 (commencing with Section 24100)," in the first sentence; **(b)** adding "However," at the beginning of the fourth sentence; and **(c)** adding the sixth through last sentences; and **(2)** substituted "may" for "shall" after "annuity period" near the beginning of the fourth sentence of subd (b)(5).

2006 Amendment: (1) Amended subd (b)(3) by **(a)** substituting "elected" for "selected" after "had the member"; **(b)** substituting "and" for the comma after "predeceases the member"; **(c)** substituting "designates a new option" for "may designate a new annuity" after "and the member"; **(d)** adding "pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary" after "new option beneficiary"; **(e)** deleting "of the new designation" after "The effective date"; **(f)** deleting "designated" after "member and the new"; **(g)** deleting "selection of the" after "are then living. The"; **(h)** substituting "and shall" for ". A member may" after "cash refund feature"; **(i)** deleting "designate a new annuity beneficiary if that designation would" after "and shall not"; and **(j)** adding the last sentence; **(2)** amended subd (b)(4) by **(a)** substituting "elected" for "selected" after "had the member"; **(b)** substituting "and" for the comma after "predeceases the member"; **(c)** substituting "designates a new option" for "may designated a new annuity" after "and the member"; **(d)** adding "pursuant to Section 24300, the new option beneficiary shall be the new annuity beneficiary" after "new option beneficiary"; **(e)** deleting "of the new designation" after "The effective date"; **(f)** deleting "designated" after "member and the new"; **(g)** deleting "selection of the" after "are then living. The"; **(h)** deleting ". A member may" after "cash refund feature"; **(i)** deleting "designate a new annuity beneficiary if that designation would" after "feature and shall"; and **(j)** adding the last sentence; and **(3)** added subdivision designations (c)–(e).

2012 Amendment: Substituted "subdivision (d)" for "subdivision (e)" in subd (c).

§ 25018.1. Election to receive the disability benefit as an annuity payable in monthly installments

(a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable equals at least three thousand five hundred dollars ($3,500)

after any lump-sum payment has been made from this account. If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

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

(2) One hundred percent beneficiary annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 100 percent of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary or beneficiaries.

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

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

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

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member as the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24300.1, the new option beneficiary shall be a new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

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

(d) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the annui-

ty that is required by the judgment or court order. Nothing in this part shall permit the member to change the annuity to the detriment of the community property interest of the nonmember spouse.

Added by Stats 2006 ch 655 § 58 (SB 1466), effective January 1, 2007.

§ 25018.2. Change of annuities

(a) A member who is disabled and elected an annuity pursuant to Section 25018 may elect to change annuities, subject to all of the following:

(1) A member who elected a single life annuity with or without a cash refund feature or elected a period certain annuity may not change his or her annuity.

(2) A member who elected an annuity under paragraph (3) or (4) of subdivision (b) of Section 25018 may elect an annuity under paragraph (3) of subdivision (a) of Section 25018.1.

(3) The election by the member under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The member designates the same annuity beneficiary that was designated under the prior annuity election by the member, if the annuity and the annuity designation were effective on December 31, 2006.

(5) The member and the annuity beneficiary are not afflicted with a known terminal illness and the member declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, he or she and the annuity beneficiary are not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the member as of the effective date of the change in the annuity by the member.

(b) The change in the annuity by the member shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a member's election document, the system shall mail an acknowledgment notice to the member that sets forth the new annuity elected by the member.

(d) If the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, a member may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the member on or before June 1, 2007, or prior to the end of the election period, provided that the member and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a member to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the member may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the member elects to make the one-time change provided by this subdivision, the change shall be effective as of the member's signature date on the initial election to change.

(f) If the member elects to change his or her annuity as described in subdivision (a), (d), or (e), the annuity of the member shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) The member shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

Added by Stat 2006 ch 655 § 59 (SB 1466), effective January 1, 2007.

§ 25018.5. Recurrence of original disability within six months of return to work

When a disabled member returns to work in his or her former position of employment or in a comparable level position and within six months of return experiences a recurrence of the original disability, it shall be considered, for the purpose of determining the duration of the disability, that the condition had its onset as of the date the member first became disabled. The former Defined Benefit Supplement disability benefit under this chapter shall again become payable as of the later of the first day of the month in which the recurrence of the disability occurred or the last day of service for which compensation is payable to the member provided the member complies with the provisions of Section 24003 or 24103, as applicable.

Added by Stats 2002 ch 375 § 29 (AB 2982). Amended by Stats 2003 ch 859 § 31 (SB 627).

Amendments

2003 Amendment: Added "or 24103, as applicable" at the end of the section.

§ 25019. Termination of allowance

(a) If a member's disability allowance or disability retirement allowance under this part is terminated, payment of a disability annuity based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve also shall terminate. The member's Defined Benefit Supplement account shall be credited with the actuarial equivalent of the member's annuity as of the date the annuity is terminated and the Annuitant Reserve shall be reduced by the amount credited to the member's account.

(b) If a disability allowance or a service or disability retirement allowance subsequently becomes payable again, an annuity or lump–sum payment based on the remaining balance of credits in the member's Defined Benefit Supplement account at the time of the subsequent disability or service or disability retirement becomes payable and the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve or paid to the member in the form of a lump–sum payment.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 60 (AB 2700); Stats 2001 ch 803 § 29 (SB 501).

Amendments

2001 Amendment: Amended subd (b) by adding **(1)** "or lump–sum payment"; and **(2)** "or paid to the member in the form of a lump–sum payment".

Article 6. Final Benefits

Editor's Notes—There was another article of this number, entitled "Termination Benefits", which was added Stats 2000 ch 74 § 69 and the heading was renumbered Article 7 by Stats 2001 ch 803 § 31.

§ 25020. Member's death (Final benefit)

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

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

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

Added Stats 2000 ch 74 § 69 (AB 1509). Amended Stats 2000 ch 1021 § 61 (AB 2700); Stats 2002 ch 375 § 30 (AB 2982); Stats 2009 ch 304 § 31 (SB 634), effective January 1, 2010.

Amendments

2002 Amendment: Added ", plus minimum interest credited through the date of payment" at the end of subd (b).

2009 Amendment: Added the second sentence of subd (a).

§ 25021. Elections as to final benefit payment

(a) A beneficiary, other than an entity, may elect to receive the final benefit payable under the Defined Benefit Supplement Program as an annuity payable in monthly installments provided the balance of credits in the member's Defined Benefit Supplement account that is payable to that beneficiary equals at least three thousand five hundred dollars ($3,500).

(b) A beneficiary who elects to receive an annuity under this section shall elect a period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date of the member's death. The annuity shall be payable in whole year increments over a period of years specified by the beneficiary, from a minimum of three years to a maximum of 10 years, but not to exceed the life expectancy of the beneficiary. The beneficiary may designate a payee to receive the remaining balance of payments if the beneficiary's death occurs prior to the end of the period certain.

(c) A beneficiary may designate a payee who would, upon the death of the beneficiary, be entitled to receive the beneficiary's accrued annuity allowance.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 62 (AB 2700); Stats 2001 ch 803 § 30 (SB 501); Stats 2002 ch 375 § 31 (AB 2982); Stats 2006 ch 655 § 60 (SB 1466), effective January 1, 2007.

Amendments

2001 Amendment: (1) Amended the last sentence of subd (b)(1) by substituting **(a)** "on account" for "because"; and **(b)** "or" for "and" after "death of the member"; **(2)** substituted "in whole year increments over a period of years specified by the beneficiary" for "over a specified number of years" in the third sentence of subd (b)(2); and **(3)** deleted former subd (c) which read: "(c) The actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account shall reflect increases in annuity payments to be made in the future pursuant to Section 24402, unless the member elected a period certain annuity.

2002 Amendment: (1) Added "that is payable to that beneficiary" in subd (a); **(2)** substituted "is" for "shall be" after "and no other benefit" in the second sentence of subd (b)(1); and **(3)** added subd (c).

2006 Amendment: (1) Amended subd (b) by **(a)** adding "under this section" after "receive an annuity"; and **(b)** deleting "one of the following forms of payment:" after "section shall elect"; **(2)** deleted former subd (b)(1)

which read: "(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the beneficiary if the beneficiary elected to receive the final benefit in a lump sum payment. The annuity shall cease to be payable upon the death of the beneficiary, and no other benefit is payable under the Defined Benefit Supplement Program on account of the death of the member or the member's beneficiary."; and **(3)** deleted former subdivision designation (b)(2).

§ 25022. Death of member during receipt of specified annuities

(a) If the death of a member occurs while the member is receiving an annuity under the Defined Benefit Supplement Program, the final benefit shall be payable in accordance with the terms of the annuity elected by the member.

(b) If the member was receiving a single life annuity without a cash refund feature, a final benefit is not payable other than the accrued annuity for the month in which the member's death occurred, which shall be paid in a lump sum to the beneficiary designated by the member pursuant to Section 23300.

(c) If the member was receiving a single life annuity with a cash refund feature, the final benefit shall be payable in a lump sum to the beneficiary designated by the member pursuant to Section 23300.

(d) If the member was receiving a joint and survivor annuity, the annuity shall continue to be paid to the surviving designated annuity beneficiary. If the designated annuity beneficiary predeceases the member, a final benefit is not payable.

(e) If the member was receiving a period certain annuity, the remaining balance of payments shall be paid to the beneficiary designated by the member pursuant to Section 23300.

(f) A member may designate a beneficiary who would, upon the death of the member, be entitled to the member's accrued annuity allowance.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2002 ch 375 § 32 (AB 2982).

Amendments

2002 Amendment: (1) Substituted "is not payable other than the accrued annuity for the month in which the member's death occurred, which shall be paid in a lump sum to the beneficiary designated by the member pursuant to Section 23300" for "shall not be payable" in subd (b); **(2)** substituted "lump sum to the beneficiary designated by the member pursuant to Section 23300" for "lump–sum to the member's beneficiary" in subd (c); **(3)** substituted "is not" for "shall not be" before "payable" at the end of subd (d); **(4)** added "pursuant to Section 23300" at the end of subd (e); and **(5)** added subd (f).

§ 25022.5. Death of nonmember spouse during receipt of specified annuities

(a) If the death of a nonmember spouse occurs while the nonmember spouse is receiving an annuity under the Defined Benefit Supplement Program, the final benefit shall be payable in accordance with the terms of the annuity elected by the nonmember spouse.

(b) If the nonmember spouse was receiving a single life annuity without a cash refund feature, a final benefit is not payable.

(c) If the nonmember spouse was receiving a single life annuity with a cash refund feature, the final benefit shall be payable in a lump sum to the nonmember spouse's beneficiary.

(d) If the nonmember spouse was receiving a period certain annuity, the remaining balance of payments shall be paid to the payee designated by the nonmember spouse pursuant to Section 22660.

Added by Stats 2002 ch 375 § 33 (AB 2982).

§ 25023. Payments following death under specified annuities

(a) Upon the death of an annuity beneficiary who was receiving an annuity under a joint and survivor annuity elected by the member no further payment shall be made other than the accrued annuity

for the month in which the annuity beneficiary's death occurred, which shall be paid in a lump sum to the payee designated by the annuity beneficiary.

(b) Upon the death of a beneficiary who was receiving a single life annuity without a cash refund feature, no further payment shall be made other than the accrued annuity for the month in which the beneficiary's death occurred, which shall be paid in a lump sum to the payee designated by the beneficiary.

(c) Upon the death of a beneficiary who was receiving a period certain annuity, the actuarial equivalent of the remaining balance of payments shall be paid in a lump sum to the payee designated by the beneficiary pursuant to subdivision (c) of Section 25015.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 63 (AB 2700); Stats 2002 ch 375 § 34 (AB 2982).

Amendments

2002 Amendment: Added **(1)** "other than the accrued annuity for the month in which the annuity beneficiary's death occurred, which shall be paid in a lump sum to the payee designated by the annuity beneficiary" in subd (a); and **(2)** "other than the accrued annuity for the month in which the beneficiary's death occurred, which shall be paid in a lump sum to the payee designated by the beneficiary" in subd (b).

Article 7. Termination Benefits

§ 25024. Application for termination benefits; Termination of application

(a) Upon the termination of all employment to perform creditable service subject to coverage under the plan for a reason other than retirement, disability, or death, a member shall be eligible for a termination benefit under the Defined Benefit Supplement Program. The member's employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member's employment has been terminated, unless the member's termination of employment occurred 12 consecutive months or more prior to the date the member signed the application for a Defined Benefit Supplement termination benefit.

(b) A member shall submit an application for a termination benefit on a form prescribed by the system. If a member submits an application for a refund of contributions under the Defined Benefit Program, pursuant to Section 23103, that application shall also be deemed an application for a termination benefit. If a member cancels the application for a refund of contributions under the Defined Benefit Program, the application for the termination benefit shall also be deemed to have been cancelled.

(c) The termination benefit shall be a lump-sum payment that is equal to the balance of credits in the member's Defined Benefit Supplement account.

(d) Upon distribution of the termination benefit, no further benefit shall be payable to the member or the member's beneficiary under the Defined Benefit Supplement Program.

(e) A partial distribution of the balance of credits in a member's Defined Benefit Supplement account shall not be made, except as provided in Section 25009, 25015, 25016, or 25022.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2000 ch 1021 § 64 (AB 2700); Stats 2001 ch 803 § 32 (SB 501); Stats 2006 ch 655 § 61 (SB 1466), effective January 1, 2007.

Amendments

2001 Amendment: Added the last sentence of subd (b).

2006 Amendment: Added ", unless the member's termination of employment occurred 12 consecutive months or more prior to the date the member signed the application for a Defined Benefit Supplement termination benefit" at the end of subd (a).

§ 25024.5. Elapsed time since previous termination benefit

A member who is reemployed and again performs creditable service subject to coverage under the plan may not receive a termination benefit under this part if less than five years have elapsed following the date the most recent termination benefit was distributed to the member. This section does not apply to a member who has reached the age at which the Internal Revenue Code of 1986 requires a distribution of benefits.

Added by Stats 2005 ch 661 § 2 (SB 525), effective January 1, 2006.

§ 25025. Elapse of specified time (Payment of termination benefit)

(a) A termination benefit under the Defined Benefit Supplement Program shall be payable after six calendar months have elapsed following the date the member terminated employment as specified in Section 25024.

(b) Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled if the member performs creditable service within six calendar months following the date of termination of employment.

(c) Subdivision (b) does not apply if the member has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A member who has reached this age shall receive a distribution commencing on the earlier of the date that the member has met the conditions of subdivision (a) or the conditions of subdivision (h) of Section 24600.

Added by Stats 2000 ch 74 § 69 (AB 1509). Amended by Stats 2005 ch 661 § 3 (SB 525), effective January 1, 2006.

Amendments

2005 Amendment: (1) Added subdivision designations (a) and (b); **(2)** added subd (c); **(3)** substituted "six calendar months have elapsed" for "one calendar year has elapsed" after "shall be payable after" in subd (a); and **(4)** amended subd (b) by **(a)** adding "Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled" at the beginning of the sentence before "if the member performs creditable service within"; and **(b)** by substituting "six calendar months following the date of termination of employment" for "one year of the prior termination of employment, the termination benefit shall not be payable".

CHAPTER 39. SCHOOL EMPLOYER RETIREMENT INVESTMENT PRODUCT VENDOR REGISTRATION PROCESS AND INFORMATION BANK

§ 25100. Vendor registration process to make information about § 403(b) tax–deferred retirement investment products available

(a) The board shall establish a vendor registration process through which information about tax-deferred retirement investment products as described in Section 403(b) of the Internal Revenue Code of 1986 shall be made available for consideration by public employees of all local school districts, community college districts, county offices of education, and state employees of a state employer under the uniform state payroll system, excluding the California State University System, eligible to participate in an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986.

(b) For the purposes of this chapter, "403(b) product or 403(b) products" means tax–deferred retirement investment products as described in Section 403(b) of the Internal Revenue Code of 1986, and its subsequent amendments, and complying with applicable California insurance laws, and federal and California securities laws and rules as applied by appropriate regulatory entities.

(c) For the purposes of this chapter:

(1) "Employer" means any local school district, community college district, or county office of education, or any state employer under the uniform state payroll system, excluding the California State University System, with employees eligible to participate in an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986, with the Controller acting on the state employer's behalf.

(2) "Vendor" means a public retirement system, broker–dealer, registered investment company, nonbank custodian, or life insurance company qualified to do business in California that provides 403(b) products. "Vendor" does not include individual registered representatives, brokers, financial planners, or agents.

(3) "Nonbank custodian" means a fund custodian, other than a bank, that meets the criteria of a trustee specified in Section 408(a)(2) of the Internal Revenue Code.

(4) "Broker–dealer" means only those broker–dealers who offer a proprietary 403(b) product or who charge fees that are otherwise not disclosed.

Added Stats 2002 ch 1095 § 2 (AB 2506). Amended Stats 2003 ch 859 § 32 (SB 627); Stats 2004 ch 912 § 25 (AB 2233); Stats 2008 ch 230 § 3 (AB 2191), effective January 1, 2009.

Former Sections: Former § 25100 was added Stats 1999 ch 740 § 3, effective October 10, 1999, and renumbered Ed C § 25901 by Stats 2000 ch 74 § 64.

Amendments

2003 Amendment: Amended subd (c) by adding **(1)** "nonbank custodian," in the first sentence; and **(2)** the second sentence.

2004 Amendment: Added **(1)** ", and its subsequent amendments, and complying with applicable California insurance laws, and federal and California securities laws and rules as applied by appropriate regulatory entities" at the end of subd (b); and **(2)** ", the last sentence at the end of subd (c).

2008 Amendment: (1) Substituted "county offices of education, and state employees of a state employer under the uniform state payroll system, excluding the California State University System, eligible to participate in an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986" for "and county offices of education" at the end of subd (a); **(2)** substituted the colon for the comma at the end of subd (c); **(3)** added subd (c)(1); and **(4)** added subdivision designations (c)(2)-(c)(4).

§ 25101. Registration of 403(b) products and prospective vendors

A prospective vendor of 403(b) products that offers those products, or the products of other 403(b) vendors, to employers and their eligible employees, shall register those products with the board pursuant to this chapter. Registered vendors shall offer only registered 403(b) products as funding vehicles for 403(b) plans.

(a) Prospective vendors shall be registered with the board based upon a complete response to the disclosures required by this subdivision. This information shall be included in the impartial investment information bank established pursuant to Section 25104. The prospective vendors shall provide the following information:

(1) A statement of experience in California and in other states in providing retirement annuities, custodial account mutual fund arrangements, or other retirement products and related financial services under public employer retirement plans.

(2) A characterization by the vendor of its offering as either an annuity or custodial account, as defined under Sections 403(b)(1) and 403(b)(7) of the Internal Revenue Code, respectively.

(3) A disclosure of all expenses paid directly or indirectly by retirement plan participants, including, but not limited to, penalties for early withdrawals, declining or fixed withdrawal charges, surrender or deposit charges, management fees, and annual fees, supported by documentation as required for prospectus disclosure by the National Association of Securities Dealers and the Securities and Exchange Commission. Vendors shall be required to provide information regarding the impact of product fees upon a hypothetical investment, as described in Section 25104.

(4) The types of products, product features, including presence of two tier annuity features, services offered to participants, and information about how to access product prospectuses or other relevant product information.

(5) A discussion of the ability, experience, and commitment of the vendor to provide retirement counseling and education services, including, but not limited to, access to group meetings and individual counseling by various means, including telephone and telecommunications devices for the deaf (TDD), Internet, and face–to–face consultations by registered representatives.

(6) A statement of the financial strength and stability of the vendor, as may be applicable, by identifying its ratings assigned by nationally recognized rating services that evaluate the financial strength of life insurance, mutual funds, and other similar companies.

(7) The location of offices and counselors, or method of distribution, of the vendor relative to serving employers and their eligible employees in California.

(8) A description of the ability of the vendor to comply with all applicable provisions of federal and state law governing retirement plans, including minimum distribution requirements and contribution limits.

(9) To the extent applicable, the demonstrated ability of the vendor to offer an appropriate array of accumulation funding options, including, but not limited to, a diversified mix of value, growth, growth and income, hybrid and index funds or accounts across large, mid, and small capitalization asset classes, both domestic and international. These investment products may include mutual funds, group or individual annuity contracts, fixed or variable annuity contracts, individual retirement annuities, interests in trust and collective trusts, separate accounts, and other financial instruments.

(10) A discussion of the range of administrative and customer services provided, including asset allocation, accounting and administration of benefits for individual participants, recordkeeping for individual participants, asset purchase, control, and safekeeping, execution of a participant's instructions as to asset and contribution allocation, calculation of daily net asset values, direct access for participants to their account information, periodic reporting to active participants, not less than quarterly, on their account balances and transactions, and compliance with the standard of care applicable in the provision of investment services and consistent with federal law.

(11) Certification by the vendor that the information provided to the board accurately reflects the provisions of the Section 403(b) products they register pursuant to this chapter.

(b) Registration may not be conditioned upon the content of the information.
(c) Vendors shall supply information and data in the format required by the board.

Added Stats 2002 ch 1095 § 2 (AB 2506). Amended Stats 2003 ch 859 § 33 (SB 627); Stats 2008 ch 230 § 4 (AB 2191), effective January 1, 2009.

Amendments

2003 Amendment: Added "the" before "Internal Revenue Code" in subd (a)(2).
2008 Amendment: Substituted **(1)** "to employers and their eligible employees" for "to local school districts, community college districts, county offices of education and their employees" in the first paragraph of the section; and **(2)** "employers and their eligible employees in California" for "local school districts, community college districts, and county offices of education and their employees in California" at the end of subd (a)(7).

§ 25102. Annual registration; Renewal

Registration shall be offered to vendors once annually, and renewal of registration shall be required at least once every five years thereafter for vendors that wish to continue to participate. The board shall provide public notice prior to the initial registration, annual registration, and registration renewal periods. The board may require, through a password–based update system that allows vendors to access the registration list for the purposes of updating their product information, or through other means, an update of the information required to be provided under Section 25101 with each registration renewal. Registered vendors shall submit to the board within the time required by the Securities and Exchange Commission an amendment to the information required to be provided under Section 25101 to reflect material changes to the products or services offered that occur between registration or renewal periods. Registered vendors may register additional 403(b) products with the board between registration or renewal periods by providing the board the information required under Section 25101 and fees required under subdivision (c) of Section 25108. Upon receipt of information reflecting material changes or additions to the products or services offered by registered vendors that occur between registration or renewal periods, the board shall reflect those changes in the impartial investment information bank established pursuant to Section 25104 within the time required by the Securities and Exchange Commission.

Added by Stats 2002 ch 1095 § 2 (AB 2506).

§ 25103. Removal from registry

(a) The board may remove a vendor from the registry if the vendor submits materially inaccurate information to the board, does not remit assessed fees within 60 days, or fails to submit notice of material changes to its registered investment products, pursuant to Section 25102. Vendors found to have submitted materially inaccurate information to the board shall be allowed 60 days to correct the information. The board may refer vendors that submit information required under Section 25102 that is materially inaccurate and may constitute conduct prohibited by the National Association of Securities Dealers and the California Department of Insurance to those entities.
(b) The board shall remove a vendor from the registry if the vendor is not licensed or has had its license revoked by the National Association of Securities Dealers or the California Department of Insurance for engaging in conduct prohibited by those entities.
(c) The board shall establish an appeals process pursuant to Section 22219 for vendors that are denied registration or removed from the registry.

Added by Stats 2002 ch 1095 § 2 (AB 2506). Amended by Stats 2003 ch 62 § 38 (SB 600).

Amendments

2003 Amendment: Substituted **(1)** "its registered" for "their registered" in the first sentence of subd (a); and **(2)** "had its license" for "their license" in subd (b).

§ 25104. Impartial investment information bank on web site

(a) The board shall maintain an impartial investment information bank, via an Internet Web site, containing the information required by Section 25101 about the retirement investment products offered by each registered vendor and objective comparisons of vendors and types of products.

(b) The information bank shall include information on investment performance based upon the investment's average annual total return, as measured by a nationally recognized rating service selected by the board for standard periods of time of not less than one year.

(c) The Web site shall include a table showing, for each registered fund, the total fee cost in dollars incurred by a shareholder who initially invested ten thousand dollars ($10,000), earned a 5 percent rate of return for one, five, 10, 15, and 20 year time periods. This table shall be accompanied by a disclaimer that the rate of return is for purposes of illustrating the respective impacts of different fee amounts on each investment, and is not to predict future investment returns.

(d) The board shall have the authority to organize data, but may not subjectively rank or give preference to a vendor or product.

Added by Stats 2002 ch 1095 § 2 (AB 2506).

§ 25105. Notice of information bank to members

The board shall include notice of the existence of, and the Internet Web site address for, the impartial investment information bank in each newsletter sent to members. The board shall include a notice in the individual account statements of members of the Defined Benefit Program and participants of the Cash Balance Benefit Program that explains the purpose and Web site address of the impartial investment information bank.

Added by Stats 2002 ch 1095 § 2 (AB 2506).

§ 25106. Design of web site and preface to vendor information

The board shall design the information bank Internet Web site and include retirement investment product plan information and education materials taken from and referenced to the Internal Revenue Service, the Securities and Exchange Commission, the National Association of Insurance Commissioners, and other applicable governmental or regulatory agencies. Information shall be presented and used in a manner that is consistent with the rules of those agencies and with rules of the National Association of Securities Dealers. The information shall be offered as a preface to the vendor information required in Section 25101. The preface shall include, but shall not be limited to, the following information:

(a) An explanation of Section 403(b) of the Internal Revenue Code of 1986.

(b) The retirement investment products that may be purchased under Section 403(b) of the Internal Revenue Code of 1986, and with definitions of those products.

(c) Definitions or explanations of all fees referred to in the investment information bank.

Added by Stats 2002 ch 1095 § 2 (AB 2506).

§ 25107. Vendor fees

A vendor may not charge a fee associated with a registered 403(b) product that is not disclosed, pursuant to Section 25101.

Added by Stats 2002 ch 1095 § 2 (AB 2506). Amended by Stats 2004 ch 912 § 26 (AB 2233).

Amendments

2004 Amendment: Substituted "associated with a registered 403(b) product that is not disclosed, pursuant to Section 25101" for "that is not disclosed" at the end of the section.

§ 25108. Cost of establishing and maintaining registration and information bank; Administrative fees

(a) The actual cost of establishing the vendor registration system and the investment information bank shall be borne equally by registered vendors, based on the total number of registered vendors. Each registered vendor shall pay a one–time establishment fee equal to a pro rata share of the establishment costs charged to vendors that register with the board prior to the close of the initial registration period, as determined by the board. The one–time establishment fee charged to vendors that register with the board after the completion of the initial registration period shall be distributed equally among registered vendors that have paid the establishment fee, and credited toward subsequent maintenance and administrative fees charged to each vendor.

(b) The actual cost of maintaining the vendor registration system and the investment information bank, and the costs associated with publicizing the availability of the investment information bank to local school districts, community college districts, and county offices of education and their employees, shall be borne equally by registered vendors, based on the total number of registered vendors. Each registered vendor shall pay a renewal fee equal to a pro rata share of the maintenance costs, as determined by the board.

(c) Each registered vendor shall pay an administrative fee for each 403(b) product it offers to school employees, which shall represent the actual costs associated with processing the information related to the investment option and presenting it on the investment information bank, as determined by the board.

(d) The board may not divert member services resources or personnel to establish or maintain the registration list.

Added by Stats 2002 ch 1095 § 2 (AB 2506).

§ 25109. Liability of board and system

(a) The board and the system, and its officers and employees, are not responsible for, and may not be held liable for the adequacy of the information provided by the participating vendors contained in the information bank. The information bank maintained by the board serves only to provide information supplied by the participating vendors for the consideration of selection of 403(b) products.

(b) Participating vendors may not utilize the system's logo, or claim or infer any endorsement or recommendation by the board or the system with respect to products and services identified by the vendors in the information bank. At the discretion of the board, a violation of this section may lead to removal from the registry. This restriction does not apply to 403(b) products offered by the board to school employees pursuant to Section 24950.

(c) The board and the system may not be held liable for the actions of other registered vendors.

Added by Stats 2002 ch 1095 § 2 (AB 2506).

§ 25110. Completion date

The board shall complete the initial registration process on or before July 1, 2004.

Added by Stats 2002 ch 1095 § 2 (AB 2506).

Former Sections: Former § 25110 was added Stats 1999 ch 740 § 3, effective October 10, 1999, and renumbered Ed C § 25910 by Stats 2000 ch 74 § 65.

§ 25111. Employee awareness of and access to system

Each employer, in consultation with the exclusive bargaining agent of its employees, if any, may develop a process to ensure that employees are aware of, and have access to, information provided in the impartial investment bank maintained by the board.

Added Stats 2002 ch 1095 § 2 (AB 2506). Amended Stats 2008 ch 230 § 5 (AB 2191), effective January 1, 2009.

Amendments

2008 Amendment: Substituted "Each employer" for "Each local school district, community college district, and county office of education" at the beginning of the section.

§ 25112. Consideration from vendor for promotion of products is prohibited

Personnel, including elected school officials, acting on behalf of an employer, may not receive consideration from a vendor in exchange for the promotion of a particular vendor or vendor's products.

Added Stats 2002 ch 1095 § 2 (AB 2506). Amended Stats 2008 ch 230 § 6 (AB 2191), effective January 1, 2009.

Amendments

2008 Amendment: Substituted "an employer," for "a local school district, community college district, or county office of education".

§ 25113. Unregistered 403(b) products

An employer may not forward annuity or custodial account consideration to the vendor of any unregistered 403(b) product, except insofar as an employee continues making contributions to an unregistered product or products as described in Section 25114.

Added Stats 2002 ch 1095 § 2 (AB 2506). Amended Stats 2008 ch 230 § 7 (AB 2191), effective January 1, 2009.

Amendments

2008 Amendment: Substituted **(1)** "An employer" for "A local school district, community college district, or county office of education" at the beginning; and **(2)** "products as described in Section 25114" for "products purchased or entered into prior to the implementation date of the impartial investment bank, as established by this chapter" at the end.

§ 25114. Continuation of contributions to unregistered product

Except as provided in this section, an employee shall select from registered 403(b) products.

(a) An employee of a local school district, community college district, or county office of education may continue to make contributions to unregistered products purchased or entered into prior to November 30, 2004.

(b) A state employee of a state employer under the uniform state payroll system, excluding the California State University System, eligible to participate in an annuity contract and custodial account as described in Section 403(b) of the Internal Revenue Code of 1986, may continue to make contributions to unregistered products purchased or entered into prior to January 1, 2009.

Added Stats 2002 ch 1095 § 2 (AB 2506). Amended Stats 2008 ch 230 § 8 (AB 2191), effective January 1, 2009; Stats 2012 ch 864 § 18 (AB 2663), effective January 1, 2013.

Amendments

2008 Amendment: (1) Substituted "Except as provided in this section, an employee" for "Employees" at the beginning of the first paragraph of the section; **(2)** designated the former second sentence of the section to be subd (a); **(3)** deleted "Notwithstanding Section 25113," at the beginning of subd (a); and **(4)** added subd (b).

2012 Amendment: Substituted "November 30, 2004" for "the date of implementation of the impartial investment bank, as established by this chapter" in subd (a).

§ 25115. Applicability (Insurance Code Section 770.3)

For purposes of restricting the use of 403(b) investment products provided to eligible employees of employers by those vendors and investment products registered with the board pursuant to this chapter, the provisions of Section 770.3 of the Insurance Code do not apply.

Added Stats 2002 ch 1095 § 2 (AB 2506). Amended Stats 2008 ch 230 § 9 (AB 2191), effective January 1, 2009.

Former Sections: Former § 25115 was added Stats 1999 ch 740 § 3, effective October 10, 1999, and renumbered Ed C § 25915 by Stats 2000 ch 74 § 66.

Amendments

2008 Amendment: Substituted "eligible employees of employers" for "employees of local school districts, community college districts, and county offices of education".

PART 13.5. HEALTH CARE BENEFITS PROGRAM

CHAPTER 1. GENERAL PROVISIONS

§ 25900. Costs of programs; Authorization by Legislature

(a) All costs incurred by the system to develop health care benefit programs pursuant to this part shall be paid by allocations from the Teachers' Retirement Fund as appropriated for that purpose.

(b) Any health care benefits program developed by the system pursuant to this part shall not be implemented by the system unless specifically authorized by a statute enacted by the Legislature.

Added by Stats 1999 ch 740 § 3 (SB 159), effective October 10, 1999, as Ed C § 25000. Renumbered by Stats 2000 ch 74 § 63 (AB 1509), amended and renumbered by Stats 2000 ch 1032 § 2 (SB 1435).

Amendments

2000 Amendment: (1) Deleted former subd (a) which read: "(a) The State Teachers' Retirement System shall develop a program to provide health care benefits for members, beneficiaries, children, and dependent parents."; **(2)** redesignated former subds (b) and (c) to be subds (a) and (b); **(3)** added "to develop health care benefit programs" in subd (a); and **(4)** substituted "Any" for "The" at the beginning of subd (b).

CHAPTER 2. DEFINITIONS

§ 25901. Governing definitions

Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

Added by Stats 1999 ch 740 § 3 (SB 159), effective October 10, 1999, as Ed C § 25100. Renumbered by Stats 2000 ch 74 § 64 (AB 1509).

§ 25910. "Beneficiary" or "beneficiaries"

"Beneficiary" or "beneficiaries" means any person or entity receiving or entitled to receive an allowance and payment pursuant to Part 13 (commencing with Section 22000) or 14 (commencing with Section 26000) because of the disability or death of a member.

Added by Stats 1999 ch 740 § 3 (SB 159), effective October 10, 1999, as Ed C § 25110. Renumbered by Stats 2000 ch 74 § 65 (AB 1509).

§ 25915. "Dependent child" or "dependent children"; "Offspring"; "Financially dependent"

(a) "Dependent child" or "dependent children" means a member's unmarried offspring or stepchild who is not older than 22 years of age and who is financially dependent upon the member on the date the member becomes eligible for benefits pursuant to this part.

(b) "Offspring" shall include the member's child who is born within the 10–month period commencing on the date the member becomes eligible for benefits pursuant to this part.

(c) "Offspring" shall include a child adopted by the member.

(d) "Dependent child" shall not include the member's offspring or stepchild who is adopted by a person other than the member's spouse.

(e) "Financially dependent," for purposes of this section, means that at least one–half of the child's support was being provided by the member on the date the member became eligible for benefits pursuant to this part. The system may require that income tax records or other data be submitted to substantiate the child's financial dependence. In the absence of substantiating documentation, the system may determine that the child was not dependent on the date the member became eligible for benefits pursuant to this part.

Added by Stats 1999 ch 740 § 3 (SB 159), effective October 10, 1999, as Ed C § 25115. Renumbered by Stats 2000 ch 74 § 66 (AB 1509).

§ 25920. "Dependent parent" or "dependent parents"

"Dependent parent" or "dependent parents" means a natural parent or parents of a member, or a parent or parents who adopted the member prior to the earlier of the occurrence of the member's marriage or his or her attaining 18 years of age, and who was receiving one–half or more of his or her support from the member at the time the member became eligible for benefits pursuant to this part.

Added by Stats 1999 ch 740 § 3 (SB 159), effective October 10, 1999, as Ed C § 25120. Renumbered by Stats 2000 ch 74 § 67 (AB 1509).

§ 25921. "Employer"

"Employer" means the state or any agency or political subdivision thereof for which creditable service subject to coverage by the plan, as defined in Section 22155.5, is performed.

Added by Stats 2001 ch 803 § 34 (SB 501).

§ 25923. "Fund"

"Fund" means the Teachers' Health Benefits Fund.

Added by Stats 2000 ch 1032 § 3 (SB 1435).

§ 25925. "Member"

"Member" means a current or retired employee of an employer, as defined in Section 25921.

Added by Stats 1999 ch 740 § 3 (SB 159), effective October 10, 1999, as Ed C § 25125. Renumbered by Stats 2000 ch 74 § 68 (AB 1509). Amended by Stats 2001 ch 803 § 35 (SB 501).

Amendments

2001 Amendment: Substituted "Section 25921" for "Section 22131".

§ 25926. "School year"

"School year" means the fiscal year or the academic year.

Added by Stats 2001 ch 803 § 36 (SB 501).

CHAPTER 3. ESTABLISHMENT AND CONTROL OF FUND

§ 25930. Establishment of fund; Deposits; Appropriation of proceeds (Teachers' Health Benefits Fund)

There is in the State Treasury a special trust fund to be known as the Teachers' Health Benefits Fund. There shall be deposited in the fund the employer contributions required under subdivision (c) of Section 22950, income on investments, other interest income, income from fees and penalties, premiums paid by members, donations, legacies, bequests made to the fund and accepted by the board, and any other amounts provided by this part. Notwithstanding Section 13340 of the Government Code, the proceeds of the fund are hereby continuously appropriated without regard to fiscal year for purposes of this part. The design and administration of the fund and any program financed from the fund shall comply with Section 115 of Title 26 of the United States Code.

Added by Stats 2000 ch 1032 § 4 (SB 1435). Amended by Stats 2001 ch 803 § 37 (SB 501).

Amendments

2001 Amendment: Substituted "Section 13340" for "Section 11340" in the third sentence.

§ 25931. Control of fund by board

The board shall have exclusive control of the administration of the fund. No transfers or disbursements of any amount from the fund shall be made except upon the authorization of the board for the purpose of carrying into effect the provisions of this part. Except as otherwise limited by the California Constitution and by law, the board may, in its discretion, invest the assets of the fund through the purchase, holding, or sale of any investment, financial instrument, or financial transaction, when the investment, financial instrument, or financial transaction is prudent in the informed opinion of the board.

Added by Stats 2000 ch 1032 § 4 (SB 1435).

§ 25932. Collection and deposits of return on investments

Return on investments shall be collected by the State Treasurer and, together with any other moneys received for the fund, shall be immediately deposited to the credit of the fund and reported immediately to the system. Money in whatever form received directly by the system for the fund shall be deposited immediately in the State Treasury to the credit of the fund.

Added by Stats 2000 ch 1032 § 4 (SB 1435).

§ 25933. "Plan"; Actuarial investigation and data

(a) For purposes of this section, "plan" means any health benefits program that is financed from the proceeds of the fund.

(b) The board shall maintain all data necessary to perform an actuarial investigation of the demographic and economic experience of the plan and for the actuarial valuation of the assets and liabilities of the plan.

(c) The board shall retain the services of an actuary to do all of the following:

(1) Make recommendations to the board for the adoption of actuarial assumptions that, in the aggregate, are reasonably related to the past experience of the plan and reflect the actuary's informed estimate of future experience.

(2) Make an actuarial investigation of the demographic and economic experience, including the mortality, service, and other experience, of the plan with respect to members or any other persons eligible to receive benefits from the plan.

(3) At least biennially, using actuarial assumptions adopted by the board, perform an actuarial valuation of the plan that identifies the assets and liabilities of the plan, and report the findings to the board. The report of the actuary on the results of the actuarial valuation shall identify and include the components of normal cost and adequate information to determine the effects of changes in actuarial assumptions. Copies of the report on the actuarial valuation shall be transmitted to the Governor and to the Legislature.

(4) Recommend to the board all rates and factors necessary to administer the plan, including, but not limited to, mortality tables and interest rates.

(5) Recommend to the board a strategy for amortizing any unfunded actuarial obligation.

Added by Stats 2000 ch 1032 § 4 (SB 1435). Amended by Stats 2001 ch 159 § 61 (SB 662).

Amendments

2001 Amendment: Deleted “the” after “estimate of” in subd (c)(1).

CHAPTER 4. MEDICARE PREMIUM PAYMENT PROGRAM

§ 25940. Payment of Medicare Part A premiums for retired or disabled members; Eligibility; Amounts; Part B surcharges

(a) Effective July 1, 2001, the system shall pay to the federal Centers for Medicare and Medicaid Services or a successor agency the premiums associated with Medicare Part A for retired or disabled members described in this section.

(b) This section shall apply only to a retired member of the Defined Benefit Program who meets all of the following requirements:

(1) The member retired prior to January 1, 2001, or began receiving a disability allowance prior to January 1, 2001, and has been continually disabled since January 1, 2001.

(2) The member is not eligible for Medicare Part A without payment of a premium.

(3) The member is at least 65 years of age.

(4) The member enrolled in Medicare Parts A and B.

(c) The board may extend eligibility for the payments described in this section to members of the Defined Benefit Program who meet the requirements of subdivision (d) and who retire or begin receiving a disability allowance on or after January 1, 2001, within a school year specified by the board, if the board finds that the cost of the payments for members who retire or begin receiving a disability allowance during the specified school year may be paid within the anticipated resources available in the fund, as determined by the actuarial valuation of the program established by this chapter. Any extension of eligibility to members who retire or begin receiving a disability allowance on or after January 1, 2001, shall be provided equally to any member who meets the requirements of subdivision (d) and retires or begins receiving a disability allowance during the school year specified by the board.

(d)(1) Eligibility for the payments described in this section pursuant to subdivision (c) shall be limited to members of the Defined Benefit Program who do either of the following:

(A) Retires from an employer that does either of the following:

(i) Completed a division pursuant to Section 22156 of the Government Code prior to January 1, 2001.

(ii) Completed or is conducting a division pursuant to Section 22156 of the Government Code on or after January 1, 2001, and, if the member was less than 58 years of age at the time of the division, the member elected to be covered by Medicare.

(B) Began receiving a disability allowance and continuously receives a disability allowance until 65 years of age or older and the member's last employer does any of the following:

(i) Completed a division pursuant to Section 22156 of the Government Code prior to January 1, 2001.

(ii) Completed or is conducting a division pursuant to Section 22156 of the Government Code on or after January 1, 2001, and, if the member was still actively employed and less than 58 years of age at the time of the division, the member elected to be covered by Medicare.

(iii) Completed or is conducting a division pursuant to Section 22156 of the Government Code on or after January 1, 2001, and, if the member is no longer actively employed, the division was completed prior to the time the member reached normal retirement age.

(2) For purposes of paragraph (1), a division occurs during the 10–day period during which the member has the opportunity to elect to be covered by Medicare pursuant to Section 22156 of the Government Code.

(3) This subdivision does not apply to a member who retires from a district, or is receiving a disability allowance and the member was last employed in a district, that either as of January 1, 2001, had no members who were less than 58 years of age and who were hired prior to April 1, 1986, or was created pursuant to a formation or a reorganization on or after April 1, 1986, and prior to January 1, 2001.

(e) The amount paid to the federal Centers for Medicare and Medicaid Services or a successor agency pursuant to this section shall include any surcharges applicable to enrollment in Medicare Part A or Part B by members who retired prior to January 1, 2001, and who enrolled in Medicare Parts A and B after the age of 65 years and prior to July 1, 2001. If the system pays the Part A premium and Part B surcharges on behalf of a member and that member later becomes eligible for Part A coverage without payment of a premium, the system shall continue to pay any applicable Part B surcharges on behalf of that member. The board may require a member on whose behalf a surcharge would be paid pursuant to this subdivision to authorize the system to deduct the Part B premium from the member's retirement allowance as a condition of having the system pay the Part A premium pursuant to this section.

Added by Stats 2000 ch 1032 § 5 (SB 1435). Amended by Stats 2001 ch 803 § 39 (SB 501); Stats 2002 ch 375 § 35 (AB 2982); Stats 2003 ch 859 § 34 (SB 627).

Amendments

2001 Amendment: (1) Deleted "at the age of 65 years or as of July 1, 2001, whichever is later" at the end of subd (b); **(2)** amended subd (c) by **(a)** substituting "school" for "calendar" before "year" wherever it appears; **(b)** substituting "program" for "plan" after "valuation of the" in the first sentence; and **(c)** deleting ", conducted pursuant to Section 25933" at the end of the first sentence; **(3)** redesignated former subd (d) to be subd (d)(1); **(4)** amended subd (d)(1) by substituting **(a)** "an employer" for "a school district"; **(b)** "(A)" for "(1)"; and **(c)** "(B)" for "(2)"; **(5)** added subds (d)(2) and (d)(3); and **(6)** amended subd (e) by substituting **(a)** "surcharges" for "penalties" after "shall include any"; **(b)** "retired prior to January 1, 2001, and who enrolled in Medicare Parts A and B after the age of 65 years and prior to July 1, 2001" for "enroll after the age of 65 years" at the end of the first sentence; **(c)** the second sentence for the former second sentence which read: "Notwithstanding any other provision of this section, this subdivision shall apply only to members who are over the age of 65 years on July 1, 2001."; and **(d)** "surcharge" for "penalty" in the last sentence.

2002 Amendment: Substituted "Center for Medicare and Medicaid Services or a successor agency" for "Health Care Financing Administration" in subd (a) and the first sentence of subd (e).

2003 Amendment: In addition to making technical changes, **(1)** amended subd (a) by **(a)** substituting "Centers" for "Center"; and **(b)** adding "or disabled"; **(2)** added "meets all of the following requirements" in subd (b); **(3)** added "The member" at the beginning of subds (b)(1)–(b)(4); **(4)** added "or began receiving a disability allowance prior to January 1, 2001, and has been continually disabled since January 1, 2001." in subd (b)(1); **(5)** amended the first sentence of subd (c) by **(a)** adding "or begin receiving a disability allowance" the first time it appears; and **(b)** substituting "who retire or begin receiving a disability allowance" for "retiring" the second time it appears; **(6)** amended the second sentence of subd (c) by adding **(a)** "or begin receiving a disability allowance"; and **(b)** "or begins receiving a disability allowance"; **(7)** substituted "do either of the following: (A) Retires" for "retire" in subd (d)(1); **(8)** redesignated former subds (d)(1)(A) and (d)(1)(B) to be subds (d)(1)(A)(i) and (d)(1)(A)(ii); **(9)** amended subd (d)(1)(A) by substituting **(a)** "Retires" for "retire"; and **(b)** "does either of the following" for "either"; **(10)** substituted the period for "; or" at the end of subd (d)(1)(A)(i); **(11)** substituted "Section 22156 of the Government Code" for "that section" in subd (d)(1)(A)(ii); **(12)** added subd (d)(1)(B); **(13)** amended subd (d)(3) by **(a)** substituting "does not apply" for "shall not apply"; **(b)** adding ", district, or is receiving a disability allowance and the member was last employed in a district,"; **(c)** deleting "(A)" before "as of January 1, 2001"; and **(d)** deleting "(B)" before "was created"; and **(14)** substituted "Centers" for "Center" in the first sentence of subd (e).

§ 25950. Report on drug program

On or before April 1, 2001, the board shall report to the Legislature on a prescription drug program and a program to provide health benefits to retired members. The report shall include an analysis of all potential methods of financing and administering the programs. These shall include, but are not limited to, (1) the system providing those health benefits under contracts with carriers or other entities that administer health benefits plans, (2) reimbursing employers for the costs of providing those health benefits to retired employees, and (3) crediting employers and employing agencies, against the amount

contributed pursuant to Section 22950, a monthly amount, adjusted annually, for each retiree the employer or employing agency certifies is enrolled in one or more health care benefits programs administered or sponsored by the employer or employing agency. The report shall include an estimate of the fiscal impact of each program on the system, including administration and program costs, and recommended statutory language to implement each program.

Added by Stats 2000 ch 874 § 1 (AB 2383).

§ 25955. Recovery of amount overpaid

To recover an amount overpaid under this part, the monthly allowance payable under the Defined Benefit Program may be reduced by the amount of the overpayment. If the overpayment is not due to fraud or intentional misrepresentation of facts by the recipient of the allowance or benefit, the monthly allowance may be reduced by no more than 5 percent if the overpayment was due to error by the system, the county superintendent of schools, a school district, or a community college district, and by no more than 15 percent if the error was due to inaccurate or omitted information from the recipient of the allowance or benefit.

Added by Stats 2002 ch 375 § 36 (AB 2982).

PART 14. STATE TEACHERS' RETIREMENT SYSTEM CASH BENEFIT PROGRAM

CHAPTER 1. GENERAL PROVISIONS

§ 26000. Creation of Cash Balance Plan

The Legislature hereby finds and declares that the State Teachers' Retirement System Cash Balance Plan was created and established on July 1, 1996, to provide a retirement plan for persons employed to perform creditable service for less than 50 percent of the full–time equivalent for the position. The persons eligible for the Cash Balance Plan were excluded from mandatory membership in the State Teachers' Retirement System Defined Benefit Plan. Both plans are administered by the Teachers' Retirement Board. Because both plans were intended to provide for the retirement of teachers and other persons employed in connection with the public schools of this state and schools supported by this state, a merger of these two plans is now hereby made for the purpose of establishing a single retirement plan that shall be known and may be cited as the State Teachers' Retirement Plan consisting of the different benefit programs set forth in this part and Part 13 (commencing with Section 22000). The plan shall be administered by the Teachers' Retirement Board as set forth in this part and Part 13 (commencing with Section 22000). As a result of this merger, a Cash Balance Benefit Program will be provided under the State Teachers' Retirement Plan and that program is set forth in this part.

The governing board of a school district, community college district, or county office of education may, by formal action, elect to provide the benefits of the Cash Balance Benefit Program under this part for their employees.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 11 (SB 2085).

Amendments

1998 Amendment: (1) Amended the first sentence of the first paragraph by **(a)** adding "The Legislature hereby finds and declares that" at the beginning; and **(b)** substituting "was" for "is" after "Plan"; **(2)** substituted the second through last sentences of the first paragraph for the former second sentence which read: "This part shall be known and may be cited as the Cash Balance Plan."; and **(3)** added "the Cash Balance Benefit Program under" in the second paragraph.

§ 26000.5. Agreement with retirement system

An employer whose governing board has elected to provide the benefits of this part for its employees pursuant to Section 26000 shall enter into an agreement with the State Teachers' Retirement System. The agreement shall specify the terms and conditions of the employer's formal action to provide the Cash Balance Benefit Program and shall remain in effect unless or until the employer exercises the right to discontinue the program pursuant to Chapter 17 (commencing with Section 28100).

Added by Stats 1996 ch 608 § 1.5 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 1048 § 12 (SB 2085); Stats 2006 ch 655 § 62 (SB 1466), effective January 1, 2007.

Amendments

1998 Amendment: (1) Added subdivision designation (a); and **(2)** substituted "Cash Balance Benefit Program" for "Cash Balance Plan" in the second sentence.

2006 Amendment: (1) Deleted former subdivision designation (a); and **(2)** substituted "program" for "plan" after "to discontinue the" in the last sentence.

§ 26000.6. Election to provide Cash Balance benefits

(a) An election by any employer to provide the benefits of the Cash Balance Plan for their employees prior to the merger described in Section 26000 shall be deemed to constitute an election to provide the Cash Balance Benefit Program under the State Teachers' Retirement Plan.

(b) Participation in the Cash Balance Plan by any participant prior to the merger described in Section 26000 shall be deemed to constitute participation in the Cash Balance Benefit Program under the State Teachers' Retirement Plan.

(c) Any beneficiary under the Cash Balance Plan prior to the merger described in Section 26000 shall be deemed to be a beneficiary under the Cash Balance Benefit Program under the State Teachers' Retirement Plan.

Added by Stats 1998 ch 1048 § 13 (SB 2085).

§ 26001. Compliance with federal and state tax provisions

The design and administration of the plan, including the Cash Balance Benefit Program, shall comply with the applicable provisions of the Internal Revenue Code and the Revenue and Taxation Code. The Teachers' Retirement Board may amend the plan to comply with the applicable federal laws and regulations to the extent permitted by law, to establish or revise the minimum interest rate, to declare additional earnings credit, to declare additional annuity credit, and to adopt and amend actuarial assumptions for all purposes under the plan.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 229 (AB 2765).

Amendments

1998 Amendment: Added ", including the Cash Balance Benefit Program," in the first sentence.

§ 26002. Administration of plan

The Cash Balance Benefit Program shall be administered by the Teachers' Retirement Board with all of the powers, responsibilities and duties for administration of the plan set forth in Chapter 3 (commencing with Section 22200) through Chapter 7 (commencing with Section 22375) of Part 13. In administering the plan, the board and its officers and employees of the system shall exercise their fiduciary duties set forth in Chapter 4 (commencing with Section 22250) of Part 13.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 2 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 230 (AB 2765).

Amendments

1996 Amendment: Added "of the system" after "officers and employees".

1998 Amendment: Amended the first sentence by substituting **(1)** "Cash Balance Benefit Program" for "Cash Balance Plan"; and **(2)** "plan" for "system" after "administration of the".

§ 26002.5. Reference to "spouse" and "registered domestic partner" for Cash Balance Plan purposes

Except as excluded in subdivision (d) of Section 26807.5 or subdivision (d) of Section 26906.5, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a "spouse," as defined in Section 26140.

Added by Stats 2004 ch 912 § 27 (AB 2233). Amended by Stats 2005 ch 418 § 9 (SB 973), effective January 1, 2006; Stats 2006 ch 655 § 63 (SB 1466), effective January 1, 2007; Stats 2007 ch 513 § 3 (AB 1432), effective January 1, 2008.

Amendments

2005 Amendment: (1) Deleted "any reference to a 'spouse' in this part includes" after "Sections 26004 and 27406"; and **(2)** substituted "Code, shall be treated in the same manner as a 'spouse,' as defined in Section 26140." for "Code."

2006 Amendment: (1) Substituted "Section" for "Sections" after "as excluded in"; and **(2)** substituted "subdivision (d) of Section 26807.5, subdivision (d) of Section 26906.5, or Section 27406," for "and 27406" after "in Section 26004".

2007 Amendment: (1) Deleted "Section 26004," after "as excluded in"; **(2)** substituted "or" for the comma after "Section 26807.5"; and **(3)** deleted "or Section 27406," after "Section 26906.5,".

§ 26003. Severability of provisions

If any provision of this part or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this part that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26004. Limitations on benefits; Distribution

Notwithstanding any other provision of law:

(a) The benefits payable to any participant or beneficiary under this part shall be subject to the limitations imposed by Section 415 of Title 26 of the United States Code.

(b) The amount of compensation that is taken into account in computing benefits under this part for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the respective annual compensation limit applicable to that period.

(c) Distributions from the plan under this part shall be made in accordance with Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution of a retirement benefit, disability benefit, or termination benefit, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates all employment subject to coverage by the plan.

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity, payment of the annuity shall begin not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates employment in all positions subject to coverage by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

(3) In the case of a death benefit, distributions shall commence no later than the date provided in Section 27001.

(d) If a person becomes entitled to a distribution from the plan under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the plan of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(e) The amount of any benefit from the plan under this part that is determined on the basis of actuarial assumptions shall be based on actuarial assumptions adopted by the board pursuant to Section 26213 as a plan amendment with respect to the Cash Balance Benefit Program and those assumptions shall preclude employer discretion and comply with Section 401(a)(25) of Title 26 of the United States Code.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 3 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 14 (SB 2085); Stats 2004 ch 912 § 28 (AB 2233); Stats 2005 ch 661 § 4 (SB 525), effective January 1, 2006; Stats 2007 ch 513 § 4 (AB 1432), effective January 1, 2008.

Amendments

1996 Amendment: Substituted **(1)** "all employment subject to coverage" for "employment in all positions covered" in subd (c)(1); and **(2)** "participant terminates all employment subject to coverage" for "member terminates employment in all positions covered" in subd (c)(2).

1998 Amendment: (1) Substituted "this part" for "the plan" in subd (a) and after "computing benefits under" in the first sentence of subd (b); **(2)** added "under this part" near the beginning of subd (c); **(3)** substituted "employment in all positions" for "all employment" after "participant terminates" in subd (c)(2); **(4)** amended subd (d) by **(a)** adding "under this part" near the beginning of the first sentence; and **(b)** substituting "from" for "by" after "thereof, the distribution" in the second sentence; and **(5)** amended subd (e) by **(a)** substituting "from the plan under this part" for "by the plan"; and **(b)** adding "with respect to the Cash Balance Benefit Program".

2004 Amendment: (1) Added the last sentence in subd (d); and **(2)** substituted "that" for "which" in subd (e).

2005 Amendment: Amended subd (b) by **(1)** substituting "the termination, dissolution, or" for "any reference to 'dissolution of marriage or legal separation' also includes the termination or dissolution of a domestic partnership,"; **(2)** adding the word "registered" in two places; and **(3)** substituting "Code, shall be treated in the same manner as a dissolution of marriage or legal separation of a member and his or her spouse." for "Code."

2007 Amendment: (1) Deleted "of" after "participant attains the age" in subd (c)(2); and **(2)** deleted the former last sentence of subd (d) which read: "This subdivision does not apply to the surviving domestic partner of a member, consistent with Section 402 of the Internal Revenue Code."

CHAPTER 2. DEFINITIONS

§ 26100. Definitions to govern construction

Unless otherwise specified, the definitions set forth in this chapter govern the construction of this part.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26101. "Actuarial equivalent"

"Actuarial equivalent" means a benefit that has the same present value as the benefit it replaces based on interest rates and mortality tables recommended by the actuary and adopted by the board as a plan amendment.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26102. "Actuary"

"Actuary" means a person professionally trained in the technical and mathematical aspects of insurance, pensions, and related fields who has been appointed by the board for the purpose of actuarial services required under this part.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 231 (AB 2765).

Amendments

1998 Amendment: Substituted "actuarial services required under this part" for "performing the services under Section 26211".

§ 26103. "Additional earnings credit"

"Additional earnings credit" means a percentage determined by the board for a plan year by means of a plan amendment and credited to employee accounts and employer accounts on a specified date.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26104. "Administrative costs"

"Administrative costs" means the costs of administering the Cash Balance Benefit Program for the plan year as determined by the board.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 2000 ch 1025 § 38 (AB 816).

Amendments

2000 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26105. "Annuitant Reserve"

"Annuitant Reserve" means the reserve account established by the board within the State Teachers' Retirement Fund for the payment of monthly annuities with respect to the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 15 (SB 2085).

Amendments

1998 Amendment: (1) Substituted "State Teachers' Retirement Fund" for "State Teachers' Retirement System Cash Balance Fund"; and **(2)** added "with respect to the Cash Balance Benefit Program".

§ 26106. "Annuity"

"Annuity" means an amount of money payable in monthly installments for a period determined by the option elected by the participant or beneficiary.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26107. "Basis of employment"

"Basis of employment" means the standard of time over which the employer expects service to be performed by an employee in the position during the school year.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26108. "Beneficiary"

"Beneficiary" means any person or persons or entity designated by the participant pursuant to this part or otherwise entitled by law to receive the death benefit under the plan.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26109. "Board"

"Board" means the Teachers' Retirement Board.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26112. "Cash Balance Plan"

"Cash Balance Benefit Program "means the benefit program set forth in this part of the State Teachers' Retirement Law.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 17 (SB 2085).

Amendments

1998 Amendment: Substituted the section for the former section which read: " 'Cash Balance Plan' means the State Teachers' Retirement System Cash Balance Plan."

§ 26112.5. "Class of employees"

(a) "Class of employees" means a number of employees considered as a group because they are employed to perform similar duties, are employed in the same type of program, or share other similarities related to the nature of the work being performed.

(b) A class of employees may be comprised of one person if no other person employed by the employer performs similar duties, is employed in the same type of program, or shares other similarities related to the nature of the work being performed and that same class is in common use among other employers.

(c) The board shall have the right to override the determination by an employer as to whether or not a group or an individual constitutes a "class of employees" within the meaning of this section.

(d) This section shall be deemed to have become operative on July 1, 1996.

Added by Stats 1996 ch 1165 § 37 (AB 3032), operative July 1, 1996.

§ 26113. "Creditable Service"

(a) "Creditable service" means any of the following activities performed for an employer in a position requiring a credential, certificate, or permit pursuant to this code or under the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges or under the provisions of an approved charter for the operation of a charter school for which the employer is eligible to receive state apportionment or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training:

(1) The work of teachers, instructors, district interns and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupational programs, child care centers, and prekindergarten programs pursuant to Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of directors, coordinators, and assistant administrators who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.

(4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to school curriculum.

(5) The examination, selection, in-service training, or assignment of teachers, principals or other similar personnel involved in the instructional program.

(6) School activities related to, and an outgrowth of, the instructional and guidance program of the school when performed in addition to other activities described in this section.

(7) The work of nurses, physicians, speech therapists, psychologists, audiometrists, audiologists, and other school health professionals.

(8) Services as a school librarian.

(9) The work of county and district superintendents and other employees who are responsible for the supervision of persons or administration of the duties described in this section.

(10) Trustee service as described in Section 26403.

(b) "Creditable service" also means the work of superintendents of California public schools.

(c) The board shall have final authority for determining creditable service to cover activities not already specified.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 5 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 232 (AB 2765); Stats 2006 ch 655 § 64 (SB 1466), effective January 1, 2007.

Amendments

1996 Amendment: (1) Added "or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training" at the end of the introductory clause of subd (a); **(2)** added subd (a)(7); **(3)** redesignated former subds (a)(7) and (a)(8) to be subds (a)(8) and (a)(9); **(4)** deleted "county and district superintendents and other" after "work of" in subd (a)(9); **(5)** added subd (b); and **(6)** redesignated former subd (b) to be subd (c).

1998 Amendment: Added "county and district superintendents and other" in subd (a)(9).

2006 Amendment: (1) Substituted "service" for "Service" after "'Creditable" in subd (a); **(2)** added subd (a)(10); and **(3)** deleted "any" after "service to cover" in subd (c).

§ 26114. "Death benefit"

"Death benefit" means the benefit payable under this part upon the death of the participant.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 18 (SB 2085).

Amendments

1998 Amendment: Substituted "this part" for "the plan".

§ 26115. "Defined Benefit Program"

"Defined Benefit Program "means the Defined Benefit Program of the State Teachers' Retirement Plan as set forth in Part 13 (commencing with Section 22000).

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 19 (SB 2085).

Amendments

1998 Amendment: Substituted **(1)** "Defined Benefit Program" for "Defined Benefit Plan" at the beginning; and **(2)** "Defined Benefit Program of the State Teachers' Retirement Plan" for "State Teachers' Retirement System Defined Benefit Plan".

§ 26116. "Disability benefit"

"Disability benefit" means an amount payable under this part for permanent and total disability that is equal to the sum of the participant's employee account and employer account as of the disability date and is payable pursuant to Section 26905, 26906, or 26906.5.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 20 (SB 2085); Stats 2006 ch 655 § 65 (SB 1466), effective January 1, 2007.

Amendments

1998 Amendment: (1) Substituted "an amount payable under this part" for "a benefit"; **(2)** deleted "an amount" before "equal to the sum"; and **(3)** added "and is payable pursuant to either Section 26905 or 26906" at the end.

2006 Amendment: (1) Deleted "either" after "payable pursuant to"; **(2)** substituted the comma for "or" after "to Section 26905"; and **(3)** added ", or 26906.5" after "Section 26905, 26906".

§ 26117. "Disability date"

"Disability date" means the date the benefit becomes payable to a participant who has applied for a disability benefit from the plan under this part and has been determined to have a total and permanent disability.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 233 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 26118. "Employee"

"Employee" means a person engaged to perform creditable service.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26119. "Employee account"

"Employee account" means the nominal account of the participant to which employee contributions and interest and any additional earnings credits in respect thereof are credited under the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 234 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan"

§ 26120. "Employee contribution rate"

"Employee contribution rate" means the percentage of the participant's salary withheld by the employer as an employee contribution under the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 235 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26121. "Employee contribution"

"Employee contribution" means the amount withheld from the participant's salary by the employer as a contribution by the employee under the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 236 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26122. "Employer"

"Employer" means a school district, community college district, or county office of education that has elected to provide the benefits of this part to persons employed to perform creditable service. "Employer" shall not include the state.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 6 (AB 2673), effective September 19, 1996, operative July 1, 1996.

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Employer' means the state or any agency or political subdivision thereof that engages persons to perform creditable service subject to coverage by the plan."

§ 26123. "Employer account"

"Employer account" means the nominal account of the participant in which employer contributions on behalf of the participant and interest and any additional earnings credits in respect thereof are credited under the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 237 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26124. "Employer contribution rate"

"Employer contribution rate" means the percentage of salary that determines the amount the employer contributes to the Cash Balance Benefit Program with respect to each employee who is a participant.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 238 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26125. "Employer contribution"

"Employer contribution" means the amount contributed by the employer to the Cash Balance Benefit Program with respect to the participant.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 239 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26126. "Employed"; "Employment"

"Employed" or "employment" means employed to perform creditable service subject to coverage under the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 7 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 240 (AB 2765).

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Employed' means employed to perform creditable service subject to coverage by the plan."
1998 Amendment: Added "subject to coverage under the Cash Balance Benefit Program".

§ 26127. "Full time equivalent"

"Full time equivalent" means the days or hours of creditable service that a person who is employed on a part–time basis would be required to perform in a school year if he or she were employed full time, as defined by Section 22138.5, in that position.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 241 (AB 2765).

Amendments

1998 Amendment: Substituted **(1)** "days or hours of creditable service" for "time"; and **(2)** "perform" for "serve" after "required to".

§ 26128. "Fund"

"Fund" means the Teachers' Retirement Fund.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 21 (SB 2085).

Amendments

1998 Amendment: Substituted "Teachers' Retirement Fund" for "Cash Balance Fund".

§ 26129. "Gain and Loss Reserve"

"Gain and Loss Reserve" means the reserve account established by the board within the fund with respect to the Cash Balance Benefit Program to be drawn upon to the extent necessary to credit interest to employee accounts and employer accounts at the minimum interest rate during years in which the plan's investment earnings with respect to the Cash Balance Benefit Program are not sufficient for that purpose, and where necessary, to provide additions to the Annuitant Reserve for monthly annuity payments.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 22 (SB 2085).

Amendments

1998 Amendment: (1) Substituted "fund with respect to the Cash Balance Benefit Program" for "Cash Balance Fund"; **(2)** added "plan's" after "years in which the"; and **(3)** added "with respect to the Cash Balance Benefit Program" the second time it appears.

§ 26130. "Investment earnings"

"Investment earnings" means income received or receivable during the plan year by the plan from investment of employee contributions, employer contributions, and prior investment earnings.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26131. "Minimum interest rate"

"Minimum interest rate" means the annual rate determined for the plan year by the board by means of an amendment to the plan with respect to the Cash Balance Benefit Program in accordance with applicable federal laws and regulations.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 242 (AB 2765).

Amendments

1998 Amendment: Added "with respect to the Cash Balance Benefit Program".

§ 26132. "Participant"

"Participant" means a person who has performed creditable service subject to coverage by the Cash Balance Benefit Program, and who has contributions credited under the Cash Balance Benefit Program or is receiving an annuity under the Cash Balance Benefit Program by reason of creditable service.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 8 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 243 (AB 2765).

Amendments

1996 Amendment: Substituted "by" for "under" after "subject to coverage".
1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan" wherever it appears.

§ 26133. "Pay period"

"Pay period" means a payroll period specified by the employer but not more than 31 calendar days.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 6.5 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 244 (AB 2765).

Amendments

1996 Amendment: Substituted the section for the former section which read: " 'Pay period' means a period of not less than four weeks or more than one calendar month."

1998 Amendment: (1) Added "payroll"; and **(2)** substituted "31" for "30".

§ 26134. "Plan"

"Plan" means the State Teachers' Retirement Plan.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 23 (SB 2085).

Amendments

1998 Amendment: Substituted "State Teachers' Retirement Plan" for "State Teachers' Retirement System Cash Balance Plan".

§ 26135. "Plan year"

"Plan year" means the calendar, policy, or fiscal year on which the records of the plan are kept, with respect to the Cash Balance Benefit Program. The board by means of plan amendment shall determine the plan year.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1999 ch 939 § 77 (SB 1074).

Amendments

1999 Amendment: Substituted the section for the former section which read: " 'Plan year' means the period commencing on July 1 and ending on June 30 in the following year."

§ 26136. "Retirement"

"Retirement" means termination of employment and completion of all conditions precedent to receiving a retirement benefit under the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 245 (AB 2765).

Amendments

1998 Amendment: Added "under the Cash Balance Benefit Program".

§ 26137. "Retirement benefit"

"Retirement benefit" means an amount payable under this part in the event of the participant's retirement for service that is equal to the sum of the participant's employee account and employer account as of the retirement date and that is payable pursuant to Section 26806, 26807, or 26807.5.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 24 (SB 2085); Stats 2006 ch 655 § 66 (SB 1466), effective January 1, 2007.

Amendments

1998 Amendment: Substituted the section for the former section which read: " 'Retirement benefit' means a benefit payable in the event of retirement that is an amount equal to the sum of the participant's employee account and employer account as of the retirement date."

2006 Amendment: (1) Deleted "either" after "payable pursuant to"; **(2)** substituted the comma for "or" after "to Section 26806"; and **(3)** added ", or 26807.5" after "Section 26806, 26507".

§ 26138. "Retirement date"

"Retirement date" means the date the benefit under this part becomes payable to a participant who has applied for a retirement benefit from the plan under this part.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 246 (AB 2765).

Amendments

1998 Amendment: Added "under this part" both times it appears.

§ 26139. "Salary"

(a) "Salary" means remuneration payable in cash by an employer to a participant for creditable service subject to coverage under the Cash Balance Benefit Program. Salary shall include:

(1) Money paid in accordance with a salary schedule based on years of training and years of experience as specified in Section 45028 for creditable service performed.

(2) For participants not paid according to a salary schedule, money paid for creditable service performed.

(3) Money paid for the participant's absence from performance of creditable service as approved by an employer, except as provided in paragraph (5) of subdivision (b).

(4) Employee contributions picked up by an employer under Section 414(h)(2) of Title 26 of the United States Code and Section 17501 of the Revenue and Taxation Code.

(5) Amounts deducted by an employer from the participant's salary, including deductions for participation in a deferred compensation plan; deductions for the purchase of annuity contracts, tax–deferred retirement plans, or other insurance programs; and deductions for participation in a plan that meets the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

(6) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(7) Any other payments the board determines by plan amendment to be "salary."

(b) "Salary" does not mean and shall not include:

(1) Money paid for service that is not creditable service.

(2) Money paid by an employer in addition to salary paid under paragraph (1) or (2) if not paid to all employees in a class in the same dollar amount, the same percentage of salary, or the same percentage of the amount being distributed.

(3) Fringe benefits provided by an employer.

(4) Job–related expenses paid or reimbursed by an employer.

(5) Money paid for unused accumulated leave.

(6) Compensatory damages or money paid to a participant in excess of salary as a compromise settlement or as severance pay.

(7) Annuity contracts, tax–deferred retirement programs, or other insurance programs, including, but not limited to, plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code that are purchased by an employer for a participant.

(8) Any payments determined by the board to have been made by an employer for the principal purpose of enhancing a participant's benefits under the plan.

(9) Any other payments the board determines by plan amendment not to be "salary."

(c) Any employer or person who knowingly or willfully reports salary in a manner inconsistent with the provisions of subdivisions (a) or (b) shall reimburse the plan for any overpayment of benefits that occurs because of such inconsistent reporting and may be subject to prosecution for fraud, theft, or embezzlement in accordance with provisions of the Penal Code. The system may establish procedures to ensure that salary reported by an employer is in compliance with this section.

(d) This section shall be deemed to have become operative on July 1, 1996.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 1165 § 37.5 (AB 3032), operative July 1, 1996; Stats 1998 ch 965 § 247 (AB 2765).

Amendments

1996 Amendment: Substituted the section for the former section which read:

"(a) "salary" means remuneration paid by the employer to the participant for creditable service. Salary shall include:

"(1) Money paid for actual work performed or time served.

"(2) Money paid for an approved leave of absence from performance of creditable service.

"(3) Employee contributions picked up by the employer under Section 414(h)(2) of Title 26 of the United States Code and Section 17501 of the Revenue and Taxation Code.

"(4) Any amount deducted from the participant's salary for participation in a deferred compensation plan, or for the purchase of annuity contracts, tax–deferred retirement plans, or other insurance programs, including, but not limited to, plans that meet the requirements of Section 125, 401(k), or 403(b) of Title 26 of the United States Code.

"(5) Money paid under a salary schedule for years of training and years of experience."(6) Any other payments the board may determine to be "salary."

"(b) Salary shall not include:

"(1) Money paid, allocated, or reimbursed for job–related expenses.

"(2) Money paid for unused accumulated leave.

"(3) Money paid as compensatory damages or severance pay, or as a compromise settlement, that exceeds salary as defined in subdivision (a).

"(4) Money paid as a bonus to a selected employee or employees and not to the entire class of employees on a systematic basis.

"(5) Fringe benefits paid for by the employer in lieu of salary as defined in subdivision (a).

"(6) Money not available for payment of salaries that is paid by the employer for purchase of annuity contracts tax–deferred retirement programs, or other insurance programs, including, but not limited to plans that meet the requirements of Section 125, 401(k), 402(b) of Title 26 of the United States Code.

"(7) Any other payments the board may determine not be 'salary.' "

1998 Amendment: Added "subject to coverage under the Cash Balance Benefit Program" in the introductory clause of subd (a).

§ 26140. "Spouse"

(a) "Spouse" means the person married to the participant on the date the participant files a beneficiary designation, or an application for a benefit, or on the date of the participant's death.

(b) Except as excluded in Sections 26004 and 27406, a person who is the registered domestic partner of the participant, as established pursuant to Section 297 or 299.2 of the Family Code, on the date the participant files a beneficiary designation or an application for a benefit, or on the date of the participant's death, shall be treated in the same manner as a spouse.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 2004 ch 912 § 29 (AB 2233); Stats 2005 ch 418 § 10 (SB 973), effective January 1, 2006.

Amendments

2004 Amendment: (1) Redesignated the former section to be subd (a); and **(2)** added subd (b).
2005 Amendment: Amended subd (b) by **(1)** substituting "a" for ": 'spouse' also includes the" after "Sections 26004 and 27406"; and **(2)** substituting "death, shall be treated in the same manner as a spouse." for "death."

§ 26142. "System"

"System" means the State Teachers' Retirement System.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26143. "Termination benefit"

"Termination benefit" means a benefit that is an amount equal to the sum of the participant's employee account and employer account payable under this part pursuant to the provisions of Chapter 13 (commencing with Section 27200).

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 9 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 248 (AB 2765).

Amendments

1996 Amendment: Substituted "pursuant to the provisions of Chapter 13 (commencing with Section 27200" for "under the provisions of the plan upon termination of all employment covered by the plan."
1998 Amendment: Added "under this part".

§ 26144. "Total and permanent disability"

"Total and permanent disability" means any medically determinable physical or mental incapacity that is expected to prevent the participant from performing creditable service under this part for the employer for a continuous period of at least one year.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 249 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 26144.5. "Trustee service"

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

Added by Stats 2000 ch 1020 § 11 (AB 820).

§ 26145. "Unfunded actuarial obligation"

"Unfunded actuarial obligation" means any negative balance in the Gain and Loss Reserve.

Added by Stats 1995 ch 592 § 16 (AB 1298).

CHAPTER 3. PLAN ADMINISTRATION

§ 26200. Deposits into Teachers' Retirement

Employee contributions, employer contributions, investment earnings, and any other amounts provided under this part shall be deposited into the Teachers' Retirement Fund. Disbursement of money from the fund shall be made upon claims made pursuant to Section 26209 and duly audited in the manner prescribed for the disbursement of Teachers' Retirement Fund is continuously appropriated for the payment of benefits and investment transactions pursuant to this part. Disbursements may be made to return funds deposited in the fund in error.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 25 (SB 2085).

Amendments

1998 Amendment: (1) Deleted the former first sentence which read: "There is in the State Treasury a special trust fund to be known as the Cash Balance Fund."; **(2)** amended the first sentence by **(a)** deleting "There shall be deposited in that fund the assets of the Cash Balance Plan, consisting of" at the beginning; and **(b)** adding "shall be deposited into the Teachers' Retirement Fund"; **(3)** substituted "Teachers' Retirement" for "other public funds. Notwithstanding Section 13340 of the Government Code, the Cash Balance" in the second sentence; and **(4)** amended the last sentence by **(a)** substituting "fund" for "Cash Balance Fund"; and **(b)** deleting "and to reimburse any funds transferred from the Teachers' Retirement Fund" at the end.

§ 26201. Collection and deposit of investment earnings

Investment earnings shall be collected by the Treasurer, and together with any other moneys received in connection with the Cash Balance Benefit Program, shall be immediately deposited to the credit of the Teachers' Retirement Fund and reported to the system.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 26 (SB 2085).

Amendments

1998 Amendment: Substituted **(1)** "in connection with the Cash Balance Benefit Program" for "for the Cash Balance Fund"; and **(2)** "Teachers' Retirement Fund" for "Cash Balance Fund".

§ 26202. Establishment of Gain and Loss Reserve

(a) The board shall establish a Gain and Loss Reserve within the Teachers' Retirement Fund for the Cash Balance Benefit Program. The board has sole authority to administer the Gain and Loss Reserve to be drawn upon to the extent necessary to credit interest to employee accounts and employer accounts at the minimum interest rate during years in which the investment earnings of the plan with respect to the Cash Balance Benefit Program are not sufficient for that purpose, and, where necessary, to provide additions to the Annuitant Reserve for monthly annuity payments.

(b) The board shall establish and periodically review goals regarding the sufficiency of the Gain and Loss Reserve based on the recommendation of the actuary.

(c) In the event that the total amount of investment earnings of the plan with respect to the Cash Balance Benefit Program for any plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate for the plan year plus the administrative costs of the plan with respect to the Cash Balance Benefit Program for the plan year, the board shall determine the amount, if any, that is to be credited to the Gain and Loss Reserve for the plan year. That determination shall be made upon recommendation of the actuary following the adoption by the board of the actuarial valuation undertaken following the plan year pursuant to Section 26202, but no later than June 30 following the end of the plan year. In determining whether an amount is to be cre-

dited to the Gain and Loss Reserve, the board shall consider the sufficiency of the reserve in light of the goal established for the sufficiency and the recommendations of the actuary.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 27 (SB 2085); Stats 1999 ch 939 § 78 (SB 1074).

Amendments

1998 Amendment: (1) Amended subd (a) by **(a)** substituting "Teachers' Retirement Fund for the Cash Balance Benefit Program" for "Cash Balance Fund" in the first sentence; and **(b)** adding "of the plan with respect to the Cash Balance Benefit Program" in the second sentence; and **(2)** added "with respect to the Cash Balance Benefit Program" both times it appears in the first sentence of subd (c).

1999 Amendment: Substituted "upon recommendation of the actuary following the adoption by the board of the actuarial valuation undertaken following the plan year pursuant to Section 26202, but no later than June 30 following the end of" for "not later than December 31 of the year following" in the second sentence of subd (c).

§ 26203. Amortization of unfunded actuarial obligation

The board may amortize any unfunded actuarial obligation in accordance with standards established by the Actuarial Standards Board and Governmental Accounting Standards Board.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26204. Establishment of Annuitant Reserve

The board shall establish an Annuitant Reserve within the Teachers' Retirement Fund for the Cash Balance Benefit Program. The board has sole authority to administer the Annuitant Reserve for the payment of annuities. The board may transfer the credits from a participant's employee account and employer account to the Annuitant Reserve upon election of an annuity by the participant or beneficiary of the participant.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 28 (SB 2085).

Amendments

1998 Amendment: Substituted "Teachers' Retirement Fund for the Cash Balance Benefit Program" for "Cash Balance Fund".

§ 26205. Transfer between reserves

The board may transfer amounts between the Gain and Loss Reserve and the Annuitant Reserve upon the recommendation of the actuary.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26206. Administrative costs

All administrative costs of the board and system for the plan with respect to the Cash Balance Benefit Program shall be paid from the Teachers' Retirement Fund.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 10 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 29 (SB 2085).

Amendments

1996 Amendment: Added "and system".

1998 Amendment: (1) Deleted the former first and second sentences which read: ". The board may establish and administer a Cash Balance Plan Expense Account within the Cash Balance Fund. The Cash Balance Plan Expense Account shall be funded first through assessment against the investment earnings of the plan."; **(2)** added "with respect to the Cash Balance Benefit Program"; and **(3)** substituted "Teachers' Retirement Fund" for "Cash Balance Plan Expense Account".

§ 26207.5. Sources for funding

In no event shall the funding of the Cash Balance Benefit Program be a liability of the state or the General Fund, nor shall the General Fund be used to offset or fund any liabilities attributed to the operation of the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298), as Ed C § 26705.5. Renumbered by Stats 1996 ch 608 § 31.7 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 1048 § 31 (SB 2085).

Amendments

1998 Amendment: Substituted **(1)** "In no event shall the funding of the Cash Balance Benefit Program" for "Funding for the plan shall be provided only from the specific sources set forth in this part and in no event shall the funding of the plan"; and **(2)** "any liabilities attributed to the operation of the Cash Balance Benefit Program" for "the liabilities of the plan".

§ 26208. Records and accounts

The board shall establish and maintain records and accounts following recognized accounting principles and controls with respect to the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 11 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 250 (AB 2765).

Amendments

1996 Amendment: Deleted "an adequate system of" after "establish and maintain".
1998 Amendment: Added "with respect to the Cash Balance Benefit Program".

§ 26209. Authorization of transfer and disbursement of funds

The board may authorize the transfer and disbursement of funds from the Teachers' Retirement Fund for the purpose of carrying into effect the Cash Balance Benefit Program upon the signature of its chairperson, vice chairperson, the chief executive officer, or any employee of the system designated by the chief executive officer.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 32 (SB 2085).

Amendments

1998 Amendment: Substituted **(1)** "Teachers' Retirement Fund" for "Cash Balance Fund"; and **(2)** "Cash Balance Benefit Program" for "plan".

§ 26210. Control of investing fund

The board has exclusive control of the investment of the Retirement Fund with respect to assets attributed to the Cash Balance Benefit Program. In investing the fund, the board and its officers and employees shall exercise their fiduciary duties set forth in Chapter 4 (commencing with Section 22250) and Chapter 6 (commencing with Section 22350) of Part 13.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 251 (AB 2765).

Amendments

1998 Amendment: Substituted "Retirement Fund with respect to assets attributed to the Cash Balance Benefit Program" for "Cash Balance Fund" in the first sentence.

§ 26211. Duties of actuary

The board shall acquire the services of an actuary to:

(a) Perform an actuarial investigation of the demographic and economic experience of the Cash Balance Benefit Program at least once every four years and make recommendations to the board for the adoption of actuarial assumptions for the program that are, in the aggregate, reasonably related to the past experience of the program and the actuary's best estimate of the future experience of the program.

(b) Perform an annual actuarial valuation of the assets and liabilities of the plan with respect to the Cash Balance Benefit Program, using the actuarial assumptions adopted by the board.

(c) Recommend to the board all rates and factors necessary to administer the Cash Balance Benefit Program, including, but not limited to, mortality tables, annuity factors, interest rates, additional earnings credits, and employer contribution rates.

(d) Recommend to the board the goal for maintaining a sufficient Gain and Loss Reserve with respect to the Cash Balance Benefit Program, the amount to be transferred to the Gain and Loss Reserve from investment earnings of the plan each year with respect to the Cash Balance Benefit Program, and a strategy for the amortization of any unfunded actuarial obligation.

(e) Recommend to the board transfers of amounts between the Gain and Loss Reserve and the Annuitant Reserve with respect to the Cash Balance Benefit Program.

(f) Perform any other actuarial services that may be required for the administration of the plan with respect to the Cash Balance Benefit Program, as requested by the board.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 252 (AB 2765).

Amendments

1998 Amendment: (1) Amended subd (a) by substituting **(a)** "Cash Balance Benefit Program" for "plan"; and **(b) "**program" for "plan" wherever it appears; **(2)** added "with respect to the Cash Balance Benefit Program" wherever it appears in subds (b)–(f); **(3)** substituted "Cash Balance Benefit Program" for "plan" in subd (c); and **(4)** added "of the plan" after "investment earnings" in subd (d).

§ 26212. Database for actuarial investigation

The board shall maintain all data necessary for the actuarial investigation of the demographic and economic experience of the Cash Balance Benefit Program, and for the actuarial valuation of the assets and liabilities of the plan with respect to the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 253 (AB 2765).

Amendments

1998 Amendment: (1) Substituted "Cash Balance Benefit Program" for "plan" the first time it appears; and **(2)** added "with respect to the Cash Balance Benefit Program" at the end.

§ 26213. Adoption of actuarial techniques

The board shall adopt actuarial assumptions, rates, factors and tables necessary to administer the Cash Balance Benefit Program as an amendment to the plan.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 254 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26214. Annual statement to participants

The board shall issue, after the end of the plan year, to each participant having a balance in his or her employee account or employer account, a statement setting forth the balance as of the close of the plan year and amounts credited for the year, provided that the employer or participant has informed the system of the participant's current United States Postal Service mailing address. If the participant indicates that he or she prefers to receive that statement through the Web site of the system, the board may, in lieu of mailing, issue the statement by secured access through the Web site of the system. The board shall prescribe the form and content of the account statement.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 2006 ch 655 § 67 (SB 1466), effective January 1, 2007.

Amendments

2006 Amendment: Added ", provided that the employer or participant has informed the system of the participant's current United States Postal Service mailing address. If the participant indicates that he or she prefers to receive that statement through the Web site of the system, the board may, in lieu of mailing, issue the statement by secured access through the Web site of the system." after "credited for the year".

§ 26215. Confidential records

(a) Information filed with the system by a participant or beneficiary is confidential and shall be used by the system for the sole purpose of carrying into effect the provisions of this part. No official or employee of the system who has access to the individual records of a participant or beneficiary shall divulge any confidential information concerning those records to any person except in the following instances:

(1) To the participant or beneficiary to whom the information relates.

(2) To the authorized representative of the participant or beneficiary.

(3) To the governing board of the participant's current or former employer.

(4) To any department, agency, or political subdivision of this state.

(5) To other individuals as necessary to locate a person to whom a benefit may be payable.

(6) Pursuant to subpoena.

(b) Information filed with the system in a beneficiary designation form may be released after the death of the participant to those persons who may provide information necessary for the distribution of benefits.

(c) The information is not open to inspection by anyone except the board and its officers and employees of the system, and any person authorized by statute to make inspections.

Added by Stats 1996 ch 608 § 12.5 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1999 ch 939 § 79 (SB 1074).

Former Sections: Former § 26215, similar to the present section, was added Stats 1995 ch 592 § 16 and repealed Stats 1996 ch 608 § 12, effective September 19, 1996, operative July 1, 1996.

Amendments

1999 Amendment: Added subd (a)(6).

§ 26216. Administration by third party

The board may administer the Cash Balance Benefit Program through an agreement with a qualified third–party administrator that shall provide custodial, recordkeeping, or other administrative services specified under the agreement.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 255 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan"

CHAPTER 4. EMPLOYER AND PARTICIPANT RESPONSIBILITIES

§ 26300. Available information

(a) Within 10 working days following the later of the first day of employment, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, the employer shall make available to the employee the following information:

(1) The employee's rights and responsibilities as a participant in the program, the employer's responsibilities under the program, and the benefits payable under the program.

(2) The employee's right to elect membership in the Defined Benefit Program in lieu of participation in the Cash Balance Benefit Program, the rights and responsibilities of a member and the employer under the Defined Benefit Program, and benefits payable under the Defined Benefit Program.

(b) Written acknowledgment by the employee that he or she has received the information specified in subdivision (a) shall be retained in the employer's files on a form prescribed by the system.

(c) If an employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect other coverage in lieu of the Cash Balance Benefit Program pursuant to Section 26400, the employer shall, within 10 working days following the later of the first day on which creditable service is performed, the date of the employer's governing board's action to provide the program or the effective date of the employer's governing board's action to provide the program, notify existing employees of the following:

(1) The employee's right to elect other coverage if offered by the employer in lieu of participation in the Cash Balance Benefit Program.

(2) The rights and responsibilities of the employer and a participant in an alternative retirement plan if offered by the employer.

(3) The benefits payable under an alternative retirement plan if offered by the employer.

Added by Stats 1996 ch 608 § 14 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 1048 § 33 (SB 2085).

Former Sections: Former § 26300, similar to the present section, was added Stats 1995 ch 592 § 16, and repealed Stats 1996 ch 608 § 13, effective September 19, 1996, operative July 1, 1996.

Amendments

1998 Amendment: Substituted **(1)** "Cash Balance Benefit Program" for "plan" both times it appears in subd (a); **(2)** "program" for "plan" wherever it appears in subds (a)(1)–(c); **(3)** "Defined Benefit Program" for "Defined Benefit Plan" wherever it appears in subd (a)(2); and **(4)** "Cash Balance Benefit Program" for "Cash Balance Plan" in subd (a)(2), both times it appears in subd (c), and in subd (c)(1).

§ 26301. Reports by employers; Penalty

(a) Employers shall report contributions paid on behalf of each participant in each pay period, along with all other information required by the system no later than 10 working days following the last day of the pay period in which the salary was earned, and the report shall be delinquent immediately thereafter. That report shall be submitted electronically in an encrypted format provided by the system that ensures the security of the transmitted participant data.

(b) The board shall, in accordance with regulations, assess a penalty against the employer for a report submitted late or in an unacceptable form. The penalty shall be based upon the sum of the employee and employer contributions required to be reported under this part at a rate of interest equal to the regular interest rate, accruing on the balance for the period between the time the report was due and the time an acceptable report is actually received by the system.

Added Stats 1995 ch 592 § 16 (AB 1298). Amended Stats 1996 ch 608 § 15 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 256 (AB 2765), ch 1048 § 34 (SB 2085); Stats 1999 ch 939 § 80 (SB 1074); Stats 2006 ch 655 § 68 (SB 1466), effective January 1, 2007; Stats 2009 ch 249 § 9 (AB 654), effective January 1, 2010; Stats 2011 ch 703 § 32 (SB 349), effective January 1, 2012.

Amendments

1996 Amendment: Amended subd (a) by substituting **(1)** "system, contributions paid on behalf of" for "plan, salary earned by"; **(2)** "system, no later than 15" for "plan, within 30"; and **(3)** "paid, and the report is delinquent" for "earned, and are delinquent 15 calendar days".

1998 Amendment: (1) Deleted the comma after "required by the system" in subd (a); and **(2)** substituted subd (b) for former subdivision (b) which read: "(b) If the employer submits a report late or in an unacceptable form, the board may assess a penalty against the employer, based on the sum of the employee contributions and employer contributions required by the report and at the minimum interest rate, or a fee of five hundred dollars ($500), whichever is greater." (As amended Stats 1998 ch 1048, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

1999 Amendment: Amended subd (a) by substituting **(1)** "10 working" for "15 calendar"; and **(2)** "earned, and the report shall be" for "paid, and the report is".

2006 Amendment: (1) Amended subd (a) by **(a)** deleting ", on a form prescribed by the system," after "Employers shall report"; and **(b)** adding the last sentence; and **(2)** added the last sentence in subd (b).

2009 Amendment: (1) Substituted "shall, in accordance with regulations," for "may" in the first sentence of subd (b); and **(2)** amended the second sentence of subd (b) by substituting **(a)** "regular interest rate" for "minimum interest rate"; and **(b)** "received by the system" for "filed".

2011 Amendment: Deleted ", or a fee of five hundred dollars ($500), whichever is greater" at the end of the second sentence of subd (b).

§ 26301.5. Employer's duty to deduct and remit contributions

Each employer shall deduct from the salary of participants employed by the employer the participant contributions required by this part and shall remit to the system those contributions plus the employer contributions required by this part and Section 44987.

Added by Stats 1998 ch 965 § 257 (AB 2765).

§ 26302. Adjustments in contributions; Assessment of penalties for late or improper adjustments

(a) If more or less than the contributions required by this part are paid to the plan based on salary paid to a participant, proper adjustment shall be made by the employer within 60 days of discovery or of notification by the system, and any contributions deducted in error from the participant's salary shall be returned to the participant by the employer within the same time period.

(b) The board shall, in accordance with regulations, assess penalties for late or improper adjustments pursuant to Section 26301. These penalties shall be assessed at a rate equal to the penalties imposed under subdivision (b) of Section 26301 and shall be deemed to be interest earned in the year in which the penalty is received.

Added Stats 1995 ch 592 § 16 (AB 1298). Amended Stats 1996 ch 608 § 16 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 258 (AB 2765); Stats 2010 ch 207 § 26 (AB 2260), effective January 1, 2011; Stats 2011 ch 703 § 33 (SB 349), effective January 1, 2012.

Amendments

1996 Amendment: Substituted **(1)** "system" for "plan" wherever it appears; **(2)** "salary paid" for "any salary payment" in subd (a); and **(3)** "makes a distribution from the plan" for "disburses funds" in subd (b).

1998 Amendment: (1) Substituted "contributions required by this part" for "required contributions" in subd (a); and **(2)** amended subd (b) by **(a)** adding "with respect to the Cash Balance Benefit Program" both times it appears; **(b)** substituting "Teachers' Retirement Fund" for "plan"; and **(c)** substituting "Retirement Fund" for "fund" after "reimburse the".

2010 Amendment: Deleted **(1)** subdivision designation (a); and **(2)** former subd (b) which read: "If a report with respect to the Cash Balance Benefit Program contains erroneous information and the system, acting in good faith, makes a distribution from the Teachers' Retirement Fund with respect to the Cash Balance Benefit Program based on that information, the employer who submitted the report shall reimburse the Retirement Fund in full for the amount of the erroneous disbursement, plus interest on the amount of the erroneous disbursement at the minimum interest rate from the date of disbursement to the date of reimbursement, immediately upon notification by the system."

2011 Amendment: Added **(1)** subdivision designation (a); and **(2)** subd (b).

§ 26303. Deadline to transmit contributions; Delinquency of payments

(a) Employers shall transmit to the plan the employee contributions and employer contributions with respect to the Cash Balance Benefit Program for salary paid to each participant during the pay period no later than 10 working days following the last day of the pay period in which the salary was earned.

(b) Payments shall be delinquent on the 11th working day thereafter, and interest shall begin to accrue at the regular interest rate from that day until payment for the contributions and interest is received in full by the system. The board, in accordance with regulations, shall collect interest for late payment from the employer under this subdivision.

Added Stats 1995 ch 592 § 16 (AB 1298). Amended Stats 1996 ch 608 § 16.5 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 259 (AB 2765); Stats 1999 ch 939 § 81 (SB 1074); Stats 2009 ch 249 § 10 (AB 654), effective January 1, 2010; Stats 2011 ch 703 § 34 (SB 349), effective January 1, 2012.

Amendments

1996 Amendment: Amended subd (a) by **(1)** adding "to the plan"; **(2)** substituting "paid to" for "earned by"; **(3)** substituting "during the" for "in each"; and **(4)** substituting "no later than five working days following the last day of the pay period in which the salary was paid" for "to the plan within five working days following the last day or the pay period in which the salary was earned".

1998 Amendment: Added "with respect to the Cash Balance Benefit Program" in subd (a).

1999 Amendment: (1) Substituted "earned" for "paid" at the end of subd (a); and **(2)** amended subd (b) by substituting **(a)** "11th" for "sixth"; and **(b)** "for the contribution report is received in full by the system. The board may collect interest for late payment from the employer under this subdivision" for "is received by the plan. Interest for late payment under this subdivision shall be due from the employer".

2009 Amendment: (1) Amended the first sentence of subd (b) by substituting **(a)** "regular" for "minimum"; and **(b)** "contributions and interest" for "contribution report"; and **(2)** substituted "shall collect" for "may collect" in the second sentence of subd (b).

2011 Amendment: Added ", in accordance with regulations," in the second sentence of subd (b).

§ 26303.5. Appeal of assessed penalty or interest

A person or entity that reports directly to the system that is assessed a penalty or interest pursuant to Section 26301 or 26303 may appeal the assessed penalty or interest using the appeals process established pursuant to Section 22219.

Added Stats 2009 ch 249 § 11 (AB 654), effective January 1, 2010.

§ 26304. Notice of changed status of employee

An employer shall provide timely notice to the system of the employment, death, or termination of employment of a participant.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 17 (AB 2673), effective September 19, 1996, operative July 1, 1996.

Amendments

1996 Amendment: Substituted "system" for "plan".

§ 26305. Documents from employer to be provided upon request

Upon request of the system, an employer shall provide the system with information regarding the salary paid or to be paid to employees subject to coverage by the Cash Balance Benefit Program in a plan year. The information may include, but shall not be limited to, employment contracts, salary schedules, and minutes from meetings conducted by the governing board of the employer.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 18 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 260 (AB 2765).

Amendments

1996 Amendment: Substituted **(1)** "system" for "plan"; **(2)** "system with information regarding the salary paid or to be paid to employees subject to coverage by the plan" for "plan with copies of documents respecting the salary paid or to be paid to employees"; **(3)** "information" for "documents"; and **(4)** "minutes from meetings conducted by the governing board of the employer" for "employer board minutes".
1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan" in the first sentence.

§ 26306. Information from participant or beneficiary

(a) Upon request by the system, a participant or beneficiary with respect to the Cash Balance Benefit Program shall provide to the system any information affecting his or her status as a participant or beneficiary.
(b) Upon request by the system, the participant shall provide proof of his or her date of birth.
(c) A participant who has not contributed to the Cash Balance Benefit Program during the immediately preceding plan year shall provide the system with his or her current mailing address and beneficiary information.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 19 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 261 (AB 2765).

Amendments

1996 Amendment: Substituted "system" for "plan" wherever it appears.
1998 Amendment: (1) Added "with respect to the Cash Balance Benefit Program" in subd (a); and **(2)** substituted "Cash Balance Benefit Program" for "plan" in subd (c).

CHAPTER 5. ELIGIBILITY

§ 26400. Employees with less than 50 percent creditable service; Community college district temporary employees; Changes in employment; Election for social security coverage

(a) A person employed on a part-time basis by a school district or county office of education to perform creditable service for less than 50 percent of each full-time position shall become a participant on the later of the first day that creditable service is performed for an employer that provides the Cash Balance Benefit Program or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, provided that creditable service is not performed for the same employer with whom the person is subject to mandatory membership in the Defined Benefit Program.

(b) A person employed on a temporary basis by a community college district, who is not subject to mandatory membership in the Defined Benefit Program pursuant to Section 22502 or 22504 for each position with the same employer, shall become a participant on the later of the first day that creditable service is performed for an employer that provides the Cash Balance Benefit Program or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program.

(c) If the employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect coverage under social security or an alternative retirement plan offered by the employer in addition to the Cash Balance Benefit Program, the employee may elect within 60 calendar days of the latest of the first day that creditable service is performed, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program to be covered by social security or to participate in the alternative retirement plan in lieu of participating in the Cash Balance Benefit Program. An election may not preclude an employee from participating in the Cash Balance Benefit Program at a later date so long as the Cash Balance Benefit Program is provided by the employer and the employee is eligible to participate in the Cash Balance Benefit Program.

(d) If subdivision (c) is applicable, the employer shall inform employees pursuant to subdivision (c) of Section 26300 of their right to make an election and the election shall be made on a properly executed form provided by the system and filed with the employer. The employer shall retain a copy of the employee's signed election form and mail the original election form to the headquarters office of the system as described in Section 22375. The election shall become effective on the later of the first day that creditable service is performed or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program.

(e) If the participant's basis of employment with a school district or county office of education that provides the Cash Balance Benefit Program changes to employment to perform creditable service for 50 percent or more of the full-time position during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

(f) If the participant's basis of employment with a community college district changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Section 22501, 22502, or 22504 during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

(g) If the governing board of an employer subsequently provides, in addition to the Cash Balance Benefit Program, social security coverage, a participant covered by the Cash Balance Benefit Program who is performing creditable service for that employer may elect to be covered by social security in lieu of the Cash Balance Benefit Program. That participant's election shall be made within 60 calendar

days of the date the governing board acted to provide coverage under social security or the effective date of the governing board's action to provide social security coverage, whichever is later. An election under this subdivision may not preclude an employee from participating in the Cash Balance Benefit Program at a later date if the employee is eligible to participate in the Cash Balance Benefit Program and the employer provides the Cash Balance Benefit Program.

(h) If the governing board of an employer provided social security coverage with an effective date prior to January 1, 2007, and the employer offered the Cash Balance Benefit Program as of the effective date of the governing board's action to provide social security coverage, a participant who was performing creditable service for that employer may elect to be covered by social security in lieu of the Cash Balance Benefit Program. The participant's election shall be made on or after March 1, 2008, and on or before May 1, 2008. The election to participate in social security shall be effective on July 1, 2008. An election under this subdivision may not preclude an employee from participating in the Cash Balance Benefit Program at a later date if the employee is eligible to participate in the Cash Balance Benefit Program and the employer provides the Cash Balance Benefit Program.

(i) An election by an employee to terminate his or her participation in the Cash Balance Benefit Program as described in subdivision (g) or (h) shall be made on a properly executed form provided by the system and filed with the employer. The employer shall retain a copy of the employee's signed election form and mail the original election form to the headquarters office of the system, as described in Section 22375.

Added by Stats 1996 ch 608 § 21 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 965 § 262 (AB 2765), ch 1048 § 35 (SB 2085); Stats 2001 ch 803 § 40 (SB 501); Stats 2002 ch 375 § 37 (AB 2982); Stats 2004 ch 474 § 5 (AB 3076), operative July 1, 2005; Stats 2006 ch 655 § 69 (SB 1466), effective January 1, 2007.

Former Sections: Former § 26400, similar to the present section, was added Stats 1995 ch 592 § 16, and repealed Stats 1996 ch 608 § 20, effective September 19, 1996, operative July 1, 1996.

Amendments

1998 Amendment: (1) Amended subd (a) by substituting **(a)** "Cash Balance Benefit Program" for "plan" the first time it appears; **(b)** "Cash Balance Benefit Program" for "Cash Balance Plan" the second time it appears; and **(c)** "Defined Benefit Program" for "Defined Benefit Plan"; **(2)** amended subd (b) by **(a)** substituting "Cash Balance Benefit Program" for "Cash Balance Plan" wherever it appears; and **(b)** adding "calendar" after "within 60"; **(3)** substituted "Cash Balance Benefit Program" for "plan" at the end of subd (c); and **(4)** amended subd (d) by **(a)** substituting "Cash Balance Benefit Program" for "Cash Balance Plan" wherever it appears; and **(b)** "Defined Benefit Program" for "Defined Benefit Plan". (As amended Stats 1998 ch 1048, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

2001 Amendment: Deleted **(1)** "except as provided in Section 26402" at the end of subd (a); and **(2)** ", except as provided in Section 26402" at the end of subd (d).

2002 Amendment: Deleted "and all other employers" after "performed for that employer" in subd (d).

2004 Amendment: (1) In subd (a), **(a)** added "on a part–time basis by a school district or county office of education" after "employed"; **(b)** substituted "each full–time" for "the full–time equivalent for the"; and **(c)** substituted "provided that creditable service is not performed for the same employer with whom the person is subject to mandatory membership in the Defined Benefit" for "provided the person is not subject to mandatory membership in the Defined Befit Program"; **(2)** added subd (b); **(3)** redesignated former subd (b) as present subd (c); **(4)** in present (c) substituted "latest" for "later" and substituted "may" for "shall"; **(5)** redesignated former subd (c) as subd (d); **(6)** substituted "subdivision (c)" for "subdivision (b)" in present subd (d); **(7)** redesignated former subd (d) as subd (e); **(8)** in present subd (e), **(a)** substituted "a school district or county office of education" for "an employer"; **(b)** substituted "position during one school year with the same employer," for "equivalent for the position, contributions to the Cash Balance Benefit Program on behalf of the participant shall no longer be made"; **(c)** added "no longer be covered under the Cash Balance Benefit Program" after "employer"; **(d)** added "Creditable service performed for that employer shall" before "be subject"; **(e)** substituted "following" for "in which"; and **(f)** deleted "occurred" after "employment" at the end; and **(9)** added subd (f).

2006 Amendment: (1) Substituted "that" for "on which" after "the first day" in subds (a) and (b); **(2)** amended subd (c) by **(a)** substituting "that" for "on which" after "the first day"; and **(b)** substituting "An" for "Any" after "Balance Benefit Program."; **(3)** amended subd (d) by **(a)** adding "properly executed" after "be made on a"; **(b)** substituting "provided" for "prescribed" after "properly executed form"; **(c)** adding the next to last sentence; and **(d)** substituting "that" for "on which" after "the first day"; and **(4)** added subds (g)–(i).

§ 26401. Election to become participant for creditable service

(a) A member of the Defined Benefit Program who is employed to perform creditable service on a part-time basis for less than 50 percent of each full-time position by a school district or county office of education that provides the Cash Balance Benefit Program may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided that the creditable service is not performed for the same employer with whom the member is also subject to mandatory membership in the Defined Benefit Program.

(b) A member of the Defined Benefit Program who is employed pursuant to Section 87474, 87480, 87481, 87482, or 87482.5 by a community college district that provides the Cash Balance Benefit Program may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided that the creditable service is not performed for the same employer with whom the member is also subject to mandatory membership in the Defined Benefit Program.

(c) The election shall be made on a properly executed form provided by the system and shall be filed with the employer within 60 calendar days of the later of the first day of employment with an employer that provides the Cash Balance Benefit Program, the date of the employer's governing board's action to provide the Cash Balance Benefit Program, or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program.

(d) Employers shall make available to employees specified in subdivisions (a) and (b) information and forms provided by the system for making an election regarding participation. The employer shall retain a copy of the employee's signed election form and mail the original signed election form to the headquarters office of the system as described in Section 22375. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

(e) If an election is made pursuant to subdivision (a) and the participant's basis of employment with that employer changes to employment to perform creditable service for 50 percent or more of the full-time position during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage under the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

(f) If an election is made pursuant to subdivision (b) and the participant's basis of employment with the community college district changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Section 22501, 22502, or 22504 during one school year with the same employer, creditable service performed for that employer shall no longer be covered under the Cash Balance Benefit Program. Creditable service performed for that employer shall be subject to coverage under the Defined Benefit Program as of the first day of the pay period following the change in the participant's basis of employment.

(g)(1) If an employee was excluded from participation in the Cash Balance Benefit Program pursuant to Section 26401.5, as that section read on December 31, 2000, for the same service, the employee may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided all of the following conditions are met:

(A) The employment is pursuant to Section 87474, 87480, 87481, 87482, or 87482.5.

(B) The employer offers the Cash Balance Benefit Program.

(C) The creditable service is not also subject to mandatory membership in the Defined Benefit Program.

(2) Employers shall, on or before May 1, 2007, make available to employees described in this subdivision, information and forms provided by the system for making an election regarding participation. The employee shall submit the form to the employer within a 60-day election period designated by the employer. The employer shall retain a copy of the employee's signed election form and mail the original signed election form to the headquarters office of the system as described in Section 22375. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

Added by Stats 1996 ch 608 § 23 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 965 § 263 (AB 2765), ch 1048 § 36 (SB 2085); Stats 2001 ch 803 § 41 (SB 501); Stats 2004 ch 474 § 6 (AB 3076), operative July 1, 2005; Stats 2005 ch 351 § 38 (AB 224), effective January 1, 2006; Stats 2006 ch 655 § 70 (SB 1466), effective January 1, 2007.

Former Sections: Former § 26401, similar to the present section, was added Stats 1995 ch 592 § 16, and repealed Stats 1996 ch 608 § 22, effective September 19, 1996, operative July 1, 1996.

Amendments

1998 Amendment: (1) Amended subd (a) by **(a)** substituting "Defined Benefit Program" for "Defined Benefit Plan" both times it appears; **(b)** substituting "Cash Balance Benefit Program" for "Cash Balance Plan" both times it appears; and **(c)** adding "under" after "subject to coverage"; **(2)** amended subd (b) by **(a)** adding "calendar" after "within 60"; and **(b)** substituting "Cash Balance Benefit Program" for "Cash Balance Plan" wherever it appears; **(3)** substituted "pay period" for "month" both times it appears in the second sentence; and **(4)** amended subd (d) by **(a)** substituting "Cash Balance Benefit Program" for "Cash Balance Plan"; **(b)** adding "under" after "subject to coverage"; and **(c)** substituting "Defined Benefit Program" for "Defined Benefit Plan". (As amended Stats 1998 ch 1048, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

2001 Amendment: Amended subd (d) by deleting **(1)** "and all other employers" after "for that employer"; and **(2)** ", except as provided in Section 26402" at the end.

2004 Amendment: (1) In subd (a), **(a)** added "on a part–time basis"; **(b)** substituted "each full–time position by a school district or county office of education" for "the full–time equivalent for the position for an employer"; and **(c)** deleted the comma after "employer"; **(2)** added present subd (b); **(3)** redesignated former subds (b) through (e) as present subd (c) through (f); **(4)** in present subd (d) substituted "subdivisions (a) and (b) for "subdivision (a)"; **(5)** in present subd (e), **(a)** substituted "position during one year school year with the same employer," for "equivalent for the position, contributions to the Cash Balance Benefit Program on behalf of the participant shall no longer be made and"; **(b)** substituted "following" for "in which"; and **(c)** substituted "employment occurred" for "employment"; and **(6)** added subd (f).

2005 Amendment: Added subd (g).

2006 Amendment: (1) Amended subd (c) by **(a)** adding "properly executed" after "be made on a"; and **(b)** substituting "provided" for "prescribed" after "properly executed form"; **(2)** substituted "The employer shall retain a copy of the employee's signed election form and mail the original signed election form to the headquarters office of the system as described in Section 22375." for ", and shall maintain the written election by the employee in employer files" after "election regarding participation" in subd (d); and **(3)** amended subd (g)(2) by **(a)** adding ", on or before May 1, 2007," after "Employers shall"; **(b)** adding "described in this subdivision, information and" after "available to employees"; and **(c)** substituting ". The employee shall submit the form to the employer within a 60-day election period designated by the employer. The employer shall retain a copy of the employee's signed election form and mail the original signed election form to the headquarters office of the system as described in Section 22375." for "and shall maintain the written election by the employee in the employer files".

§ 26403. Trustee service

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.

Added by Stats 2000 ch 1020 § 13 (AB 820).

CHAPTER 6. CONTRIBUTIONS

§ 26500. Requirement of consent to deductions

Acceptance of employment subject to coverage by the Cash Balance Benefit Program constitutes consent to have contributions deducted from the employee's salary as required by Section 26501.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 26 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 264 (AB 2765).

Amendments

1996 Amendment: Substituted "subject to coverage by" for "in a position requiring participation in".
1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26501. Amount of contribution

Except as provided in Section 26504, the participant shall contribute an amount equivalent to 4 percent of salary.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 38 (SB 2085).

Amendments

1998 Amendment: Added "Except as provided in Section 26504,".

§ 26501.5. Effect of election

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.

Added by Stats 2000 ch 1020 § 14 (AB 820).

§ 26502. Employer to pay for contributions and make deductions from salaries (Employer pick-up of employee contributions)

Notwithstanding Section 26301.5, the employer may pick up, for the sole purpose of and in accordance with the requirements of Section 414(h)(2) of Title 26 of the United States Code and Section 17501 of the Revenue and Taxation Code, all of the amounts otherwise due as employee contributions, which shall be paid by the employer in lieu of employee contributions and which shall be deducted from the employee's salary.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 265 (AB 2765).

Amendments

1998 Amendment: Substituted "Notwithstanding Section 26301.5, the employer may" for "The employer shall".

§ 26503. Contribution by employer

Except as provided in Sections 26504 and 26507, the employer shall contribute an amount equivalent to 4 percent of salary for each participant employed by the employer.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 39 (SB 2085).

Amendments

1998 Amendment: Added "Except as provided in Sections 26504 and 26507,".

§ 26503.5. Employer contributions

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.

Added by Stats 2000 ch 1020 § 15 (AB 820).

§ 26504. Collective bargaining agreement to pay different contribution rate

The employer may enter into a collective bargaining agreement to pay a different employer contribution rate and a different employee contribution rate, provided all of the following conditions are met:

(a) The sum of the employee contributions and employer contributions for each participant shall equal or exceed 8 percent of salary.

(b) The employee contribution rate may exceed the employer contribution rate but in no event shall the employer contribution rate be less than 4 percent.

(c) The employee contribution rate and employer contribution rate shall be the same for each participant employed by the employer.

(d) The employee contribution rate and employer contribution rate shall be in one–quarter percent increments.

(e) The employee contribution rate and employer contribution rate as determined under the collective bargaining agreement shall become effective on the first day of the plan year following notification to the system and shall remain in effect for at least one plan year. However, the employee contribution rate and the employer contribution rate as determined under the collective bargaining agreement may become effective as of the first day of the plan year in which notice is given if it is so provided in the collective bargaining agreement and if a lump–sum contribution is made to the plan equal to the additional employee and employer contributions, if any, that would have been required if the contribution rates had been in effect on the first day of the plan year. Interest shall be credited at the minimum interest rate with respect to the lump–sum contribution commencing with the first month after the contribution is made.

(f) The employer has filed notice of the employee contribution rate and the employer contribution rate on a form prescribed by the system.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 27 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 266 (AB 2765), ch 1048 § 40 (SB 2085); Stats 1999 ch 939 § 83 (SB 1074).

Amendments

1996 Amendment: (1) Substituted "system" for "plan" in subds (e) and (f); and **(2)** amended subd (e) by substituting **(a)** "lump–sum" for "additional"; and **(b)** "the first month" for "respect to the first month after".

1998 Amendment: Amended subd (e) by **(1)** substituting "notification to the system and shall" for "notice to the system and" in the first sentence; **(2)** adding "so" after "given if it is" in the second sentence; **(3)** substituting "had been" for "were" after "if the contribution rates" in the second sentence; and **(4)** adding "after" after "with the first month" in the last sentence. (As amended Stats 1998 ch 1048, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965.)

1999 Amendment: Amended subd (b) by **(1)** substituting "may" for "shall not"; and **(2)** adding "but in no event shall the employer contribution rate be less than 4 percent".

§ 26505. [Section repealed 2012]

Added Stats 1995 ch 592 § 16 (AB 1298). Amended Stats 1996 ch 608 § 28 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 267 (AB 2765). Repealed Stats 2011 ch 703 § 35 (SB 349), effective January 1, 2012. The repealed section related to reemployment of participant who has retired and is receiving an annuity under the Cash Balance Benefit Program.

§ 26506. Voluntary contributions, rollovers, or redeposits not permitted

(a) Except as provided in subdivision (b), participants shall not make voluntary pretax or post–tax contributions into the Cash Balance Benefit Program, nor shall participants redeposit amounts previously distributed from employee accounts or employer accounts.

(b) Pursuant to terms and conditions established by the board, participants may be permitted to transfer funds from eligible retirement plans into the Cash Balance Benefit Program to the extent that the transfers are allowable under and are completed in a manner prescribed by applicable federal and state laws, and any related regulations.

(c) Funds deposited with the Cash Balance Benefit Program by a participant pursuant to subdivision (b) shall be credited to the participant and identified separately from credits in the participant's employee and employer accounts. Funds so deposited shall be credited with interest pursuant to Section 26604.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 29 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 41 (SB 2085).

Amendments

1996 Amendment: Substituted the section for the former section which read: "Participants shall not be permitted to make voluntary pretax or aftertax contributions, rollovers into the plan from other plans, or redeposits of previously withdrawn employee accounts or employer accounts."

1998 Amendment: (1) Amended subd (a) by **(a)** deleting "be permitted to" after "shall not"; and **(b)** substituting "Cash Balance Benefit Program, nor shall participants redeposit amounts previously distributed from" for "plan or redeposits of previously withdrawn"; **(2)** amended subd (b) by **(a)** substituting "Cash Balance Benefit Program" for "Cash Balance Plan"; **(b)** adding "and are completed in a manner prescribed by"; and **(c)** adding ", and any related regulations"; and **(3)** added subd (c).

§ 26507. Adjustment of employer contribution rate

(a) The board may adjust the mandatory employer contribution rate specified under Section 26503 for a fixed period of plan years when it has determined based upon the recommendation of the actuary, that increased contributions are required. The adjustment shall not exceed one–fourth of one percent for any plan year. The mandatory employer contribution rate as adjusted shall not exceed 4.25 percent of salary in any plan year for each participant employed by the employer, except as provided in subdivision (b).

(b) The adjustment to the employer contribution rate specified in subdivision (a) shall be applied to the employer contribution rate specified in a collective bargaining agreement pursuant to Section 26504 and in effect on the first day of the plan year in which the adjustment to the employer contribution rate takes effect.

(c) The adjusted employer contribution rate shall become effective no earlier than the first day of the plan year immediately following adoption by the board.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 29.2 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 268 (AB 2765).

Amendments

1996 Amendment: Substituted the section for the former section which read: "The board may adjust the mandatory employer contribution rate specified under Section 26503 for a fixed period of plan years when it has determined that increased contributions are required to achieve the board's goal regarding the sufficiency of the Gain and Loss Reserve. The adjusted rate shall be based on the recommendation of the actuary, and shall not increase by more than one–fourth of one percentage point for each plan year. The adjusted rate shall become effective no earlier than the first day of the plan year immediately following adoption by the board."

1998 Amendment: Substituted "percent" for "percentage point" in the second sentence of subd (a).

CHAPTER 7. EMPLOYEE AND EMPLOYER ACCOUNTS

§ 26600. Contributions based on salary

All contributions based on salary earned by a participant, together with amounts credited under the minimum interest rate and additional earnings credit amounts, shall be treated as credits to individual accounts in the name of the participant. These accounts shall be nominal accounts used to determine the amount of retirement benefit, disability benefit, death benefit, or termination benefit of the participant or beneficiary. The participant shall have no actual individual account and shall have no claim to any particular assets of the plan or the fund.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26601. Employee contributions and interest

All employee contributions and interest credited under the minimum interest rate and additional earnings credits in respect of those contributions shall be treated as credits to the participant's employee account.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26602. Employer contributions and interest

All employer contributions on behalf of the participant and interest credited under the minimum interest rate and additional earnings credits in respect of those contributions shall be treated as credits to the participant's employer account.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26603. Date to credit accounts

All employee contributions shall be credited to employee accounts and all employer contributions shall be credited to employer accounts as of the first working day following the date all contributions to fully satisfy the contribution report as submitted by the employer are received by the system.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 29.3 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 42 (SB 2085); Stats 1999 ch 939 § 84 (SB 1074).

Amendments

1996 Amendment: Substituted "date the contributions are received by the system" for "last day of the month in which the contributions are made".

1998 Amendment: Added "first calendar day following the".

1999 Amendment: Substituted **(1)** "working" for "calendar"; and **(2)** "all contributions to fully satisfy the contribution report as submitted by the employer" for "the contributions".

§ 26604. Minimum interest rate for accounts

(a) Beginning June 1, 1996, prior to the Cash Balance Plan becoming effective, and prior to the beginning of each plan year thereafter, the board, by plan amendment with respect to the Cash Balance Benefit Program, shall declare the minimum interest rate for crediting employee accounts and employer accounts with respect to the Cash Balance Benefit Program during the following plan year.

(b) All interest shall be computed at the minimum interest rate on the balance of the employee account and the employer account and shall be compounded daily.

(c) Interest for contributions credited during that month to the respective account shall accrue at the minimum interest rate from the first working day following the date contributions are received in full by the system pursuant to Section 26603.

(d) Interest shall not be credited to employee accounts and employer accounts that have been transferred to the Annuitant Reserve for payment of an annuity.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 29.5 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 269 (AB 2765); Stats 1999 ch 939 § 85 (SB 1074).

Amendments

1996 Amendment: Amended subd (b) by **(1)** deleting "under the minimum interest rate" before "shall be computed"; **(2)** substituted "at the minimum interest rate on the balance of" for "for each month for"; **(3)** deleting "on the basis of the balance of the respective account" after "employer account"; **(4)** added the period after "of that month" at the end of the first sentence; **(5)** added the second sentence; and **(6)** substituted "Interest" for "and" in the beginning of the last sentence.

1998 Amendment: Amended subd (a) by **(1)** substituting "Cash Balance Plan" for "plan" the first time it appears; and **(2)** adding "with respect to the Cash Balance Benefit Program" both times it appears.

1999 Amendment: (1) Amended subd (a) by substituting **(a)** "prior to the beginning of each plan year" for "each June"; **(b)** "for crediting" for "to be used to credit" after "interest rate"; and **(c)** "following plan year" for "plan year beginning July 1" at the end; **(2)** amended subd (b) by **(a)** adding "All"; **(b)** substituting "and shall be compounded daily" for "as of the first day of that month" at the end; **(c)** designating the former second sentence of subd (b) to be subd (c); and **(d)** deleting the former last sentence of subd (b) which read: "Interest shall be credited to the respective account as of the last day of that month."; **(3)** amended subd (c) by substituting **(a)** "accrue" for "be computed"; and **(b)** "first working day following the date contributions are received in full by the system pursuant to Section 26603" for "date of deposit"; and **(4)** redesignated former subd (c) to be subd (d).

§ 26605. Surplus of investment earnings; Additional earnings credit

In the event that the total amount of investment earnings of the plan for any plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate for the plan year plus the administrative costs of the plan for the plan year, then following the determination by the board with respect to additions to the Gain and Loss Reserve described in subdivision (c) of Section 26202 the board may declare by means of plan amendment an additional earnings credit for the plan year with respect to the employee and employer accounts of the plan participants.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26606. Determination of additional earnings credit

Any additional earnings credit declared shall be determined as a specified percentage increase in the closing balance of each employee account and employer account with respect to the Cash Balance Benefit Program measured as of the last day of the plan year. The additional earnings credit shall be credited to employee account and employer account balances as of the date the board declares the additional earnings credit is to be applied. The additional earnings credit shall not be credited to employee accounts and employer accounts that have been transferred to the Annuitant Reserve for payment of an annuity under the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 270 (AB 2765).

Amendments

1998 Amendment: Added **(1)** "with respect to the Cash Balance Benefit Program" in the first sentence; and **(2)** "under the Cash Balance Benefit Program" in the last sentence.

§ 26607. Additional annuity credit

(a) The board may declare by means of plan amendment with respect to the Cash Balance Benefit Program an additional annuity credit applicable to annuities being paid under the Cash Balance Benefit Program.

(b) The declaration authorized by subdivision (a) may be made only when the board by plan amendment with respect to the Cash Balance Benefit Program declares an additional earnings credit as provided in Section 26605 and if the total amount of investment earnings of the plan with respect to the Cash Balance Benefit Program for the plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate, the administrative costs of the plan with respect to the Cash Balance Benefit Program for the plan year, any addition to be made to the Gain and Loss Reserve under subdivision (c) of Section 26202, the total amount required to credit all employee and employer accounts in respect of the additional earnings credit so declared, and any other obligations incurred by the plan with respect to the Cash Balance Benefit Program.

(c) Any additional annuity credit with respect to the Cash Balance Benefit Program shall be based upon the annuity of the participant or beneficiary for the plan year and shall be paid as a lump sum to the participant or beneficiary on the date specified by the board.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 271 (AB 2765).

Amendments

1998 Amendment: (1) Added "with respect to the Cash Balance Benefit Program" wherever it appears; **(2)** substituted "Cash Balance Benefit Program" for "plan" at the end of subd (a); and **(3)** amended subd (c) by **(a)** deleting "and" after "Section 26202,"; and **(b)** adding ", and any other obligations incurred by the plan".

CHAPTER 8. RIGHTS TO BENEFITS

§ 26700. Vested right to benefit

A participant has a vested right to a retirement benefit equal in amount to the total balance of credits in his or her employee account and employer account. The right accrues when a person becomes a participant.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26701. Right to benefit not subject to execution or assignment

The right of a participant to a benefit under this part, whether by lump sum or annuity, is not subject to execution or any other process whatsoever, except to the extent permitted by Section 704.110 of the Code of Civil Procedure, and is unassignable except as specifically provided under this part.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 43 (SB 2085).

Amendments

1998 Amendment: Substituted "under this part, whether by" for ", whether".

§ 26702. Limitations period to adjust errors or omissions

(a) For the purpose of payments into or out of the fund for adjustments of errors or omissions with respect to the Cash Balance Benefit Program, the period of limitation shall be applied as follows:

(1) No action may be commenced by or against the board, the system, or the plan more than three years after all obligations to or on behalf of the participant or beneficiary have been discharged.

(2) In cases where the system makes an error resulting in incorrect payment to the participant or beneficiary, the system's right to commence recovery shall expire three years from the date of payment.

(3) If an erroneous payment is made due to lack of information or inaccurate information regarding eligibility of a participant or beneficiary to receive a benefit from the Cash Balance Benefit Program, the period of limitation shall commence when the system discovers the erroneous payment.

(b) Notwithstanding any other provision of this section, if any erroneous payment has been made on the basis of fraud or intentional misrepresentation by a participant or beneficiary, or other party in relation to or on behalf of a participant or beneficiary, the three–year period of limitation shall not be deemed to commence or to have commenced until the system discovers the erroneous payment.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 30 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 44 (SB 2085).

Amendments

1996 Amendment: In addition to making technical changes, **(1)** added ", the system," in subd (a)(1); **(2)** amended subd (a)(2) by substituting **(a)** "system makes" for "plan has made"; and **(b)** "system's" for "plan's"; **(3)** amended subd (a)(3) by substituting **(a)** "If an erroneous payment is made" for "In cases where payment was erroneous"; and **(b)** "when the system discovers" for "with the discovery of"; and **(4)** substituting "system discovers the erroneous payment" for "discovery of the error or omission" in subd (b).

1998 Amendment: (1) Added "with respect to the Cash Balance Benefit Program" in subd (a); and **(2)** substituted "Cash Balance Benefit Program" for "plan" in subd (a)(3).

§ 26703. Spousal signature requirement

The signature of the spouse of a participant shall be required on a designation of beneficiary form or an application for a retirement benefit, disability benefit, or termination benefit under this part, unless the participant declares in writing, under penalty of perjury, that one of the following conditions exists:

(a) The participant is not married.

(b) The participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(c) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(d) The participant and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.

(e) The current spouse has no identifiable community property interest in the benefit.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 31 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 45 (SB 2085).

Amendments

1996 Amendment: Added ", disability benefit," in the introductory clause.

1998 Amendment: Amended the introductory clause by **(1)** deleting the comma after "beneficiary form"; and **(2)** substituting "this part," for "the plan".

§ 26704. Refusal of spouse to sign

If a spouse refuses to sign a beneficiary designation, an application for a retirement benefit, disability benefit, or termination benefit payable under this part, the participant may bring an action in court to enforce the spousal signature requirement or to waive the spousal signature requirement. Either party may bring an action pursuant to Section 1101 of the Family Code to determine the rights of the party.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 31.5 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 46 (SB 2085).

Amendments

1996 Amendment: Added ", disability benefit,".

1998 Amendment: Amended the first sentence by **(1)** substituting "an" for "or" after "designation,"; and **(2)** adding "payable under this part".

CHAPTER 9. RETIREMENT BENEFIT

§ 26800. Normal retirement age

The normal retirement age for the Cash Balance Benefit Program is 60 years of age.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 272 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".

§ 26801. Retirement date

A participant's retirement date shall be no earlier than the date on which the participant attains the age of 55 years.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26802. Commencement of distribution of benefit

Distribution of the retirement benefit under this part shall commence no later than the required beginning date specified in subdivision (c) of Section 26004.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 273 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 26803. Termination of creditable service

(a) All creditable service subject to coverage by the Cash Balance Benefit Program and all service with the participant's last employer or employers that is creditable under the Defined Benefit Program shall be terminated prior to the retirement date.

(b) All employers with which the participant is employed to perform creditable service subject to coverage by the plan shall certify on a form prescribed by the system that the participant's employment has been terminated.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 32 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 274 (AB 2765).

Amendments

1996 Amendment: Substituted the section for the former section which read: "All creditable service shall be terminated prior to the retirement date."

1998 Amendment: Amended subd (a) by substituting **(1)** "Cash Balance Benefit Program" for "plan"; and **(2)** "Defined Benefit Program" for "Defined Benefit Plan".

§ 26804. Application for benefit

Application for a retirement benefit under this part shall be made on a form prescribed by the system.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 33 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 275 (AB 2765).

Amendments

1996 Amendment: (1) Substituted "a form prescribed by the system" for "an application form prescribed by the plan"; and **(2)** deleted the former last sentence which read: "The application for a retirement benefit shall be received in the office of the plan at least 30 days, and not more than 90 days, prior to the retirement date."

1998 Amendment: Added "under this part".

§ 26805. Amount of benefit

The retirement benefit under this part is a benefit payable in the event of retirement that is an amount equal to the sum of the employee account and the employer account as of the retirement date.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 276 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 26806. Form of benefit

The normal form of retirement benefit under this part is a lump–sum payment. Upon distribution of the lump–sum payment to the participant, no further benefits shall be payable from the plan with respect to the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 277 (AB 2765).

Amendments

1998 Amendment: Added **(1)** "under this part"; and **(2)** "with respect to the Cash Balance Benefit Program".

§ 26807. Election to receive annuity

(a) Upon application for a retirement benefit under this part, the participant may elect to receive the retirement benefit in the form of an annuity, provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars ($3,500).

(b) If the participant elects to receive the retirement benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment. This benefit shall be payable for the life of the participant. Upon the death of the participant, no other benefit shall be payable to any beneficiary under this part.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment. This benefit shall be payable for the life of the participant and any balance remaining upon the death of the participant shall be payable in a lump sum to the participant's beneficiary.

(3) A 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, the monthly amount that was payable to the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by

the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living. The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(4) A 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, one-half of the monthly amount that was payable to the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living. The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the sum of the balance of the employee account and the employer account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(c) Except as described in subdivision (e) of Section 26807.5, on or after January 1, 2007, a participant may not make a new election of an annuity described in subdivision (b).

(d) Any participant with a retirement effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 26807.5.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 34 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 278 (AB 2765); Stats 2001 ch 803 § 43 (SB 501); Stats 2002 ch 903 § 8 (SB 1983); Stats 2006 ch 655 § 71 (SB 1466), effective January 1, 2007.

Amendments

1996 Amendment: (1) Substituted "application for a retirement benefit" for "the application for retirement" in subd (a); **(2)** added "annuity" in the introductory clause of subd (b); and **(3)** added the last sentence in subds (b)(3) and (b)(4).

1998 Amendment: (1) Added "under this part" in subd (a); **(2)** added "upon notification to the board and shall commence to accrue to the participant as of the day following the date of death of the option beneficiary" at the end of the second sentence of subds (b)(3) and (b)(4); and **(3)** added the third sentence of subds (b)(3) and (b)(4).

2001 Amendment: Substituted subd (b) for former subd (b) which read:

"(b) The participant may elect one of the following annuity options:

"(1) A single life annuity with a cash refund feature, which is the actuarial equivalent of the lump sum payable for the life of the participant with any balance remaining upon the death of the participant payable in a lump sum to the beneficiary.

"(2) A single life annuity without a cash refund feature, which is the actuarial equivalent of the lump sum payable for the life of the participant.

"(3) A 100–percent joint and survivor annuity, which is the actuarial equivalent of the lump sum payable for the combined lives of the participant and the beneficiary, with the monthly amount payable to the participant continuing to the surviving beneficiary upon the death of the participant. However, if the option beneficiary predeceases the participant, the annuity without modification for the option shall be payable to the participant upon notification to the board and shall commence to accrue to the participant as of the day following the date of death of the option beneficiary. Notification to the board shall include proof of death of the option beneficiary.

"(4) A 50–percent joint and survivor annuity, which is the actuarial equivalent of the lump sum payable for the combined lives of the participant and the beneficiary, with one–half of the monthly amount payable to the participant continuing to the surviving beneficiary upon the death of the participant. However, if the option beneficiary predeceases the participant, the annuity without modification for the option shall be payable to the participant upon notification to the board and shall commence to accrue to the participant as of the day following the date of death of the option beneficiary. Notification to the board shall include proof of death of the option beneficiary.

"(5) A period certain annuity, which is the lump sum payable over a specified number of years, from a minimum of three years to a maximum of 10 years but in any event not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary, until there is no balance remaining in the participant's employee account and employer account."

2002 Amendment: (1) Amended subd (b)(3) by adding **(a)** "However," at the beginning of the fourth sentence; and **(b)** the sixth through last sentences; **(2)** amended subd (b)(4) by adding **(a)** "However," at the beginning of the fourth sentence; and **(b)** the sixth through last sentences; and **(3)** substituted "may" for "shall" after "However, the annuity period" in the fourth sentence of subd (b)(5).

2006 Amendment: (1) Amended subd (b)(3) by **(a)** substituting "elected" for "selected" after "had the participant"; **(b)** substituting "and shall" for ". A participation may" after "cash refund feature"; **(c)** deleting "designate a new annuity beneficiary if that designation would" after "and shall not"; and **(d)** adding the last sentence.; **(2)** amended subd (b)(4) by **(a)** substituting "elected" for "selected" after "had the participant"; **(b)** substituting "designation" for "selection" after "then living. The"; **(c)** substituting "and shall" for ". A participant" after "cash refund feature"; **(d)** deleting "designate a new annuity beneficiary if that designation would" after "and shall not"; and **(e)** adding the last sentence; **(3)** added subd designation (c); and **(4)** added subd (d).

§ 26807.5. Election to receive the retirement benefit as an annuity payable in monthly installments

(a) Upon application for a retirement benefit under this part, the participant may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars ($3,500). If the participant elects to receive the retirement benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) Participant only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the retirement benefit in a lump-sum payment. Upon the death of the participant, an amount equal to the remaining balance of the participant's contributions and interest shall be paid in a lump-sum to the participant's beneficiary.

(2) One hundred percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, 100 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(3) Seventy-five percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the annuity beneficiary is the participant's spouse or former spouse who has been awarded a community property interest in the participant's benefits under this part, the participant may not designate an annuity beneficiary under this annuity who is more than exactly 19 years younger than the participant. Upon the death of the participant, 75 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

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

(5) A period certain annuity. This form of payment is an annuity that is equal to the actuarial equivalent of the balance of credits in the participant's Cash Balance Benefit account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the participant, the annuity shall be paid to the participant as the participant only annuity described in paragraph (1) of subdivision (a) that would have been payable had the participant elected that form of payment at the commencement of the benefit. That participant only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification is received by the board, provided both the participant and the new designated annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The designation of the new annuity beneficiary under this paragraph is subject to an actuarial modification of the participant only annuity and may not result in any additional liability to the fund.

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

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

(e) If there is a determination of community property rights as described in Chapter 15 (commencing with Section 27400) of this part on or before December 31, 2006, the participant may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the participant to change the annuity to the detriment of the community property interest of the nonparticipant spouse.

Added by Stats 2006 ch 655 § 72 (SB 1466), effective January 1, 2007.

§ 26807.6. Change of annuities

(a) A participant who retired and elected an annuity pursuant to Section 26807 may elect to change annuities, subject to all of the following:

(1) A participant who elected a single life annuity with or without a cash refund feature or a period certain annuity may not change his or her annuity.

(2) A participant who elected an annuity under paragraph (3) or (4) of subdivision (b) of Section 26807 may elect an annuity under paragraph (3) of subdivision (a) of Section 26807.5.

(3) The election of the participant under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The participant designates the same annuity beneficiary that was designated under the prior annuity elected by the participant, if the annuity and annuity designation were effective on December 31, 2006.

(5) The annuity beneficiary is not afflicted with a known terminal illness and the participant declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, the annuity beneficiary is not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the participant as of the effective date of the change in the annuity by the participant.

(b) The change in the annuity by the participant shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a participant's election document, the system shall mail an acknowledgment notice to the participant that sets forth the new annuity elected by the participant.

(d) If the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, a participant may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the participant on or before June 1, 2007, or prior to the end of the election period, provided that the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a participant to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(f) If the participant elects to change his or her annuity as described in subdivision (a) or (d), the participant's annuity shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) References to a "participant" in paragraph (1) of subdivision (a) shall apply to the nonmember spouse.

(h) The participant shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

Added by Stats 2006 ch 655 § 73 (SB 1466), effective January 1, 2007.

§ 26808. Determination of amount of annuity

(a) The annuity elected under this chapter shall be determined as a value actuarially equivalent to the sum of the employee account and the employer account as of the retirement date. The annuity shall be calculated using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the retirement date.

(b) In the case of a participant who previously received an annuity that was terminated pursuant to Section 26505 or 26810, the portion of the annuity derived from the amounts credited to the employee account and employer account as of the date of reemployment shall be calculated using the actuarial assumptions in effect on the previous retirement date using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the current retirement date.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 34.5 (AB 2673), effective September 19, 1996, operative July 1, 1996.

Amendments

1996 Amendment: Added "or 26810" in subd (b).

§ 26809. Transfer of credits upon election of annuity

Upon election of an annuity under this part, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 279 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 26810. Termination of annuity

(a) A participant who is employed to perform creditable service subject to coverage by the Cash Balance Benefit Program while receiving an annuity under the program may voluntarily terminate the annuity upon employment and make contributions to the program based on salary paid by the employer for the employment, provided the participant has attained age 60 and has been receiving a retirement annuity for at least one year. The participant shall continue to be subject to Section 26808.

(b) The participant shall request in writing within 60 days of employment that the annuity be terminated. Termination of the participant's annuity shall become effective on the first day of the month following the month in which verification of the participant's employment is received by the system from the participant's employer.

(c) Upon voluntary termination of the annuity, the employee and employer account of the participant shall be credited with respective balances that reflect the actuarial equivalent of the participant's retirement benefit as of the date the participant terminates the annuity and the Annuitant Reserve shall be reduced by the amount of the credits.

(d) The portion of the annuity derived from the amounts credited to the employee account and employer account, as of the date the participant terminates the annuity, shall be calculated using the actuarial assumptions in effect on the initial retirement date using the age of the participant and, if the participant elected a joint and survivor option the age of the beneficiary on the current retirement date.

(e) Upon election of a subsequent annuity, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

Added by Stats 1996 ch 608 § 35 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 965 § 280 (AB 2765).

Amendments

1998 Amendment: Amended subd (a) by **(1)** substituting "Cash Balance Benefit Program" for "plan"; **(2)** adding "under the program"; and **(3)** substituting "program" for "plan" after "contributions to the".

§ 26811. Changed beneficiary

The beneficiary under the joint and survivor annuity elected pursuant to paragraph (3) or (4) of subdivision (b) of Section 26807 or paragraphs (2) to (5), inclusive, of subdivision (a) of Section 26807.5 shall be the person designated by the participant on the application for a retirement benefit under this part, and shall not be changed after the original retirement date unless the beneficiary has predeceased the participant.

Added by Stats 1996 ch 608 § 36 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 965 § 281 (AB 2765); Stats 2006 ch 655 § 74 (SB 1466), effective January 1, 2007.

Amendments

1998 Amendment: Added "under this part".

2006 Amendment: (1) Substituted "annuity" for "option" after "joint and survivor"; and **(2)** added "or paragraphs (2) to (5), inclusive, of subdivision (a) of Section 26807.5" after "subdivisions (b) of Section 26807".

§ 26812. Activities of retired participant; Rate of pay; Reinstatement not required; Reduction of annuity

(a) A participant retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 26113 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the participant shall not make contributions to the plan. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member.

(b) If a participant is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A participant retired for service under this part shall not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 26113 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) If a participant retired for service under this part and receiving an annuity under the Cash Balance Benefit Program is below normal retirement age and earns compensation for performing activities identified in subdivision (a) or (b) of Section 26113 as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the participant's annuity shall be reduced by the amount of the compensation. This reduction shall only be made for compensation earned during the first 180 calendar days after a participant retired for service under this part, if the participant is below normal retirement age at the time the compensation is earned. The amount of the reduction may be equal to the monthly annuity payable but shall not exceed the amount of the annuity payable during the first 180 calendar days after a participant retired for service under this part, if the participant is below normal retirement age at the time the compensation is earned.

Added Stats 2011 ch 703 § 36 (SB 349), effective January 1, 2012. Amended Stats 2012 ch 864 § 19 (AB 2663), effective January 1, 2013.

Amendments

2012 Amendment: Substituted "annuity payable during the first 180 calendar days after a participant retired for service under this part, if the participant is below normal retirement age at the time the compensation is" for "annual annuity payable under this part for the fiscal year in which the compensation was" in the last sentence of subd (d).

§ 26813. Activities of retired member; Limitations; Records

A member retired for service under the Defined Benefit Program may perform the activities identified in subdivision (a) or (b) of Section 22119.5 and subdivision (a) or (b) of Section 26113 in any one school year up to the limitation specified in Sections 24214 and 24214.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member shall not make contributions to the fund. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

Added Stats 2011 ch 703 § 37 (SB 349), effective January 1, 2012.

CHAPTER 10. DISABILITY BENEFIT

§ 26900. Application to receive disability benefit

A participant may apply to receive a disability benefit under this part at any time.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 282 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 26901. Person to make application

Application for a disability benefit under this part shall be made by the participant, or the guardian or conservator of the participant, on a form prescribed by the system.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 37 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 283 (AB 2765).

Amendments

1996 Amendment: Substituted "a form prescribed by the system" for "an application form prescribed by the plan".
1998 Amendment: Added "under this part".

§ 26902. Determination of disability

(a) A disability benefit under this part shall become payable only upon determination by the board that the participant has a total and permanent disability. The board shall require current relevant medical reports by licensed practitioners, including the report of the treating physician, and may make any inquiries necessary to the determination of total and permanent disability. Failure of the participant, or the participant's guardian or conservator, to provide any documents, complete any forms, or respond to any questions from the board within 45 days of the request may be cause for rejection of the application.
(b) Upon determination by the board that the participant does not have a total and permanent disability, the application for disability benefit, and any designation of beneficiary for the benefit, shall be automatically canceled.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 284 (AB 2765).

Amendments

1998 Amendment: Added "under this part" near the beginning of subd (a).

§ 26903. Termination of creditable service

All creditable service subject to coverage by the Cash Balance Benefit Program and Defined Benefit Program shall be terminated prior to the disability date.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 38 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 285 (AB 2765).

Amendments

1996 Amendment: Added "subject to coverage by the plan".
1998 Amendment: Substituted "Cash Balance Benefit Program and Defined Benefit Program" for "plan".

§ 26904. Benefit amount

The disability benefit is a benefit for total and permanent disability that is an amount equal to the sum of the employee account and the employer account as of the disability date.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26905. Normal distribution of disability benefit (Lump–sum payment)

The normal form of disability benefit under this part is a lump–sum payment. Upon distribution of the lump–sum payment to the participant, no further benefits shall be payable from the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 286 (AB 2765).

Amendments

1998 Amendment: (1) Added "under this part" in the first sentence; and **(2)** substituted "Cash Balance Benefit Program" for "plan".

§ 26906. Annuity

(a) Upon application for a disability benefit under this part, the participant may elect to receive the disability benefit in the form of an annuity provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars ($3,500).

(b) If the participant elects to receive the disability benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment. This benefit shall be payable for the life of the participant. Upon the death of the participant, no other benefit shall be payable to any beneficiary under this part.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment. This benefit shall be payable for the life of the participant and any balance remaining upon the death of the participant shall be payable in a lump sum to the participant's beneficiary.

(3) A 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, the monthly amount that was payable to the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living.

The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(4) A 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment, modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, one-half of the monthly amount that was payable to the participant shall be paid monthly to the participant's annuity beneficiary. However, if the annuity beneficiary predeceases the participant, the annuity payable to the participant shall be the single life annuity with a cash refund feature that would have been payable had the participant elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification, on a properly executed form, is received by the board, provided both the participant and the new designated annuity beneficiary are then living. The designation of the new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the sum of balance of the employee account and the employer account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(c) Except as described in subdivision (c) of Section 26906.5, on or after January 1, 2007, a participant may not make a new election of an annuity described in subdivision (b).

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 39 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 287 (AB 2765); Stats 2001 ch 803 § 44 (SB 501); Stats 2002 ch 903 § 9 (SB 1983); Stats 2006 ch 655 § 75 (SB 1466), effective January 1, 2007.

Amendments

1996 Amendment: Added **(1)** "Upon application for a disability benefit," in the beginning of subd (a); and **(2)** the last sentence in subds (b)(3) and (b)(4).

1998 Amendment: (1) Added "under this part" in subd (a); **(2)** deleted "designated under this subdivision" after "and the beneficiary" in the first sentence of subds (b)(3) and (b)(4); **(3)** added "upon notification to the board and shall commence to accrue to the participant as of the day following the date of death of the option beneficiary" in the second sentence of subds (b)(3) and (b)(4); and **(4)** added the third sentence of subds (b)(3) and (b)(4).

2001 Amendment: Substituted subd (b) for former subd (b) which read:

"(b) The participant may elect one of the following options:

"(1) A single life annuity with a cash refund feature, which is the actuarial equivalent of the lump sum payable for the life of the participant with any balance remaining upon the death of the participant payable in a lump sum to the beneficiary.

"(2) A single life annuity without a cash refund feature, which is the actuarial equivalent of the lump sum payable for the life of the participant.

"(3) A 100–percent joint and survivor annuity, which is the actuarial equivalent of the lump sum payable for the combined lives of the participant and the beneficiary, with the monthly amount payable to the participant continuing to the surviving beneficiary upon the death of the participant. However, if the option beneficiary predeceases the participant, the annuity without modification for the option shall be payable to the participant upon notification to the board and shall commence to accrue to the participant as of the day following the date of death of the option beneficiary. Notification to the board shall include proof of death of the option beneficiary.

"(4) A 50–percent joint and survivor annuity, which is the actuarial equivalent of the lump sum payable for the combined lives of the participant and the beneficiary, with one–half of the monthly amount payable to the participant continuing to the surviving beneficiary upon the death of the participant. However, if the option beneficiary predeceases the participant, the annuity without modification for the option shall be payable to the participant upon notification to the board and shall commence to accrue to the participant as of the day following the date of death of the option beneficiary. Notification to the board shall include proof of death of the option beneficiary.

"(5) A period certain annuity, which is the lump sum payable over a specified number of years, from a minimum of three years to a maximum of 10 years but in any event not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary, until there is no balance remaining in the participant's employee account and employer account."

2002 Amendment: (1) Amended subd (b)(3) by adding **(a)** "However," at the beginning of the fourth sentence; and **(b)** the sixth through last sentences; **(2)** amended subd (b)(4) by adding **(a)** "However," at the beginning of the fourth sentence; and **(b)** the sixth through last sentences; and **(3)** substituted "may" for "shall" after "However, the annuity period" in the fourth sentence of subd (b)(5).

2006 Amendment: (1) Amended subd (b)(3) by **(a)** substituting "elected" for "selected" after "had the participant"; **(b)** substituting "designation" for "selection" after "then living. The"; **(c)** substituting "and shall" for ". A participant may" after "cash refund feature"; **(d)** deleting "designate a new annuity beneficiary if that designation would" after "and shall not"; and **(e)** adding the last sentence; **(2)** amended subd (b)(4) by **(a)** substituting "elected" for "selected" after "had the participant"; **(b)** substituting "designation" for "selection" after "then living. The"; **(c)** substituting "and shall" for ". A participant may" after "cash refund feature"; **(d)** deleting "designate a new annuity beneficiary if that designation would" after "and shall not"; and **(e)** adding the last sentence; and **(3)** added subd (c).

§ 26906.5. Payment of the disability benefit as an annuity; Election of option

(a) Upon application for a disability benefit under this part, the participant may elect to receive the disabled benefit in the form of an annuity provided the sum of the employee account and employer account equals or exceeds three thousand five hundred dollars ($3,500). If the participant elects to receive the disability benefit as an annuity, the participant shall elect one of the following forms of payment:

(1) Participant only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the participant if the participant elected to receive the disability benefit in a lump-sum payment. Upon the death of the participant, an amount equal to the remaining balance of the participant's contributions and interest shall be paid in a lump sum to the participant's beneficiary.

(2) One hundred percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Upon the death of the participant, 100 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

(3) Seventy-five percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the participant and the participant's annuity beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, unless the annuity beneficiary is the participant's spouse or former spouse who has been awarded a community property interest in the participant's benefits under this part, the participant may not designate an annuity beneficiary under this annuity who is more than exactly 19 years younger than the par-

ticipant. Upon the death of the participant, 75 percent of the monthly amount that was payable to the participant shall be paid monthly to the participant's surviving annuity beneficiary.

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

(5) A period certain annuity. This form of payment is an annuity that is equal to the actuarial equivalent of the balance of credits in the participant's Cash Balance Benefit account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the participant, from a minimum of three years to a maximum of 10 years. However, the annuity period may not exceed the life expectancy of the participant or of the participant and the participant's annuity beneficiary. If the participant's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the participant's annuity beneficiary pursuant to Section 27007.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the participant, the annuity shall be paid to the participant as the participant only annuity described in paragraph (1) of subdivision (a) that would have been payable had the participant elected that form of payment at the commencement of the benefit. That participant only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the participant, the participant may designate a new annuity beneficiary. The effective date of the new designation shall be six months following the date notification is received by the board, provided both the participant and the new designated annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The designation of the new annuity beneficiary under this paragraph is subject to an actuarial modification of the participant only annuity and may not result in any additional liability to the fund.

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

(d) If there is a determination of community property rights as described in Chapter 15 (commencing with Section 27400) of this part on or before December 31, 2006, the participant may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the participant to change the annuity to the detriment of the community property interest of the nonparticipant spouse.

Added by Stats 2006 ch 655 § 76 (SB 1466), effective January 1, 2007.

§ 26906.6. Change of annuities

(a) A participant who is disabled and elected an annuity pursuant to Section 26906 may elect to change annuities, subject to all of the following:

(1) A participant who elected a single life annuity with or without a cash refund feature or a period certain annuity may not change his or her annuity.

(2) A participant who elected an annuity under paragraph (3) or (4) of subdivision (b) of Section 26906 may elect an annuity under paragraph (3) of subdivision (a) of Section 26906.5.

(3) The election by the participant under this section is made on or after January 1, 2007, and prior to July 1, 2007.

(4) The participant designates the same annuity beneficiary that was designated under the prior annuity elected by the participant, if the annuity and the annuity beneficiary designation were effective on December 31, 2006.

(5) The annuity beneficiary is not afflicted with a known terminal illness and the participant declares, under penalty of perjury under the laws of this state, that to the best of his or her knowledge, the annuity beneficiary is not afflicted with a known terminal illness.

(6) The annuity beneficiary has not predeceased the participant as of the effective date of the change in the annuity by the participant.

(b) The change in the annuity by the participant shall be effective on the date the election is signed, provided that the election is on a properly executed form provided by the system and that election is received at the system's headquarters office as described in Section 22375 within 30 days after the date the election is signed.

(c) After receipt of a participant's election document, the system shall mail an acknowledgment notice to the participant that sets forth the new annuity elected by the participant.

(d) If the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, a participant may cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change shall be made on a properly executed form provided by the system and shall be received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(e) If the system is unable to mail an acknowledgment notice to the participant on or before June 1, 2007, or prior to the end of the election period, provided that the participant and the annuity beneficiary are alive and not afflicted with a known terminal illness, the system shall allow a participant to cancel the election to change annuities and elect to receive the benefit according to the preexisting annuity election. After cancellation, the participant may elect to make a one-time change from the preexisting annuity to any other annuity provided by and subject to the restrictions of paragraph (1), (2), (3), or (4) of subdivision (a). The cancellation or the cancellation and one-time change may be made after the end of the election period if it is made on a properly executed form provided by the system and is received at the system's headquarters office as described in Section 22375 no later than 30 calendar days following the date of mailing of the acknowledgment notice. If the participant elects to make the one-time change provided by this subdivision, the change shall be effective as of the participant's signature date on the initial election to change.

(f) If the participant elects to change his or her annuity as described in subdivision (a) or (d), the participant's annuity shall be modified in a manner determined by the board to prevent any additional liability to the plan.

(g) The participant shall not change annuities in derogation of a spouse's or former spouse's community property rights as specified in a court order.

Added by Stats 2006 ch 655 § 77 (SB 1466), effective January 1, 2007.

§ 26907. Annuity value

The annuity under this chapter shall be determined as a value actuarially equivalent to the sum of the employee account and the employer account as of the disability date. The annuity shall be calculated using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the disability date.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 26908. Annuitant Reserve

Upon election of an annuity under this part, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 288 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 26910. Changed beneficiary

The beneficiary under the joint and survivor option elected pursuant to paragraph (3) or paragraph (4) of subdivision (b) of Section 26906 or paragraph (2) or (4) of subdivision (a) of Section 26906.5 shall be the person designated by the participant on the application for a disability benefit and shall not be changed after the original disability date unless the beneficiary predeceases the participant.

Added by Stats 1996 ch 608 § 39.5 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 2006 ch 655 § 78 (SB 1466), effective January 1, 2007.

Amendments

2006 Amendment: Added "or paragraph (2) or (4) of subdivision (a) of Section 2906.5" after "of Section 26906".

§ 26911. Reemployment (Prior to age 60)

If a participant who is receiving a disability annuity under this part becomes reemployed prior to 60 years of age to perform creditable service subject to coverage by the Cash Balance Benefit Program or the Defined Benefit Program, the disability annuity shall be terminated. The participant's employee account and employer account shall be credited with the actuarial equivalent of the participant's annuity as of the date of reemployment and the Annuitant Reserve shall be reduced by the amount credited to those accounts.

Added by Stats 1996 ch 608 § 40 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 965 § 289 (AB 2765); Stats 2001 ch 803 § 45 (SB 501).

Amendments

1998 Amendment: (1) Added "under this part"; **(2)** substituted "Cash Balance Benefit Program" for "Cash Balance Plan"; and **(3)** substituted "Defined Benefit Program" for "Defined Benefit Plan".
2001 Amendment: Added the second sentence.

CHAPTER 11. DEATH BENEFIT

§ 27000. Proof of death

The death benefit shall become payable to the beneficiary upon receipt of proof of the participant's death.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 27001. Time that benefit is to be paid (Exception to Probate Code)

Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code or any other provision of law to the contrary, the death benefit payable under the Cash Balance Benefit Program may be requested by the beneficiary and paid by the system as soon as practicable after the system receives proof of the participant's death. Except as provided in Section 27302, the death benefit under this part shall be paid no later than December 31 of the calendar year in which the fifth anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions must commence on or before the later of either of:

(a) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(b) December 31 of the calendar year in which the participant would have attained the age of 70½ years.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 41 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 290 (AB 2765).

Amendments

1996 Amendment: Amended the introductory clause by **(1)** substituting "system" for "plan"; **(2)** substituting "the system receives proof of the participant's" for "receipt of proof of"; **(3)** adding "Except as provided in Section 27302," in the beginning of the last sentence; and **(4)** substituting "no later than" for "by".

1998 Amendment: amended the introductory paragraph by substituting **(1)** "Cash Balance Benefit Program" for "plan" in the first sentence; and **(2)** "this part" for "the plan" after "death benefit under" in the introductory clause.

§ 27002. Death of participant prior to commencement of annuity

If the participant died prior to commencement of an annuity, the death benefit shall be an amount that is equal to the sum of the participant's employee account and employer account.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 27003. Normal form of benefit

The normal form of death benefit under this part is a lump–sum payment. Upon distribution of the lump–sum payment to the beneficiary, no further benefits shall be payable from the plan with respect to the Cash Balance Benefit Program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 291 (AB 2765).

Amendments

1998 Amendment: Added **(1)** "under this part" in the first sentence; and **(2)** "with respect to the Cash Balance Benefit Program".

§ 27004. Election by certain beneficiaries to receive final benefit as annuity payable in monthly installments; Form of payment

(a) A beneficiary, other than an entity, may elect to receive the final benefit payable under the Cash Balance Benefit Program as an annuity payable in monthly installments provided that the sum of the employee account and the employer account that is payable to the beneficiary equals at least three thousand five hundred dollars ($3,500).

(b) A beneficiary who elects to receive an annuity pursuant to this section shall elect a period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the sum of the balance of the employee account and the employer account on the date of the participant's death. The annuity shall be payable in whole year increments over a period of years specified by the beneficiary, from a minimum of three years to a maximum of 10 years. However, the annuity period shall not exceed the life expectancy of the beneficiary. The beneficiary may designate a payee to receive the remaining balance of payments if the beneficiary dies prior to the end of the period certain.

Added by Stats 2001 ch 803 § 47 (SB 501). Amended by Stats 2002 ch 375 § 38 (AB 2982); Stats 2006 ch 655 § 79 (SB 1466), effective January 1, 2007.

Former Sections: Former § 27004, similar to the present section, was added Stats 1995 ch 592 § 16, amended Stats 1996 ch 608 § 42, effective September 19, 1996, operative July 1, 1996, and repealed Stats 2001 ch 803 § 46.

Amendments

2002 Amendment: Deleted "on account of the death of the participant or the beneficiary" at the end of subd (b)(1).

2006 Amendment: (1) Amended subd (a) by **(a)** adding "the" after "installments provided that"; and **(b)** adding "that is payable to the beneficiary" after "the employer account"; **(2)** deleted "one of the following forms of payment:" at the end of subd (b); **(3)** deleted former subd (b)(1) which read: "A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the beneficiary if the beneficiary elected to receive the final benefit in a lump sum payment. This benefit shall be payable for the life of the beneficiary. Upon the death of the beneficiary, no other benefit shall be payable under this part."; and **(4)** deleted former subd designation (b)(2).

§ 27005. Determination of amount of annuity

The annuity elected under this chapter shall be determined as a value actuarially equivalent to the sum of the participant's employee account and employer account as of the date the death benefit becomes payable. The annuity shall be calculated using the age of the beneficiary on the date the benefit becomes payable.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 27006. Transfer of credits upon election of annuity

Upon the beneficiary's election to receive the death benefit under this part in the form of an annuity, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 292 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 27007. Death of participant receiving annuity

(a) If the participant died while receiving an annuity under this part, the death benefit shall be payable in accordance with the terms of the annuity elected by the participant.

(b) Upon the death of a participant who elected a single life annuity with a cash refund feature under this part, any balance remaining in the participant's employee account and employer account shall be payable in a lump sum to the beneficiary.

(c) Upon the death of a participant who elected a single life annuity without a cash refund feature under this part, no death benefit shall be payable.

(d) Upon the death of a participant who elected a joint and survivor annuity under this part, the annuity shall continue for life to the surviving beneficiary under the joint and survivor option. If the beneficiary under the joint and survivor option has predeceased the participant, no death benefit shall be payable.

(e) Upon the death of a participant who elected a period certain annuity under this part prior to the completion of annuity payments due the participant, the remaining balance of payments shall be paid to the beneficiary designated by the participant.

Added by Stats 1995 ch 592 § 16 (AB 1298) Amended by Stats 1998 ch 965 § 293 (AB 2765); Stats 2001 ch 803 § 48 (SB 501).

Amendments

1998 Amendment: Added "under this part" wherever it appears.

2001 Amendment: Substituted "the remaining balance of payments shall be paid to the beneficiary designated by the participant" for "any balance remaining in the participant's employee account and employer account shall be payable in a lump sum to the beneficiary" at the end of subd (e).

§ 27008. Death of beneficiary receiving annuity

Upon the death of a beneficiary who was receiving an annuity under this part due to the death of a participant, payment shall be made as follows:

(a) Upon the death of a beneficiary under a joint and survivor option, no amount shall be payable.

(b) Upon the death of a beneficiary who elected a single life annuity without a cash refund feature, no amount shall be payable.

(c) Upon the death of a beneficiary who was receiving a period certain annuity, the actuarial equivalent of the remaining balance of payments shall be paid in a lump sum to the estate of the beneficiary unless the beneficiary designated a payee to receive the remaining balance of payments as provided in Section 27004.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 294 (AB 2765); Stats 2001 ch 803 § 49 (SB 501).

Amendments

1998 Amendment: Added "under this part" in the introductory clause.

2001 Amendment: Amended subd (c) by **(1)** substituting "was receiving" for "elected"; **(2)** substituting ", the actuarial equivalent of the remaining balance of payments shall be paid" for "prior to the completion of annuity payments due the beneficiary, any balance remaining in the participant's employee account and employer account shall be payable"; and **(3)** adding "unless the beneficiary designated a payee to receive the remaining balance of payments as provided in Section 27004".

CHAPTER 12. BENEFICIARY

§ 27100. Designation of beneficiary

A participant may at any time designate or change the designation of one or more primary beneficiaries and one or more contingent beneficiaries to receive any lump-sum death benefit that may be payable under the plan. The beneficiary for the lump-sum death benefit under this part may be a person, trust, or the estate of the participant. The beneficiary shall be designated on a form prescribed by the system that is received in the system's headquarters office, as established pursuant to Section 22375, before the participant's death.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 42.5 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 295 (AB 2765); Stats 2005 ch 351 § 39 (AB 224), effective January 1, 2006.

Amendments

1996 Amendment: Substituted the section for the former section which read: "A participant may at any time designate one or more primary beneficiaries and one or more contingent beneficiaries to receive any lump–sum death benefit that may be payable under the plan. The beneficiary for the lump–sum death benefit may be a person, trust, or the estate of the participant. The beneficiary shall be designated on a form prescribed by the plan."

1998 Amendment: Added "under this part" in the second sentence.

2005 Amendment: Substituted "headquarters office, as established pursuant to Section 22375," for "office in Sacramento".

§ 27101. Lack of valid beneficiary designation

In the event the participant dies without a valid beneficiary designation on file with the system, any lump–sum death benefit under this part shall be payable to the estate of the participant.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 296 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 27102. Simultaneous death provisions to govern distribution

Part 5 (commencing with Section 220) of Division 2 of the Probate Code, when applicable, shall govern the distribution of any lump–sum death benefit payable under this part. In applying Part 5 (commencing with Section 220) of Division 2 of the Probate Code with respect to proceeds payable to a beneficiary, participation in the plan shall be considered as having the same status as an insurance policy issued after December 31, 1984.

Added by Stats 1995 ch 592 § 16 (AB 1298).

CHAPTER 13. TERMINATION BENEFIT

§ 27200. Application for benefit

Upon termination of all creditable service subject to coverage by the plan under this part and Part 13 (commencing with Section 22000) for any reason other than death, disability, or retirement, a participant may apply for a lump–sum termination benefit under this part which shall be an amount that is equal to the sum of the participant's employee account and the employer account as of the date the termination benefit is paid.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 44 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 297 (AB 2765).

Amendments

1996 Amendment: Substituted **(1)** "all creditable service subject to coverage" for "employment in all positions covered"; and **(2)** "paid" for "payable".

1998 Amendment: Added **(1)** "under this part and Part 13 (commencing with Section 22000)"; **(2)** "under this part" after "benefit"; **(3)** "participant's" after "sum of the"; and **(4)** "termination" after "the date the" near the end.

§ 27201. Termination of creditable service

(a) All creditable service subject to coverage by the Cash Balance Benefit Program and all service with the participants' last employer or employers that is creditable service under the Defined Benefit Program shall terminate prior to application for a termination benefit under this part.

(b) All employers with which the participant is employed to perform creditable service subject to coverage by the plan shall certify on a form prescribed by the system that the participant's employment has been terminated.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 45 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 298 (AB 2765).

Amendments

1996 Amendment: Substituted the section for the former section which read: "All creditable service shall terminate prior to application for a termination benefit."

1998 Amendment: Amended subd (a) by **(1)** substituting "Cash Balance Benefit Program" for "plan"; **(2)** substituting "Defined Benefit Program" for "Defined Benefit Plan"; and **(3)** adding "under this part" at the end.

§ 27202. Application for benefit

Application for a termination benefit under this part shall be made on an application form prescribed by the system.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 46 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 299 (AB 2765).

Amendments

1996 Amendment: Substituted "system" for "plan".

1998 Amendment: Added "under this part".

§ 27203. Restriction on application (Five-year rule)

A participant may not apply for a termination benefit under this part if less than five years have elapsed following the date the most recent termination benefit was distributed to the participant.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 300 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 27204. Limitation on payment of benefit (Cancellation of benefit)

(a) The termination benefit under this part shall not be payable before six calendar months have elapsed following the date of termination of employment.

(b) Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled if the participant performs creditable service within six calendar months following the date of termination of employment.

(c) Subdivision (b) does not apply if the participant has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A participant who has reached this age shall receive a distribution commencing on the earlier of the date that the participant has met the conditions of subdivision (a) or the conditions of subdivision (c) of Section 26004.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 301 (AB 2765); Stats 2005 ch 661 § 5 (SB 525), effective January 1, 2006.

Amendments

1998 Amendment: Added "under this part" in the first sentence.

2005 Amendment: (1) Designated the text as subd (a) and subd (b); **(2)** added subd (c); **(3)** substituted "six calendar months have elapsed" for "one year has elapsed" in subd (a); and **(4)** amended subd (b) by **(a)** adding "Except as provided in subdivision (c), the application for the termination benefit shall be automatically canceled" as the beginning of the sentence before "if the member performs creditable service within"; and **(b)** substituting "six calendar months following the date of termination of employment" for "the year following the date of termination of employment".

§ 27205. Cancellation of application

A participant may cancel the application for a termination benefit under this part at any time prior to distribution of the benefit.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 302 (AB 2765).

Amendments

1998 Amendment: Added "under this part".

§ 27206. Partial distribution of benefit

No partial distribution shall be made from an employee account or employer account.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 27207. Payment of lump–sum benefit to preclude further benefits

Upon distribution of the lump–sum payment to the participant under this part, no further benefits shall be payable from the plan under this part.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 303 (AB 2765).

Amendments

1998 Amendment: Added "under this part" both times is appears.

CHAPTER 14. DISTRIBUTION OF BENEFITS

§ 27300. Discharge of plan's obligations upon distribution of lump-sum benefit

(a) The plan's obligations under this part to a participant or beneficiary who has applied for a benefit cease upon distribution of the lump-sum benefit.

(b) Deposit in the United States mail of a warrant drawn as directed by the participant or beneficiary and addressed as directed by the participant or beneficiary constitutes distribution of the benefits under this part.

(c) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant or beneficiary constitutes distribution of the benefits under this part.

(d) If the participant or beneficiary has elected to transfer all or a specified portion of the lump-sum benefit that is eligible for direct trustee-to-trustee transfer to the trustee of an eligible retirement plan within the meaning of Section 401 (a)(31) of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes distribution of the benefits under this part.

(e) Distribution under subdivision (b), (c), or (d) pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons constitutes a complete discharge and release of the plan from liability for that payment under this part.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 304 (AB 2765).

Amendments

1998 Amendment: Added "under this part" in subd (a) and at the end of subds (b)–(e).

§ 27301. Discharge of plan's obligations upon final payment of annuity

(a) The plan's obligations under this part to a participant or beneficiary who elected to receive a benefit in the form of an annuity, cease upon distribution of the final monthly payment of the annuity.

(b) Deposit in the United States mail of a warrant drawn as directed by the participant or beneficiary and addressed as directed by the participant or beneficiary constitutes distribution of the benefit under this part.

(c) Deposit in the United States mail of a notice that the requested electronic funds transfer has been made as directed by the participant or beneficiary constitutes distribution of the benefit under this part.

(d) Distribution under subdivision (b) or (c) pursuant to the board's determination in good faith of the existence, identity, or other facts relating to entitlement of persons constitutes a complete discharge and release of the board, system, and plan from liability for payments under this part.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 47 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 47 (SB 2085).

Amendments

1996 Amendment: Added "board, system, and" in subd (d).
1998 Amendment: Added "under this part" in subd (a) and at the end of subds (b)–(d).

§ 27302. Forfeiture of benefit upon failure to locate participant or beneficiary; Reinstatement

If a benefit payable under this part cannot be distributed because, after a good faith effort, the participant or beneficiary cannot be located, the balances in the participant's employee account and em-

ployer account shall be forfeited by the participant or beneficiary, but if the participant or beneficiary thereafter submits a valid claim to the system the employee and employer accounts shall be reinstated and shall be credited with all applicable interest at the minimum interest rate and additional earnings credit amounts attributable to the period during which the forfeiture was in effect.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 48 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 305 (AB 2765).

Amendments

1996 Amendment: (1) Substituted "system" for "plan"; and **(2)** added "interest at the".
1998 Amendment: Added "payable under this part" near the beginning.

§ 27303. Deduction of overpayment

Any overpayment to a participant or beneficiary under this part shall be deducted from any subsequent benefit payment that may be payable under the plan, except as provided in Section 27303.5.

Added Stats 1995 ch 592 § 16 (AB 1298). Amended Stats 1996 ch 608 § 49 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 306 (AB 2765); Stats 2010 ch 207 § 27 (AB 2260), effective January 1, 2011.

Amendments

1996 Amendment: Substituted "under the plan, except as provided in Section 26302" for "by the plan".
1998 Amendment: Added "under this part".
2010 Amendment: Substituted "Section 27303.5" for "Section 26302".

§ 27303.5. Report of erroneous information by employer

If an employer reports erroneous information, the system shall calculate the actuarial present value of the expected payments from the participant or beneficiary pursuant to Sections 22008 and 24617. The employer shall pay the difference between the total amount of the overpayment and the calculation of the actuarial present value of expected payments.

Added Stats 2010 ch 207 § 28 (AB 2260), effective January 1, 2011.

CHAPTER 15. COMMUNITY PROPERTY

§ 27400. Purpose of chapter

(a) This chapter establishes the power of a court in a dissolution of marriage or legal separation action with respect to community property rights in benefits under this part and defines the rights of nonparticipant spouses in the Cash Balance Benefit Program.

(b) For purposes of this chapter, the termination, dissolution, or nullity of a registered domestic partnership, or the legal separation of partners in a registered domestic partnership, as provided in Section 299 of the Family Code, shall be treated in the same manner as a dissolution of marriage or legal separation of a member and his or her spouse.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 307 (AB 2765); Stats 2004 ch 912 § 30 (AB 2233); Stats 2005 ch 418 § 11 (SB 973), effective January 1, 2006.

Amendments

1998 Amendment: Substituted **(1)** "this part" for "the plan" after "benefits under"; and **(2)** "Cash Balance Benefit Program" for "Cash Balance Plan".

2004 Amendment: (1) Redesignated the former section to be subd (a); and **(2)** added subd (b).

2005 Amendment: Amended subd (b) by **(1)** substituting "the termination, dissolution, or" for "any reference to 'dissolution of marriage or legal separation' also includes the termination or dissolution of a domestic partnership,"; **(2)** adding the word "registered" in two places; and **(3)** substituting "Code, shall be treated in the same manner as a dissolution of marriage or legal separation of a member and his or her spouse." for "Code."

§ 27401. "Nonparticipant spouse" and "Nonparticipant registered domestic partner"

(a) For purposes of this chapter, "nonparticipant spouse" means a participant's spouse or former spouse who is being or has been awarded a community property interest in the benefits determined by reference to the amounts credited to a participant's employee and employer accounts or the participant's annuity. A nonparticipant spouse who is awarded separate nominal accounts is not a participant in the Cash Balance Benefit Program. A nonparticipant spouse who receives or is awarded an interest in a participant's annuity is not a participant in the Cash Balance Benefit Program.

(b) For purposes of this chapter, a participant's registered domestic partner or former registered domestic partner who is being or has been awarded a community property interest in the benefits determined by reference to the amounts credited to a participant's employee and employer accounts or the participant's annuity shall be treated in the same manner as a nonparticipant spouse.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 1048 § 48 (SB 2085); Stats 2004 ch 912 § 31 (AB 2233); Stats 2005 ch 418 § 12 (SB 973), effective January 1, 2006.

Amendments

1998 Amendment: (1) Substituted "accounts" for "account" after "employer" in the first sentence and after "nominal" in the second sentence; **(2)** substituted "Cash Balance Benefit Program" for "plan" both times it appears; and **(3)** deleted "an annuity" after "spouse who receives" in the last sentence.

2004 Amendment: Substituted "a participant's spouse or former spouse, and also includes a participant's registered domestic partner or former registered domestic partner," for "the spouse or former spouse" in the first sentence.

2005 Amendment: (1) Added the subd designator "(a)"; and **(2)** substituted "spouse" for "spouse, and also includes a participant's registered domestic partner or former registered domestic partner,"; and added subd (b).

§ 27402. Division of credits upon legal separation or divorce

(a) Upon the legal separation or dissolution of marriage of a participant, 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 participant's employee and employer credits in accounts which are attributable to periods of participation in the plan during the marriage be divided into separate nominal accounts in the name of the participant and the nonparticipant spouse, respectively. Any employee or employer account credits that are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the participant.

(c) The determination of the court of the community property rights pursuant to this section shall be consistent with this chapter and shall address the rights of the nonparticipant spouse, including, but not limited to, retirement benefits, disability benefits, death benefits, or termination of the benefits of the participant.

Added by Stats 1995 ch 592 § 16 (AB 1298).

§ 27403. Status of nonparticipant spouse (Exclusion from participation in the Cash Balance Benefit Program)

The nonparticipant spouse who is awarded separate nominal accounts pursuant to Section 27402 is not a participant of the Cash Balance Benefit Program. The nonparticipant spouse is entitled only to rights and benefits explicitly established by this chapter.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 308 (AB 2765); Stats 2004 ch 183 § 61 (AB 3082).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan".
2004 Amendment: Substituted "Section 27402" for "Section 24702".

§ 27404. Rights of nonparticipant spouse in separate nominal account

The nonparticipant spouse is entitled to no benefits or rights from the separate nominal accounts except as otherwise provided in this chapter. However, this section shall not be construed to limit any right arising from the accounts of a nonparticipant with respect to the Cash Balance Benefit Program which exists because the nonparticipant spouse is employed to perform creditable service subject to coverage by the program.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 50 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 309 (AB 2765).

Amendments

1996 Amendment: Substituted "to perform creditable service subject to coverage by" for "in a position requiring participation in".
1998 Amendment: Substituted **(1)** "respect to the Cash Balance Benefit Program" for "the plan"; and **(2)** "program" for "plan" at the end.

§ 27405. Determination of community property rights in annuity upon separation or dissolution of marriage of participant

Upon the legal separation or dissolution of marriage of a participant, the court may include in the judgment or court order a determination of the community property rights of the parties in the participant's annuity consistent with this section. Upon election under subparagraph (B) of paragraph (3) of

subdivision (a) of Section 2610 of the Family Code, the court order awarding the nonparticipant spouse a community property share in the benefits of a participant receiving an annuity shall be consistent with this section.

(a) If the court does not award the entire annuity to the participant and the participant is receiving an annuity under paragraph (1) or (2) of subdivision (b) of Section 26807 or paragraph (1) of subdivision (a) of Section 26807.5, the court shall require only that the system pay from the plan the nonparticipant spouse, by separate warrant, his or her community property share of the participant's annuity, or the option beneficiary's annuity or both.

(b) The nonparticipant spouse may designate a beneficiary to receive his or her community property share of the participant's annuity.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 51 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 485 § 50 (AB 2803); Stats 2006 ch 655 § 80 (SB 1466), effective January 1, 2007.

Amendments

1996 Amendment: Substituted "system pay from the plan" for "plan pay" in subd (a).

1998 Amendment: (1) Substituted "subparagraph (E) of paragraph (3) of subdivision (a)" for "subdivision (d)" in the first paragraph; and **(2)** added "to" after "pay from the plan" in subd (a).

2006 Amendment: (1) Substituted "(B)" for "(E)" after "election under subparagraph" in the introductory paragraph; and **(2)** amended subd (a) by **(a)** adding "or paragraph (1) of subdivision (a) of Section 26807.5" after "of Section 26807"; and **(b)** deleting "to" after "from the plan".

§ 27406. Right of nonparticipant spouse to lump–sum distribution

The nonparticipant spouse who is awarded separate nominal accounts with respect to the Cash Balance Benefit Program shall have the right to a lump-sum distribution of amounts credited to the account.

(a) The nonparticipant spouse shall file an application on a form provided by the system to obtain the distribution.

(b) The distribution is effective when the system deposits in the United States mail a warrant drawn in favor of the nonparticipant spouse and addressed to the latest address for the nonparticipant spouse on file with the system.

(c) If the nonparticipant spouse has elected on a form provided by the system to transfer all or a specified portion of the accounts that are eligible for direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of a qualified plan under Section 402 of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes a distribution of the nonparticipant spouse's credit balance from the separate nominal accounts. This subdivision shall not apply to a nonparticipant partner consistent with Section 402 of the Internal Revenue Code.

(d) The nonparticipant spouse is deemed to have permanently waived all rights to an annuity when the distribution becomes effective.

(e) The nonparticipant spouse may not cancel a distribution after the distribution is effective.

(f) The nonparticipant spouse shall have no right to elect to redeposit the distribution after the distribution is effective.

Added Stats 1995 ch 592 § 16 (AB 1298). Amended Stats 1996 ch 608 § 52 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 310 (AB 2765); Stats 2004 ch 912 § 32 (AB 2233); Stats 2007 ch 513 § 5 (AB 1432), effective January 1, 2008; Stats 2010 ch 207 § 29 (AB 2260), effective January 1, 2011.

Amendments

1996 Amendment: Substituted **(1)** "system" for "plan" in subd (a); and **(2)** "with the system" for "in the plan" in subd (b).

1998 Amendment: Added "with respect to the Cash Balance Benefit Program" in the first paragraph.

2004 Amendment: (1) Redesignated the former last sentence of subd (b) to be subd (c); **(2)** added the last sentence in subd (c); and **(3)** redesignated former subds (c)–(e) to be subds (d)–(f).

2007 Amendment: Deleted the former last sentence of subd (c) which read: "This subdivision shall not apply to a nonparticipant domestic partner, consistent with Section 402 of the Internal Revenue Code."

2010 Amendment: Added the second sentence of subd (c).

§ 27407. Required joinder of plan

No judgment or court order issued pursuant to this chapter is binding on the plan with respect to the Cash Balance Benefit Program until the plan has been joined as a party to the action and has been served with a certified copy of the judgment or court order.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 311 (AB 2765).

Amendments

1998 Amendment: Added "with respect to the Cash Balance Benefit Program".

§ 27408. Provisions applicable to nonparticipant spouse

(a) Sections 26107, 26700, 26802, 26806, 27000, 27002, paragraphs (1) of subdivision (b) of Section 26807, and paragraphs (1) and (5) of subdivision (a) of Section 26807.5 shall apply to a nonparticipant spouse as if she or he were a participant.

(b) Notwithstanding subdivision (a), this section shall not be construed to establish any right for the nonparticipant spouse that is not explicitly established in Sections 27400 to 27405, inclusive, and Sections 27409 to 27412, inclusive.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 2006 ch 655 § 81 (SB 1466), effective January 1, 2007.

Amendments

2006 Amendment: Amended subd (a) by **(1)** deleting "and" both times it appears; **(2)** adding the comma after "26806, 27000, 27002"; **(3)** deleting "and (2)" after "27002, paragraphs (1); and **(4)** adding ", and paragraphs (1) and (5) of subdivision (a) of Section 26807.5" after "of Section 26807".

§ 27409. Information required from nonparticipant spouse

Upon being awarded separate nominal accounts or an interest in the annuity of a participant, a nonparticipant spouse shall provide the system with proof of his or her date of birth, social security number, and any other information requested by the system, in the form and manner requested by the system.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 53 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 1048 § 49 (SB 2085).

Amendments

1996 Amendment: Substituted "system" for "plan" wherever it appears.

1998 Amendment: The amendment made no change.

§ 27410. Designation of beneficiary by nonparticipant spouse

(a) The nonparticipant spouse who is awarded separate nominal accounts shall have the right to designate, pursuant to Sections 27100 to 27102, inclusive, a beneficiary or beneficiaries to receive the amounts credited to the separate nominal accounts of the nonparticipant spouse on his or her date of death, and any annuity attributable to the separate nominal accounts which is unpaid on the date of the death of the nonparticipant spouse.

(b) This section shall not be construed to provide the nonparticipant spouse with any right to elect a joint and survivor annuity pursuant to paragraphs (3) and (4) of subdivision (b) of Section 26807 or subdivision (a) of Section 26807.5.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1998 ch 965 § 312 (AB 2765); Stats 1999 ch 939 § 86 (SB 1074); Stats 2006 ch 655 § 82 (SB 1466), effective January 1, 2007.

Amendments

1998 Amendment: Substituted "accounts" for "account" after "nominal" the second and third times it appears in subd (a).

1999 Amendment: Substituted "amounts" for "accounts" after "receive the" in subd (a).

2006 Amendment: Added "or subdivision (a) of Section 26807.5" after "of Section 26807" in subd (b).

§ 27411. Eligibility of nonparticipant spouse to elect annuity

The nonparticipant spouse who is awarded a separate nominal account under this part shall have the right to an annuity pursuant to paragraph (1) or (5) of subdivision (a) of Section 26807.5.

(a) The nonparticipant spouse shall be eligible for an annuity if the following conditions are satisfied:

(1) The nonparticipant spouse has at least three thousand five hundred dollars ($3,500) in his or her separate nominal accounts.

(2) The nonparticipant spouse has attained the age of 55 years or more.

(b) An annuity of a nonparticipant spouse shall become effective upon any date designated by the nonparticipant spouse, provided:

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

(2) The nonparticipant spouse has filed an application for an annuity on a properly executed form provided by the system, which is executed no earlier than 90 days before the effective date of the annuity.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 54 (AB 2673), effective September 19, 1996, operative July 1, 1996; Stats 1998 ch 965 § 313 (AB 2765); Stats 2006 ch 655 § 83 (SB 1466), effective January 1, 2007.

Amendments

1996 Amendment: Substituted "system" for "plan" in subd (b)(2).

1998 Amendment: (1) Amended the first sentence by **(a)** adding "under this part"; and **(b)** "substituting paragraphs (1), (2), or (5)" for "paragraphs (1) and (4)"; and **(2)** substituted "accounts" for "account" at the end of subd (a)(1).

2006 Amendment: (1) Substituted "paragraph (1) or (5) of subdivision (a)" for "paragraphs (1), (2), or (5) of subdivision (b)" after "annuity pursuant to" in the introductory paragraph; and **(2)** added "properly executed" after "annuity on a" in subd (b)(2).

§ 27412. Information on credits of contribution and earnings in judgment or court order

The system shall include the contribution and earnings credits awarded to a nonparticipant spouse in the judgment or court order to determine the eligibility of a participant for an annuity.

Added by Stats 1995 ch 592 § 16 (AB 1298). Amended by Stats 1996 ch 608 § 55 (AB 2673), effective September 19, 1996, operative July 1, 1996.

Amendments

1996 Amendment: Substituted **(1)** "system" for "plan"; and **(2)** "participant" for "member".

§ 27413. Legislative intent regarding terminable interest doctrine

It is the intent of the Legislature to abolish any application of the terminable interest doctrine in California relating to the division of public retirement benefits of a participant in the event of dissolution of marriage or death if the division is made under this chapter.

Added by Stats 1995 ch 592 § 16 (AB 1298).

CHAPTER 16. MILITARY SERVICES

§ 28000. Findings

(a) The Legislature hereby finds and declares its intent to preserve and protect the rights of reemployed participants who have been absent from a position of employment covered by the Cash Balance Benefit Program to serve in the uniformed services of the United States of America in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code).

(b) The plan shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(c) The term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, and a period for which a participant is absent from a position of employment for the purpose of an examination to determine the fitness of the participant to perform any such duty.

(d) The term "uniformed services" means the Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full–time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

(e) No entitlement of the right to contribute toward credits under the Cash Balance Benefit Program pursuant to this chapter by the participant as a result of service in the uniformed services shall accrue if the participant does not return to employment with the same employer or employers which employed the participant immediately prior to the eligible period of service in the uniformed services as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code.

Added by Stats 1996 ch 680 § 3 (SB 1877). Amended by Stats 1998 ch 965 § 314 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan" in subds (a) and (e).

§ 28001. Break in service

(a) The participant who returns to employment with the same employer which had employed the participant immediately prior to the eligible period of service in the uniformed services, in accordance with the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, shall be treated as not having incurred a break in the performance of creditable service by reason of that participant's period or periods of service in the uniformed services. The length of each period of service in the uniformed services shall not exceed five years unless otherwise permitted pursuant to Section 28004. Each period of service in the uniformed services by the participant shall, upon that participant's return to employment with the same employer or employers which had employed the participant immediately prior to the eligible period of service in the uniformed services, constitute employment toward the performance of creditable service provided that participant elects to remit the employee contributions that would have been made during the period of service in the uniformed services. The remittance of employee contributions shall be calculated pursuant to Sections 26501 and 28003. In no event shall that remittance exceed the amount the participant would have been required to contribute during that period of performance of creditable service had the participant remained continuously employed by the last employer and not served in the uniformed services throughout that period.

(b) Notwithstanding Section 26506, remittance of employee contributions in accordance with subdivision (a) shall be made by the employer pursuant to Section 26502 upon the employer's receipt of

written consent of the participant specifying a schedule of repayments. That remittance shall commence during the period beginning with the date of return to employment and may continue for three times the period of the participant's eligible period of service in the uniformed services, not to exceed five years. The plan's receipt of the remittance payments to the plan with respect to the Cash Balance Benefit Program shall be credited pursuant to Chapter 7 of this part. Interest on the payments of remitted employee contributions made for the period of service in the uniformed services shall not be credited in the participant's account until after such payments are received and only prospectively to the participant's account in accordance with Section 26604. Upon receipt of the remittance payments to the plan, the payments shall be subject to the same terms and conditions under the program as if the payments had been employee contributions made by the participant had the participant not served for a period in the uniformed services. In no event shall the current year contributions and contributions made for purposes of purchasing service exceed the maximum exclusion allowance as set forth in the Internal Revenue Code.

Added by Stats 1996 ch 680 § 3 (SB 1877). Amended by Stats 1998 ch 965 § 315 (AB 2765).

Amendments

1998 Amendment: Amended subd (b) by **(1)** adding "with respect to the Cash Balance Benefit Program" in the third sentence; and **(2)** substituting "program" for "plan" after "conditions under the" in the fifth sentence.

§ 28002. Employer contributions

(a) Except as provided in subdivision (b), an employer reemploying a participant with service subject to the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, shall be liable to remit the employer contributions provided that employer employed the participant immediately prior to the eligible period of service in the uniformed services. That remittance shall exclude interest and the contribution rate by the employer shall be to the same extent as that for contributions to the Cash Balance Benefit Program for other employees during the same period. The employer shall, within 30 days of the date of reemployment, provide information as required by the board, on a form provided by the system, notifying the system of reemployment. Following receipt of that notice, the system shall calculate in accordance with Section 28003 the total amount of employer contributions due for the participant for the full period of service in the uniformed services. Within 60 working days of notification by the plan of amount due, the employer shall remit to the plan all employer contributions.

(b) The employer shall not be liable for employer contributions for the period of service in the uniformed services if the participant elects not to remit the employee contributions for that period through the employer as required under Section 28001. In the event the participant does not remit all of the employee contributions within the prescribed repayment period, the total amount of the employer contributions shall remain with the plan and credited to the participant's employer account with respect to the Cash Balance Benefit Program.

Added by Stats 1996 ch 680 § 3 (SB 1877). Amended by Stats 1998 ch 965 § 316 (AB 2765).

Amendments

1998 Amendment: (1) Amended subd (a) by substituting **(a)** "Cash Balance Benefit Program" for "plan" in the second sentence; and **(b)** "system" for "plan" after "that notice, the" in the fourth sentence; and **(2)** added "with respect to the Cash Balance Benefit Program" at the end of subd (b).

§ 28003. Salary computation (Employee and employer contributions)

For purposes of calculating the employer's liability under Section 28002 or the required employee contributions under Section 28001, the participant's salary during that period shall be computed as follows:

(a) The salary the participant would have received with the employer for the eligible period of service in the uniformed services.

(b) In the event that salary is not reasonably certain, the contributions shall be based on the participant's average salary with the employer during the 12–month period immediately preceding the eligible period of service in the uniformed services or, if shorter, the contributions shall be based on the participant's average salary for the period of employment immediately preceding that period.

Added by Stats 1996 ch 680 § 3 (SB 1877).

§ 28004. Excess of five years

A participant who is absent from a position of employment subject to the Cash Balance Benefit Program due to that participant's service in the uniformed services, shall not be entitled to obtain the right to contribute toward credits under the plan in excess of five years of service in the uniformed services, except for the following reasons:

(a) The participant is required to serve beyond five years to complete an initial period of obligated service in the uniformed services;

(b) The participant was unable to obtain orders releasing the participant from a period of service in the uniformed services before the expiration of the five–year period and that inability was through no fault of the participant;

(c) The participant served in the uniformed services as required pursuant to Section 270 of Title 10, under Section 502 (a) or 503 of Title 32 of the United States Code, or to fulfill additional training requirements determined and certified in writing by the Secretary of Defense, to be necessary for professional development, or for completion of skill training or retraining; or

(d) The participant is:

(1) Ordered to or retained on active duty under Section 672 (a), 672(g), 673, 673b, 673c, or 688 of Title 10 or under Section 331, 332, 359, 360, 367, or 712 of Title 14 of the United States Code.

(2) Ordered to or retained on active duty, other than for training, under any provision of law during a war or during a national emergency declared by the President or the Congress.

(3) Ordered to active duty, other than for training, in support, as determined by the secretary concerned, of an operational mission for which personnel have been ordered to active duty under Section 673b of Title 10 of the United States Code.

(4) Ordered to active duty in support, as determined by the secretary concerned, of a critical mission or requirement of the uniformed services.

(5) Called into federal service as a participant of the National Guard under Chapter 15 of Title 10 or under Section 3500 or 8500 of Title 10 of the United States Code.

Added by Stats 1996 ch 680 § 3 (SB 1877). Amended by Stats 1998 ch 965 § 317 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan" in the introductory clause.

§ 28005. Termination of rights (Denial of benefits)

A participant's entitlement to the right to contribute toward credits under the Cash Balance Benefit Program pursuant to this chapter by reason of the service in the uniformed services terminates upon the occurrence of any of the following events:

(a) A separation of the participant from the uniformed service with a dishonorable or bad conduct discharge.

(b) A separation of the participant from the uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the secretary concerned.

(c) A dismissal of the participant permitted under Section 1161(a) of Title 10 of the United States Code.

(d) A dropping of the participant from the rolls pursuant to Section 1161(b) of Title 10 of the United States Code.

Added by Stats 1996 ch 680 § 3 (SB 1877). Amended by Stats 1998 ch 965 § 318 (AB 2765).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan" in the introductory clause.

§ 28006. Taxes

No provision of this chapter shall apply to the extent it would require any action to be taken that would cause the plan or its members to incur adverse tax consequences under the Internal Revenue Code of 1986 (Title 26 of the United States Code).

Added by Stats 1996 ch 680 § 3 (SB 1877).

CHAPTER 17. DISCONTINUATION OF PLAN

§ 28100. Employer's right to discontinue plan; Notice

(a) The employer may discontinue providing the Cash Balance Benefit Program at anytime in accordance with the terms and conditions of the employer's governing board's formal action to provide the program.

(b) The employer shall notify the system of the decision to discontinue the plan no less than 90 calendar days prior to the effective date of discontinuance. Such notice shall be submitted on a form prescribed by the system.

Added by Stats 1996 ch 608 § 56 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 965 § 319 (AB 2765), ch 1048 § 50 (SB 2085).

Amendments

1998 Amendment: (1) Amended subd (a) by substituting **(a)** "Cash Balance Benefit Program" for "Cash Balance Plan"; and **(b)** "program" for "plan" at the end; and **(2)** added "calendar" after "90" in subd (b). (As amended Stats 1998 ch 1048, compared to the section as it read prior to 1998. This section was also amended by an earlier chapter, ch 965. See Gov C § 9605.)

§ 28101. Accounts

(a) Upon discontinuation of the Cash Balance Benefit Program by the employer, the system will hold the employee and employer accounts for the benefit of the participant. The participant is immediately vested in both employee and employer accounts including accrued interest.

(b) Both employee and employer accounts will continue to be credited with interest at the minimum interest rate so long as there is an undistributed balance in such accounts.

Added by Stats 1996 ch 608 § 56 (AB 2673), effective September 19, 1996, operative July 1, 1996. Amended by Stats 1998 ch 1048 § 51 (SB 2085).

Amendments

1998 Amendment: Substituted "Cash Balance Benefit Program" for "plan" in subd (a).

CALIFORNIA CODE OF REGULATIONS

TITLE 5. EDUCATION

DIVISION 3. TEACHERS' RETIREMENT SYSTEM

CHAPTER 1. TEACHERS' RETIREMENT SYSTEM

ARTICLE 1. DEFINITIONS

§ 20500. Definitions

As used in this chapter:

(a) "Accredited" means official recognition of an educational institution, by an authorized public authority or other generally recognized authority, that such institution maintains standards which qualify its graduates for admission to higher or more specialized institutions or for professional or trade practices.

(b) "Certificated" means the holding by a person of a credential which is required by the laws of the state to be held as a condition to valid employment in the position in which such person is employed.

(c) "Chairperson" means Chairperson of the Teachers' Retirement Board, duly elected in the manner prescribed by Education Code section 22200.

(d) "Credential," "credentials" and "certificate" mean any life diploma, credential, certificate, or other document provided for by, and issued pursuant to the laws of the state which authorize service in the public school system of this state.

(e) "Emergency meeting" means a meeting of the Teachers' Retirement Board held because of an unforeseen emergency condition.

(f) "Regular meeting" is a meeting held in accordance to a schedule of meetings stating the dates and places of the meetings adopted by the Teachers' Retirement Board.

(g) "Special meeting" is a nonemergency meeting held by the Teachers' Retirement Board at a time other than when a regular meeting is held for considering and acting upon such matters, and no others, as are included in the notice of special meeting.

(h) "Unforeseen emergency condition" means a circumstance or a combination of circumstances which may result in monetary loss to the system, or otherwise impair the integrity or operation of the system, or result in unconscionable hardship or monetary loss of a member, disabilitant or retirant unless the Teachers' Retirement Board acts without being required to provide at least seven days' notice before acting.

(i) "Vice Chairman" means the vice chairman of the Teachers' Retirement Board, duly elected in the manner prescribed by Education Code section 22200.

NOTE: Authority cited: Sections 22202, 22209 and 22210, Chapter 4, Division 10, Education Code. Reference: Sections 22216 and 22224, Education Code.

1. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 1976, No. 42). For prior history, see Register 74, No. 33.

2. Amendment of section and NOTE filed 5-6-77; effective thirtieth day thereafter (Register 1977, No. 19).

ARTICLE 2. RULES OF PROCEDURE

§ 20510. Meetings

The Teachers' Retirement Board shall meet at least once every calendar quarter at such times as it may determine. The meetings shall be presided over by a chairperson elected by the Teachers' Retirement Board from among its members. In the event of absence from a meeting of the chairperson, the vice chairperson, elected by the Teachers' Retirement Board from among its members, shall act as presiding officer and perform all other duties of the chairperson.

1. Renumbering from Section 20500.1 filed 8-28-70; effective thirtieth day thereafter (Register 1970, No. 35).
2. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 1976, No. 42).

§ 20511. Notice of Regular and Special Meetings

Repealed by No. 16, Register 1985.

§ 20512. Emergency Meetings

Repealed by No. 16, Register 1985.

§ 20512.5. Special Meetings

Repealed by No. 16, Register 1985.

§ 20513. Quorum; Required Vote

The quorum of the Teachers' Retirement Board shall consist of the majority of the Board members. In determining whether a quorum is present, vacant positions on the Teachers' Retirement Board shall not be considered. The concurrence of the majority of the members present shall be necessary to the validity of any of the Teachers' Retirement Board's acts.

NOTE: Authority cited: Sections 22209 and 22210, Education Code. Reference: Section 22202, Education Code; and Section 87300, Government Code.

1. Renumbering from Section 20500.5 filed 8-28-70; effective thirtieth day thereafter (Register 1970, No. 35).
2. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 1976, No. 42).
3. Amendment filed 4-19-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 1985, No. 16).

§ 20514. Secretary; Duties

The chief executive officer shall act as secretary of the Teachers' Retirement Board. He shall have charge of all of its correspondence and shall keep a record of its proceedings.

1. Amendment and renumbering from Section 20500.3 filed 8-28-70; effective thirtieth day thereafter (Register 1970, No. 35).
2. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 1976, No. 42).

ARTICLE 3. GENERAL PROVISIONS OF ADMINISTRATION

§ 20520. Authority of Chief Executive Officer

The chief executive officer of the system is authorized and empowered to correct a member's record and to approve, disapprove, modify or otherwise act on the retirement of members of the system for service or for qualifying for and receiving a disability allowance, and to fix their retirement allowances or disability allowances; and to approve, disapprove, modify or otherwise act on any application for any other benefit or refund and for granting service credit; and to determine whether persons who have qualified for and are receiving disability allowances have recovered from the disabilities which qualified them for disability allowances and to determine the eligibility of persons for family allowances. Payment of retirement allowances, disability allowances, family allowances, refunds or other benefits may be made on the action of the chief executive officer.

The chief executive officer is authorized to enter into contracts on behalf of the Teachers' Retirement Board and to perform other acts necessary in the administration of the system. The Teachers' Retirement Board may by resolution adopted at any meeting and recorded in the minutes of the meeting, delegate authority to him to perform any act within its own power to perform.

Any member, former member, disabilitant, retirant, beneficiary or other person dissatisfied with the action of the chief executive officer, other than his referral of the matter to hearing, with respect to payment of allowances, benefits or refunds or with respect to crediting service or correction of records, has the right to appeal such action to the Teachers' Retirement Board by filing a written notice of such appeal and the reason therefor at the office of the system within a reasonable time from the date of the mailing to him by the chief executive officer at his most recent address of record with the system of written notice of the determination or action taken and right of appeal therefrom. For the purpose of defining a "reasonable time" ninety (90) days is deemed to be a reasonable time. If no notice of appeal as herein provided is made within the time prescribed, such determination or action shall be final.

NOTE: Authority cited: Sections 22202, 22203, 22204, 22209, 22210, 22216 and 22224, Education Code.

1. Amendment of NOTE filed 5-6-77; effective thirtieth day thereafter (Register 1977, No. 19). For prior history, see Register 76, No. 42.

§ 20521. Time Required for Credit

The following members who are employed by the day or by the hour shall have 175 days or 1,050 hours as the basis for determining their earnable compensation for a school year:

(a) Those who are employed as substitutes but who can not be paid for school holidays;

(b) All others who are normally not employed for more than 175 days or 1,050 hours.

Full-time day service, or full-time service as performed by members whose normal tours of duty extend throughout the school term (hereby defined for purposes of this retirement system as being the period beginning with the day upon which school commences and ending with the day upon which school closes in the same year) shall be performance of assigned duties for six hours per day for five days per week, or the equivalent thereof. Performance of assigned duty for a shorter period than six hours for five days per week, or the equivalent thereof, such as but not limited to performance of duties for four hours per day for five days per week, but for which such member receives compensation in the same amount as he would have received if such performance were six hours per day for five days per week, shall nevertheless be counted as a full-time day or full-time service.

1. Renumbering from Section 20502 filed 8-28-70; effective thirtieth day thereafter (Register 1970, No. 35). For prior history, see Register 68, No. 34.

§ 20522. Funds Disbursed According to Claims

Repealed by No. 33, Register 1974.

§ 20523. Proof of Death

Repealed by No. 5, Register 1975.

§ 20524. Statement of Service and Claims

Repealed by No. 5, Register 1975.

§ 20525. Statement of Account

Repealed by No. 33, Register 1974.

§ 20526. Required Days of Service for Sick Leave Credit

Repealed by Register No. 43, 2000.

§ 20527. Deductions; Local Retirement Systems

Repealed by No. 27, Register 1973.

§ 20528. Deposit of Contributions

Repealed by No. 27, Register 1973.

§ 20529. Remitting Contributions and Report

Repealed by No. 27, Register 1973.

§ 20530. Termination of Employment

Repealed by No. 5, Register 1975.

§ 20531. Application for Retirement

Repealed by No. 5, Register 1975.

§ 20532. Repayment of Withdrawn Contributions

Repealed by No. 33, Register 1974.

§ 20533. Option to Repay Withdrawn Contributions

Repealed by No. 33, Register 1974.

§ 20534. Deposit of Retirement Annuity Fund Contributions

Repealed by No. 33, Register 1974.

§ 20535. Election to Pay Contributions

Repealed by No. 5, Register 1975.

§ 20536. Election to Redeposit

Repealed by No. 5, Register 1975.

§ 20537. Part-Time Employee -Disability Retirement

Repealed by No. 33, Register 1974.

§ 20538. Adjustment of Final Compensation

Repealed by No. 43, Register 2000.

§ 20539. Full-Time Employment to Qualify for Reduced Workload

Repealed by No. 16, Register 1985.

§ 20540. Definitions of "Full-Time Student" and "Educational Institution."

Repealed by No. 5, Register 1975.

§ 20541. "Family or Disability Benefits."

Repealed by No. 5, Register 1975.

§ 20542. Verification of Date of Birth

Repealed by No. 5, Register 1975.

§ 20543. Permissive Payments to System to Obtain Additional Service Credit

Repealed by No. 43, Register 2000.

§ 20543.5. Mandatory Payments to System by Member, Beneficiary or Retirant

Repealed by No. 43, Register 2000.

§ 20544. Determination of Member's Final Compensation

Repealed by No. 43, Register 2000.

ARTICLE 4. TAX SHELTERED ANNUITY CONTRIBUTIONS

§ 20547. Tax Sheltered Annuity

Repealed by No. 45, Register 1979.

§ 20548. Tax Sheltered Annuity Contributions

Repealed by No. 45, Register 1979.

§ 20549. Resolution

Repealed by No. 45, Register 1979.

§ 20550. Amendment of Employment Contract

Repealed by No. 45, Register 1979.

§ 20551. Limit on Tax Sheltered Contributions

Repealed by No. 45, Register 1979.

§ 20552. Transmittal and Report of Tax Sheltered Annuity Contributions

Repealed by No. 45, Register 1979.

§ 20553. Withdrawal

Repealed by No. 45, Register 1979.

§ 20554. Tax Sheltered Annuity Program

Commencing January 1, 1980, the Teachers' Retirement Board shall operate a tax sheltered annuity program pursuant to the provisions of the Tax Sheltered Annuity Contract adopted by the Board on September 5, 1979.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

1. New section filed 9-21-79; effective thirtieth day thereafter (Register 1979, No. 38.)

§ 20554.1. Discontinuance of Former Tax Sheltered Annuity Program

The tax sheltered annuity program which was adopted by regulations effective June 30, 1979, shall be discontinued after December 31, 1979, and no further contributions and no new participants will be accepted after that date. Participants in that program must elect to:

(a) Transfer their tax sheltered annuity contributions to the Board's program which will be operative January 1, 1980; or

(b) Roll their tax sheltered annuity contributions over to a private program; or

(c) Withdraw their tax sheltered annuity contributions; or

(d) Leave their tax sheltered annuity contributions on deposit and receive the benefits provided by the discontinued program

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

1. New section filed 9-21-79; effective thirtieth day thereafter (Register 1979, No. 38).

§ 20555. Investment of Tax Sheltered Annuity Funds

Repealed by No. 9, Register 1995.

§ 20556. Resolution by Contracting Employer

Repealed by No. 9, Register 1995.

§ 20557. Transmittal and Report of Tax Sheltered Annuity Contributions

Repealed by No. 9, Register 1995.

§ 20558. Withdrawal for Emergencies

Repealed by No. 9, Register 1995.

§ 20558.1. Community Property Interest

Repealed by No. 9, Register 1995.

ARTICLE 5. RETIRED MEMBERS EMPLOYED AS SUBSTITUTE TEACHERS

§ 20559. Monthly Reports by Governing Board

Repealed by No. 5, Register 1975.

§ 20560. Amount of Contribution

Repealed by No. 27, Register 1973.

ARTICLE 6. NOMINATION OF BENEFICIARIES

§ 20570. Nomination of Beneficiaries

Repealed by No. 33, Register 1974.

§ 20571. Beneficiary Under Trust

Repealed by No. 5, Register 1975.

ARTICLE 7. ELECTION OF OPTIONS

§ 20580. Optional Elections in Advance of Retirement

Repealed by No. 43, Register 2000.

§ 20581. Early Retirement Limited Term Reduction Program

Repealed by No. 43, Register 2000.

ARTICLE 8. RATES

§ 20600. Regular Interest Rate

Repealed by No. 14, Register 1981.

§ 20601. Credited Interest Rate

Repealed by No. 14, Register 1981.

§ 20602. When Interest Is Not Chargeable

Repealed by No. 43, Register 2000.

§ 20603. Present Value Factor

Repealed by No. 14, Register 1981.

§ 21000. Penalty Rate on Late Employer and Employee Contributions

Repealed by No. 14, Register 1981.

§ 21001. Employer Contribution Rate for Reduced Workload Program

Repealed by No. 14, Register 81.

§ 21002. Actuarial Normal Cost Rate for Additional Service Credit

Repealed by No. 14, Register 81.

ARTICLE 10. DEPENDENTS

§ 21020. Dependent Husband

Repealed by No. 33, Register 1974.

§ 21021. Dependent Parent

Repealed by No. 43, Register 2000.

§ 21022. Step-Child—When Qualified for Benefit

Repealed by No. 5, Register 1975.

§ 21023. Providing Information to the Teachers' Retirement Board

In addition to tax return, state or federal, the claimant or his guardian shall furnish to the Teachers' Retirement Board such other evidence regarding his financial status as the Teachers' Retirement Board may require.

NOTE: Specific authority: Section 11385, Government Code.

1. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 1976, No. 42).

ARTICLE 11. STATE TEACHERS' RETIREMENT SYSTEM—CONFLICT OF INTEREST CODE

§ 22000. General Provisions

(a) Incorporation by Reference of Standard Code and Appendix. The Political Reform Act, Government Code Section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interest regulations. The Fair Political Practices Commission has adopted a regula-

tion, 2 Cal. Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference. The Standard Code and the Appendix together constitute the Conflict of Interest Code of the California State Teachers' Retirement System (CalSTRS), except as provided in subsections (b) and (c) below.

(b) Filing Requirements. Designated individuals shall file statements of economic interests with CalSTRS, pursuant to Section 4 of the Standard Code. CalSTRS shall make such statements available for public inspection and reproduction. Corporate entities under contract serving as consultants to or contractors for CalSTRS need not file statements of economic interests; however, the natural person within the entity who provides the consulting or contractual services must file the statement of economic interests. With respect to officials who are determined to manage public investments, within the meaning of Government Code Section 87200, they shall also be required to file statement of economic interests (contractors who fall within the meaning of managing public investments shall also be required to file statements of economic interests). Upon receipt of the statements of economic interests of Board Members, representatives of Ex-Officio Board Members, Chief Executive Officer, Chief Investment Officer, Directors of all programs of CalSTRS' Investment Branch, and others falling within the designation of officials who are determined to manage public investments, CalSTRS shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements of all other designated employees will be retained by CalSTRS.

(c) Exception. As provided in Section 1 of the Standard Code, 2 Cal. Code of Regulations Section 18730(b)(1), the definitions contained in the Political Reform Act of 1974 shall apply to the terms used in this Code.

NOTE: Authority cited: Article XVI, Section 17, California Constitution; Sections 22209 and 22210, Education Code; and Sections 87034 and 87300, Government Code. Reference: Sections 22205, 22205.2 and 22209, Education Code; Sections 87200 et seq. and 87300 et seq., Government Code; and Section 187300, Title 2, California Code of Regulations.

1. New article 11 (sections 22000-22007, Exhibits A and B) filed 6-2-78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 2-9-78 (Register 1978, No. 22).

2. Repealer of article 11 (sections 22000-22007 and Exhibits A and B) and new article 11 (section 22000 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 1981, No. 9).

3. Amendment of section 22000 and repealer and new Appendix filed 2-14-86; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 1-7-86 (Register 1986, No. 7).

4. Amendment of section and Appendix filed 1-13-93; operative 1-12-93. Submitted to OAL for printing only pursuant to California Code of Regulations title 2, section 18750 (Register 1993, No. 3).

5. Amendment of subsections (a) and (b), Note and Appendix filed 5-20-96; operative 6-19-96. Approved by Fair Political Practices Commission 3-29-96 (Register 1996, No. 21).

6. Amendment of subsection (b) and Appendix filed 3-31-98; operative 4-30-98. Approved by Fair Political Practices Commission 2-6-98 (Register 1998, No. 14).

7. Amendment of Appendix filed 3-20-2000; operative 4-19-2000. Approved by Fair Political Practices Commission 1-24-2000 (Register 2000, No. 12).

8. Amendment of appendix filed 11-26-2001; operative 12-26-2001. Approved by Fair Political Practices Commission 10-2-2001 (Register 2001, No. 48).

9. Amendment of general provisions and Appendix filed 7-12-2005; operative 8-11-2005. Approved by Fair Political Practices Commission 5-16-2005 (Register 2005, No. 28).

APPENDIX A

Designated Positions ..... Disclosure Categories

OFFICE OF GENERAL COUNSEL

Chief Counsel 1
Assistant Chief Counsel 1
Staff Counsel (All Levels) 1
Chief Auditor 1
Management Auditor (All Classes) 5

PLAN DESIGN AND COMMUNICATION BRANCH

Deputy Chief Executive Officer 1
System Actuary 1
Staff Services Manager (All Levels) 5
Pension Program Managers (All Levels) 5
Communications Director 5

ADMINISTRATION BRANCH

Deputy Chief Executive Officer 1
Staff Service Manager (All Levels) 5
Accounting Administrator (All Levels) 5
Director, Facilities Management, Planning and Services 1
Business Services Officers (All Classes & All Levels) 5
Associate Business Management Analyst 5
Analyst, Contract Office (All Classes) 1
Information Security Officer 5

BENEFITS AND SERVICES BRANCH

Deputy Chief Executive Officer 1
Staff Services Manager (All Levels) 5
Pension Program Manager (All Levels) 5
Pension Program Supervisor 5

INVESTMENT BRANCH

Principal Investment Officer 1
Investment Officer (All Levels) 1
Associate Investment Officer 1
Assistant Investment Officer 1
Fiduciary Counsel 1
Authorized Personnel of External Investment Managers (consultant/contractor *) — Equities 2
Authorized Personnel of External Investment Managers (consultant/contractor *) — Fixed Income 3
Authorized Personnel of External Investment Managers (consultant/contractor *) — Real Estate 4, 5
Authorized Personnel of External Alternative Investment Managers contractor *) 1

ENTERPRISE INITIATIVES AND TECHNOLOGY BRANCH

Deputy Chief Executive Officer 1
Chief Information Officer 1
Data Processing Manager (All Levels) 5
Senior or Staff Information System Analyst (Supervisor) 5

Consultants

* Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Disclosure Categories

The following disclosure categories shall be subject to the terms, definitions, and conditions of the standard Conflict of Interest Code and any amendments thereto incorporated by reference in subparagraph (a) of Section 22000 above. 1. Designated individuals in Category 1 must report: All interests in real property, all investments, all sources of income, including gifts, loans and travel payments, and all business positions in business entities. 2. Designated individuals in Category 2 must report: a. Investments in and income, including gifts, loans and travel payments, from common and preferred stocks and equity equivalents, and b. Income, including gifts, loans and travel payments, from and investments and business positions in any business entity that provides stock or other equity brokerage services. 3. Designated individuals in Category 3 must report: a. Investments in and income, including gifts, loans and travel payments, from fixed-income securities, and b. Income, including gifts, loans and travel payments, from and investments and business positions in any business entity that provides securities brokerage services. 4. Designated individuals in Category 4 must report: a. Interests in and income, including gifts, loans and travel payments, from real property, and b. Income, including gifts, loans and travel payments, from and investments and business positions in any business entity that provides real estate brokerage services. 5. Designated individuals in Category 5 must report: Income, including gifts, loans and travel payments, from and investments and business positions in any business entity of the type which may contract with the California State Teachers' Retirement System to provide services, supplies, materials, machinery or equipment to the System.

Officials Who Manage Public Investments

It has been determined that individuals in the positions listed below are officials who manage public investments, within the meaning of Government Code Section 87200, and will file a Statement of Economic Interests under Category 1:

Board Members
Representatives of Ex-Officio Board Members
Chief Executive Officer
Chief Investment Officer
Directors (All Programs) — Investment Branch

Individuals, including consultants, who, under contract, manage public investments, within the meaning of Government Code Section 87200, shall also file a Statement of Economic Interests under Category 1.

ARTICLE 12. UNUSED EXCESS SICK LEAVE

§ 23000. Definitions

Repealed by No. 43, Register 2000.

§ 23001. Certification

Repealed by No. 43, Register 2000.

§ 23002. Billing

Repealed by No. 43, Register 2000.

§ 23003. Payment

Repealed by No. 43, Register 2000.

§ 23004. Determination of Excess Sick Leave Days

Repealed by No. 43, Register 2000.

§ 23005. Delegation of Authority of Board to Chief Executive Officer

The Board, pursuant to Section 22203 of the Education Code, hereby delegates to the Chief Executive Officer the administration of the program, including but not limited to, the power to act finally in accordance with these regulations and the instructions and supervision of the Board. The Chief Executive Officer may, in turn, delegate his authority to his subordinates.

NOTE: Authority cited: Sections 22720 and 22210, Education Code. Reference: Sections 22203, 22204, 22209 and 22720, Education Code.

1. New section filed 1-29-87; effective thirtieth day thereafter (Register 1987, No.5).

ARTICLE 13. ELECTION OF MEMBERS TO THE TEACHERS' RETIREMENT BOARD

§ 24000. Board Member Elections

Teachers' Retirement Board (Board) member elections shall be conducted by the Election Coordinator designated by the Chief Executive Officer in accordance with this Article.

The Election Coordinator shall conduct the elections in the most cost-effective manner feasible.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.

1. New article 13 (sections 24000-24009) and section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24001. Notice of Election

The Election Coordinator shall distribute a Notice of Election adopted by the Board in advance of each election containing candidate nomination and election guidelines, eligibility criteria for candidates and voters, how to obtain candidate nomination packets from the System, and the schedule of events.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24002. Nomination of Candidates.

The Election Coordinator shall distribute candidate nomination packets containing a copy of the Notice of Election, petition form, nomination certification form, and copies of the rules and regulations governing the conduct of Board member elections, to members and participants who request a packet.

Members and participants shall qualify for nomination if they meet the eligibility criteria specified in the Notice of Election. Nomination shall be on the petition form provided by the System, signed by then currently eligible active members and then currently eligible active participants as defined in section 24004. Members and participants may sign more than one petition form. The minimum number of petition signatures required shall be determined by the Board and specified in the Notice of Election.

The candidate shall indicate on the petition form the specific Board member position for which he or she seeks election. An individual candidate may not be a candidate for more than one Board member position during any particular election.

The petition form shall include the signature and legible printed name of each member or participant signing the petition, month and day of birth, and the last 4 digits of his or her Social Security Number. Any signature not accompanied by all of the required information shall be invalidated.

Each candidate shall certify on the nomination certification form provided by the System that he or she accepts the nomination, consents to serve if elected, agrees to comply with the rules and regulations governing the conduct of Board member elections, and abide by a drawing of lots by the Election Coordinator in case of a tied vote.

Only those nomination certification forms and petition forms received in the headquarters office of the System by the deadline specified in the Notice of Election shall be accepted. The candidate must submit the nomination certification form and petition form containing at least the minimum required number of valid signatures in one packet at one time. Completed petition forms and nomination certification forms transmitted via facsimile to the headquarters office of the System by the deadline specified in the Notice of Election shall be accepted if the original completed forms are received in the headquarters office of the System within seven calendar days following the deadline.

The Election Coordinator shall verify the identity and eligibility of individuals who sign candidates' petition forms through sampling or another reasonable and cost-effective method, and shall certify qualified candidates for the Board member election.

The position of candidate names and statements in election materials distributed by the System to eligible voters shall be chosen by lot conducted by the Election Coordinator at the time he or she certifies valid nominating petitions.

The Election Coordinator shall notify qualified candidates of their certification, and the position of their names and statements in election materials distributed by the System. All deadlines and instructions related to the drafting of candidate statements shall be distributed to all qualified candidates in the notification letter. Upon distributing notification letters to qualified candidates, the Election Coordinator shall make public the names of the qualified candidates for the Board member election.

Where only one candidate has been nominated, the Election Coordinator shall, upon verification of the signatures presented in the nominating petition and upon the candidate's certification of his or her nomination acceptance, cancel the remaining election procedures and designate the single candidate to be certified by the Chief Executive Officer as elected.

If no candidate has been nominated in an election, or if no candidate has presented a valid petition form and nomination certification form for an election as required above, the Election Coordinator shall extend the nomination period for an additional 21 calendar days and publicize his or her action to active members and participants and other interested parties.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

2. Amendment of second and third paragraphs filed 5-11-2009; operative upon adoption by the State Teachers' Retirement System 4-2-2009. Amendments are exempt from the Administrative Procedure Act and exempt from OAL review pursuant to Education Code section 22200.5(c)

§ 24003. Candidate Statements.

(a) As part of a candidate statement, each candidate shall provide the following information in the format specified by the Election Coordinator:

(1) Name.

(2) Job Title.

(3) Employer.

(4) Status as either an active member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program and years of service as a member or participant.

(5) A list of no more than 5 previous job positions held.

(6) A list of no more than 5 organizations to which the candidate belongs and positions held in those organizations.

(b) As part of a candidate statement, a candidate may provide a list of no more than 10 endorsements by individuals or entities,

(c) As part of a candidate statement, a candidate may provide answers to the following questions:

(1) What do you think should be the primary role of a member of the Teachers' Retirement Board?

(2) How do you think you could contribute to CalSTRS as a member of the Teachers' Retirement Board?

(3) What education and training do you possess that has prepared you to serve as a member of the Teachers' Retirement Board?

A candidate's answers to the preceding three questions indicating his or her opinion or positions on issues of general concern to the System's membership may be included, so long as they are clearly stated as the candidate's opinion or view and do not exceed the length limits specified by the Board in the Notice of Election. The answers must be truthful, and must not include any remarks or questions that are inherently misleading, including rhetorical remarks and questions that are inherently misleading. Answers may not refer to individual members of the Board or other candidates for election to the Board by name or inference.

Any portion of a candidate's answers to the questions above which, in total, exceeds the length limits specified by the Board in the Notice of Election will not be distributed.

(d) The candidate statement shall be filed with the Election Coordinator by the deadline indicated in the notification letter sent to qualified candidates. Once filed, statements may not be changed or withdrawn except by the Election Coordinator. Any candidate statement received after the deadline will not be distributed.

The Election Coordinator shall distribute candidate statements to the candidates in each contest following the candidate statement filing deadline. The Election Coordinator shall accept written comments concerning a candidate statement from opposing candidates for fourteen calendar days following the date he or she distributes the submitted candidate statements. The Election Coordinator shall attempt to resolve a dispute between candidates over a submitted candidate statement. Only those written comments that allege a candidate statement violates the provisions of this Section may be considered.

The Election Coordinator shall reject or edit any statement which he or she determines contains obscene, vulgar, profane, scandalous, untrue, libelous or defamatory matter or which does not meet the

statement limitations stated above. The Election Coordinator may request the candidate to verify the truthfulness of any factual statements. The candidate shall provide timely verification upon such request as specified in the notification letter sent to qualified candidates. The Election Coordinator shall remove any portion of the candidate's statement a candidate is unable to verify. All decisions by the Election Coordinator related to candidate statements are final.

Nothing in this section shall be deemed to make candidate statements or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or distributed to voters. Information contained in the statement is the responsibility of the candidate and the System shall not be held responsible for the validity of any candidate statement or the contents thereof.

Following the review of candidate statements by the Election Coordinator, he or she shall distribute to each candidate in the respective contest all candidate statements as they shall appear in election materials distributed to eligible voters.

Any copy or representation of election material, such as the ballot or campaign materials that include the System name, logo or registered mark of the System, shall include a disclaimer that neither the System nor the Teachers' Retirement Board endorses any particular candidate or position.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

2. Amendment adding final paragraph filed 5-11-2009; operative upon adoption by the State Teachers' Retirement System 4-2-2009. Amendments are exempt from the Administrative Procedure Act and exempt from OAL review pursuant to Education Code section 22200.5(c).

§ 24004. Ballot Distribution

The Election Coordinator shall cause ballots and candidate statements to be distributed in advance of each election to each eligible active member and participant for whom the System has a valid mailing address recorded. The Election Coordinator shall provide a means for eligible active members and participants for whom the System does not have a valid mailing address recorded to request ballots and candidate statements. The Election Coordinator shall provide for the return of the voted ballots to the Board without cost to the eligible active member or participant. For purposes of this Article, "eligible active member" or "eligible active participant" means a member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program, respectively, who is employed, on the date, or during the period specified in the Notice of Election's criteria for voter eligibility, by an employer.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24005. Ballot Counting.

The Election Coordinator shall create reasonable procedures to ensure ballots are secured and canvassed in a manner consistent with commonly accepted election practices.

Valid ballots shall be canvassed publicly by an independent, neutral agent appointed by the System for that purpose on the date specified in the Notice of Election at a location to be designated by the System.

Depending upon the method of balloting selected by the Election Coordinator, the following are declared to be invalid ballots and shall not be counted in the election:

a. Votes cast for individuals not listed as candidates on the official ballot.

b. Ballots submitted by a person who is not an eligible voter.

c. A duplicate ballot is received from the same voter.

d. Votes cast in excess of that allowed on the ballot.

e. Ballots not forwarded or received within the time period prescribed by the Notice of Election.

f. If a paper ballot is not forwarded through the United States Postal Service in the valid pre-addressed and stamped return envelope that is furnished.

g. Electronic ballots not cast in the manner prescribed by the System.

The candidate receiving the highest number of votes, or the winning lot as drawn by the Election Coordinator in case of a tie vote, or the single candidate, shall be certified by the Chief Executive Officer as having been elected.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

2. Repealer of subsection g. and subsection relettering filed 5-11-2009; operative upon adoption by the State Teachers' Retirement System 4-2-2009. Amendments are exempt from the Administrative Procedure Act and exempt from OAL review pursuant to Education Code section 22200.5(c).

§ 24006. Notice of Election Results

(a) Within three business days after the public ballot canvassing, or after verification of the nominating signatures pursuant to Section 24002 where the Election Coordinator certifies only one qualified candidate in an election for a position on the Board, the Election Coordinator shall transmit the election results to the Chief Executive Officer for his or her certification.

(b) Following certification by the Chief Executive Officer, the Election Coordinator shall notify candidates, Board members and other interested parties of the certified results. Notification to the newly elected Board member shall include an Oath of Office form. This form is to be signed by the Board member-elect in the presence of a notary public and returned to the System. The Election Coordinator shall file the Oath with the Secretary of State.

(c) Upon the Chief Executive Officer's certification and proper execution of the Oath of Office form, the Board member elected through this process shall take his or her office on either the day provided for by statute or immediately, if elected to fill a vacancy.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24007. Recount of an Election

(a) A candidate in the affected Board member election may file a written request with the Election Coordinator at the headquarters office of the System for recount within ten business days following the distribution of the certified election results; otherwise, there shall be no opportunity for requesting a recount and the certified election results stand as the final results.

(b) A request for a recount shall not delay the seating of an elected Board member. Such elected Board member shall take office on either the day provided for by statute or immediately, if elected to fill a vacancy, subject to the potential termination of such Board membership as a result of the recount.

(c) A candidate in the affected Board member election may request a recount of the valid ballots only if the difference in the number of votes cast between the candidate requesting the recount and the unofficial winner is less than 3 percent of the total number of valid ballots cast. A written request for a recount shall specify the election to be recounted, shall be signed by the candidate requesting the recount, and may specify any other relevant material to be examined.

(d) The Election Coordinator shall set a date for the recount upon receipt of the written request, and shall confirm this date upon receipt of the estimated cost to conduct the recount. The estimated cost of conducting a recount will include the System's administrative cost and the costs of the independent, neutral agent appointed by the System to canvass the valid ballots. Legal tender of the amount of the estimated cost of conducting the recount shall be submitted by the candidate requesting the recount to the Election Coordinator within three business days following notification of the estimated cost to conduct the recount; otherwise, the recount shall be terminated.

(e) If the results of the recount do not change the ranking of the candidates then the certified results shall stand as the final election results. In this case, if the actual cost of the recount is less than the estimated cost deposited by the requester, the System shall refund the amount which exceeds the actual cost; if the actual cost of the recount is more than the estimated cost, the System shall invoice the requester for the difference.

(f) If the results of the recount do change the ranking of the candidates, then the recount results shall be certified by the Chief Executive Officer and shall stand as the final election results. In this case, the System shall refund the amount of the estimated cost deposited by the requester.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24008. Protest of an Election

A candidate in the affected Board member election may protest an election by filing a written protest with the Election Coordinator at the headquarters office of the System within ten business days following the mailing of the certified election results for an election or a recount, otherwise, there shall be no opportunity for filing a protest and the certified election results shall stand as the final election results. The written protest shall be identified using the word "protest", shall specify the election, and shall state the grounds of the protest and suggested remedy.

Upon receipt of a valid and timely protest, the Election Coordinator shall mail a copy of the request to all candidates in the election and notify the Board and other interested parties that a protest has been filed.

An ad-hoc committee of the Board consisting of an odd number of members no fewer than three shall determine, what remedy, if any, shall be granted to the candidate filing the protest. No Board member who is a candidate in the election under protest, or has endorsed a candidate in the election under protest may become a member of the committee or participate in its selection.

The Board chairperson shall appoint Board members to the committee. If the Board chairperson is a candidate or has endorsed a candidate in the election under protest, the Board vice chairperson shall appoint Board members to the committee. If the Board vice chairperson is a candidate or has endorsed a candidate in the election under protest, the Board shall appoint from its number, members to the committee at its next regularly scheduled meeting.

If a minimum of three Board members are not eligible to participate on the ad-hoc committee, or if a majority of the full Board, excluding candidates but including endorsers of candidates so directs, the

protest shall instead be determined by a panel of three arbitrators in accordance with the provisions below, the laws of the State of California, and the Labor Arbitration rules of the American Arbitration Association (AAA) in effect at the time, to the extent the AAA rules are not in conflict with these regulations. One member of the panel shall be selected by the protesting candidate, one member of the panel shall be selected by the successful candidate, and the third member, who shall serve as chair, shall be selected by the first two panel members.

The committee may consider written and/or oral arguments submitted by the candidate filing the protest and any other interested party, in making its determination. Any oral proceedings by the committee shall be held in the Board's meeting room and be open to the public. Other procedures, including those for receiving and considering arguments and factual allegations, shall be determined by the committee or arbitration panel in its sole discretion.

The determination of the committee or arbitration panel shall be rendered within 30 calendar days of its appointment and shall be final and binding on the System and candidates for office. The committee or arbitration panel shall declare the election under protest void, and the position vacant, only upon a finding that Board-adopted election procedures were not substantially followed and that, without this lack of substantial compliance, the election outcome would likely have been different.

The filing of a protest shall not delay the seating of an elected Board member. Such elected Board member shall take office on either the day provided for by statute or immediately, if elected to fill a vacancy, subject to the potential termination of such Board membership as a result of the protest. Any newly elected member, as the result of a protest, shall hold office for a period equal to the remainder of the term of the vacated office.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24009. Elections for Vacant Elected Seats

The Board shall provide public notice that an elected seat on the Board has been vacated at or before its next regularly scheduled meeting.

The Board shall hold special elections to fill vacancies that occur during the term of the elected members of the Board by distributing a Notice of Election for a vacated seat within 90 calendar days of the vacancy. An election shall be held within 180 calendar days of the distribution of the Notice of Election.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

ARTICLE 14. INVESTMENT RELATIONSHIPS AND CAMPAIGN CONTRIBUTIONS

§ 24010. Prohibitions on Campaign Contributions

(a) No party engaging or seeking to engage in an Investment Relationship with CalSTRS may make any campaign contributions, as defined in The Political Reform Act (Gov. Code, s 81000 et seq.), valued in excess of $1,000, individually, or $5000 in the aggregate from the party engaged in the In-

vestment Relationship and the individuals identified in subdivision (d) collectively, in any twelve month period beginning on the dates identified in subdivision (e), to any person designated in subdivision (c) below.

(b) For purposes of this Article 14, "Investment Relationship" means a relationship between a non-governmental party and CalSTRS for the purpose of providing investment services such as money management or fund management services, investment advice or consulting (including making recommendations for the placement or allocation of investment funds), and investment support services (including market research, fund accounting, custodial services, and fiduciary advice) for investments placed in the Teachers' Retirement Fund.

(c) This prohibition applies to campaign contributions made to or on behalf of CalSTRS officers and employees, any existing Teachers' Retirement Board member, the Governor, Controller, Treasurer, and Superintendent of Public Instruction, candidates for Teachers' Retirement Board member, and candidates for the offices of Governor, Controller, Treasurer, and Superintendent of Public Instruction.

(d) This prohibition applies to those parties currently engaging in or seeking to engage in an Investment Relationship with CalSTRS which is expected to generate at least $100,000 annually in income, fees, or other revenue to the party, and specifically includes:

(1) Those individuals employed by or associated with the parties described in this Section 24010(b), above, who are required to file a Form 700 Statement of Economic Interest pursuant to Government Code Section 81000et seq., the Fair Political Practices Commission Regulations contained in Title 2, Division 6, California Code of Regulations Section 18109 et seq., and the Teachers' Retirement System Regulations contained in Title 5, Division 3, California Code of Regulations Section 22000, et seq.; or

(2) "Authorized Personnel/Key Personnel" as defined and identified by the contracting party in the "Authorized Personnel/Key Personnel exhibit" incorporated in or attached to the contract between the contracting party entering into the Investment Relationship and CalSTRS; or

(3) Those individuals who expect to and/or do experience a material financial effect on their economic interests including salary, bonuses, options, or other financial incentives directly deriving from an Investment Relationship with CalSTRS.

This prohibition also applies to contributions from any other entities or individuals made at the direction of such parties identified above in this subdivision (d).

(e) For parties defined in subdivision (d) above, the prohibition set forth in this section shall apply to the time period which begins

(1) On the date CalSTRS first announces a procurement or search process that could lead to an Investment Relationship which is likely to generate at least $100,000 annually in income, fees, or other revenue to the party; or

(2) On the date a party identified in subdivision (d) above approaches CalSTRS with a proposal to enter into an Investment Relationship with CalSTRS by discussing the specific facts and financial terms of a particular investment transaction or strategy, whichever is earlier, and ends when the Investment Relationship is terminated by any party for any reason, or when CalSTRS communicates its decision not to pursue the Investment Relationship.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

1. New article 14 (sections 24010-24013) and section filed 10-29-2007; operative 11-28-2007 (Register 2007, No. 44).

§ 24011. Disclosure and Recusal Requirement for Campaign Contributions

(a) No CalSTRS officer, employee or current Teachers' Retirement Board member, including the Controller, Treasurer, and Superintendent of Public Instruction shall make, participate in making or in

any way attempt to use his or her official position to influence a decision involving an Investment Relationship with CalSTRS if the officer, employee or member has received, solicited or directed a campaign contribution, as defined in The Political Reform Act (Gov. Code, s 81000et seq.), valued in excess of $1,000, individually or $5000 in the aggregate, in any twelve month period prior to the dates identified in Section 24010, subdivision (e) from any person designated in Section 24010, subdivision (d). For purposes of this section, a member appointed by the Governor and the Director of Finance shall also be deemed to have received a contribution if the Governor who appointed the member or Director of Finance has received a contribution within the twelve month period prior to the dates identified in Section 24010, subdivision (e) from any person designated in Section 24010, subdivision (d).

(b) If the disqualification provision of subdivision (a) results in the lack of a quorum for the purposes of taking action on any item before the Board or any of its committees, a sufficient number of Board members to constitute a quorum shall be drawn by lot from the otherwise disqualified Board members for the purpose of establishing a quorum and taking action on items before the Board or any of its committees. Board members who have been drawn by lot to constitute a quorum shall have their participation deemed as necessary and shall be exempt from the restrictions of subdivision (a) for the purpose of establishing a quorum and participating in the deliberations and voting on an item for which a quorum could not be established absent this waiver of the restrictions of subdivision (a).

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

1. New section filed 10-29-2007; operative 11-28-2007 (Register 2007, No. 44).

§ 24012. Remedies, Enforcement and Safe Harbors

(a) CalSTRS' General Counsel shall cause an independent investigation to be performed for any reported violation of Sections 24010 and 24011, and report any documented violation to the Board for action.

(b) If any party seeking an Investment Relationship with CalSTRS is found to be in violation of Section 24010, that party shall be disqualified from engaging in an Investment Relationship with CalSTRS for a period of two years.

(c) Any party who has an existing Investment Relationship with CalSTRS and who is found to be in violation of the provisions of Section 24010 shall be subject to disqualification from doing future or additional business with CalSTRS for a period of two years.

(d) If a party voluntarily reports a violation of Section 24010 to the CalSTRS General Counsel within ninety days of the contribution being made and it is established pursuant to an independent investigation that the violation was inadvertent, the disqualification provision of subdivision (c) will not be applied. This safe harbor provision does not apply to a knowing or intentional violation of Section 24010.

(e) CalSTRS staff shall maintain a current list of parties engaged in an Investment Relationship subject to Section 24010, subdivision (d). The disclosure and recusal requirements of Section 24011, subdivision (a) shall not apply to any CalSTRS officer, employee or current Teachers' Retirement Board member, including the Controller, Treasurer, and Superintendent of Public Instruction if the Investment Relationship has not been published on the list maintained by CalSTRS staff.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

1. New section filed 10-29-2007; operative 11-28-2007 (Register 2007, No. 44).

§ 24013. Definitions

Thins not specifically defined herein are defined in the Government Code, the Education Code, the Political Reform Act, the Fair Political Practices Commission Regulations, and the Teachers' Retirement System Regulations.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

1. New section filed 10-29-2007; operative 11-28-2007 (Register 2007, No. 44).

ARTICLE 15. SUPPLEMENTAL BENEFIT MAINTENANCE ACCOUNT

§ 26000. Supplemental Benefit Maintenance Account Purchasing Power Protection

(a) Purpose. The purpose of this regulation is to outline and implement the process whereby the Board adjusts the purchasing power protection provided by the Supplemental Benefit Maintenance Account (SBMA) including the frequency and timing of actuarial projections and adjustments to the target percentage of purchasing power.

(b) Actuarial Projection.

(1) The Board shall adopt an actuarial projection pursuant to subdivision (a) of Education Code section 22954.1 no less frequently than every two years.

(A) The first actuarial projection shall be based on existing assets and liabilities of the SBMA as of June 30, 2009.

(B) The actuarial projection shall be based on actuarial assumptions adopted by the Board.

(c) Percentage of Purchasing Power.

(1) Pursuant to the requirements of Education Code sections 22954.1 and 24415.5, the Board shall set the percentage of purchasing power to be protected at the actuarial projection level most recently adopted by the Board pursuant to subsection (b) above.

(2) The percentage of purchasing power shall be established in half percentage point increments.

(3) The actuarial level of the percentage of purchasing power shall be rounded to the nearest half percentage point.

(d) Sustainability Level.

(1) The Board shall set the date through which the level of benefits is to be maintained.

(2) The initial date for sustainability of the level of benefits shall be through and including June 30, 2159.

(3) The Board shall re-examine and amend this date no more frequently than every ten years and no less frequently than every twenty years based upon actuarial projections.

(4) The sustainability level shall be approximately twice the estimated length of membership for those members of the Defined Benefit Program at the time the date is reviewed.

(5) The change in date shall be made by plan amendment adopted by the Board with the actuarial assumptions adopted by the Board pursuant to subsection (b).

(e) Adjustments to Percentage of Purchasing Power.

(1) Any adjustment in the percentage of purchasing power adopted shall be effective as of October 1, subject to the limitations set forth above.

(2) The adjustment in the percentage of purchasing power protection in any one year shall be equal to the greater of:

(A) one-half percentage point; or

(B) one-fourth of the change in amount of the SBMA percentage, subject to the requirement of subdivision (c)(3) that the percentage of purchasing power shall be established in half-percentage point increments, with the largest incremental change occurring in the initial years.

NOTE: Authority cited: Section 24415.5, Education Code. Reference: Sections 22954.1, 22954.5 and 24415.5, Education Code.

1. New article 15 (section 26000) and section filed 4-30-2009; effective 4-30-2009 pursuant to Government Code section 11343.4(c). Exempt from rulemaking provisions of the APA and OAL review pursuant to Education Code section 24415.5(e) (Register 2009, No. 18).

ARTICLE 15.5 PENALTIES AND INTEREST FOR LATE REMITTANCES AND LATE AND UNACCEPTABLE REPORTING BY EMPLOYERS

§ 27000. Format for Monthly Reports

Employers shall file reports through CalSTRS' secure employer website as follows:

(a) Employers reporting information to the Defined Benefit Plan shall comply with CalSTRS' F496 File Specification, as revised on March 1, 2011 and hereby incorporated by reference.

(b) Employers reporting information to the Cash Balance Benefit Program shall comply with CalSTRS' Voluntary Deduction File Specification, as revised on March 1, 2011 and hereby incorporated by reference.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Sections 23004, 23006, 23008 and 26301, Education Code.

1. New article 15.5 (sections 27000-27009) and section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27001. Acceptable Report—Defined Benefit Program

(a) A monthly report for the Defined Benefit Program is acceptable if it is reported in compliance with Section 27000, subdivision (a). Reports that fail to comply shall be rejected by CalSTRS, and will not be received.

(b) A monthly report shall contain the information as specified in Section 27000 for all employees who perform creditable service for an employer during the month.

(c) Information reported pursuant to Section 27000, subdivision (a) for one or more employees from a prior month shall be aggregated and treated as a separate report for the month to which it relates.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Sections 23004, 23005 and 23006, Education Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27002. Acceptable Report—Cash Balance Benefit Program

(a) A report for the Cash Balance Benefit Program is acceptable if it is reported in compliance with section 27000, subdivision (b). Reports that fail to comply shall be rejected by CalSTRS, and will not be received.

(b) A report shall contain the information required by section 27000, for all employees who perform creditable service for an employer during the pay period.

(c) Information reported pursuant to Section 27000, subdivision (b) for one or more employees from a prior pay period shall be aggregated and treated as a separate report for the pay period to which it relates.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 26301, Education Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27003. Assessment of Penalties for Late Reports—Defined Benefit Program

(a) A monthly report received 45 or more calendar days following the month in which the creditable compensation being reported was earned shall be subject to penalties based on the number of calendar days it is late, in an amount equal to the cumulative value of interest accruing on the sum of employer and employee contributions due for the late monthly report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(b) A monthly report that is received after 5:00 p.m. Pacific Time on the 44th calendar day shall be considered to have been received on the 45th calendar day, and therefore is late.

(c) Those portions of a monthly report that adjust contributions remitted in a prior month shall be aggregated and treated as a report adjusting incorrect contributions. The report shall be late if received after 5:00 p.m. Pacific Time on the 60th calendar day following discovery by the employer or notification by the system. The penalty for a late report adjusting incorrect contributions shall be the cumulative value of interest accruing on the sum of the absolute value of the change in employer and employee contributions for each employee on the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(1) Notification by the system shall be on a form containing the following items of information and shall be delivered to the employer by mail or email: date the notification was mailed or emailed; fiscal year; member client id; member name; reporting source or unit; member code; assignment code; pay rate; pay code; earnings; contribution rate; contribution code; contribution amount; beginning and ending dates of the service period; and the business rule error number.

(2) A final audit report delivered to the employer by mail or email shall constitute notification by the system.

(d) Those portions of a monthly report that adjust incorrect contributions for a month prior to the effective date of this article shall not be subject to the penalties provided for in this section.

(e) Those portions of a monthly report that neither increase nor decrease employer and employee contributions for an employee shall not be subject to the penalties provided for in this section.

(f) Those portions of a monthly report that adjust contributions remitted in a prior month shall not be subject to the penalties provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and

(4) The adjustments are reported to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.

(g) Those portions of a monthly report that are otherwise late shall not be subject to the penalties provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The portions of a monthly report that are exempt under this subdivision shall be due 30 calendar days immediately following the month in which compensation is awarded and shall be subject to the penalties provided for in this section beginning on the 45th calendar day.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive change in the creditable compensation paid to a member for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. The portions of a monthly report that are exempt under this subdivision shall be due 30 calendar days immediately following the month in which the period of time expires and shall be subject to the penalties provided for in this section beginning on the 45th calendar day.

(h) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, those portions of a monthly report for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on a late report provided for in subdivision (a) of this section if all of the following are true:

(1) The date the substitute or part-time position is paid matches the pay date on a published salary schedule for that position; and

(2) The pay date is no more than 31 calendar days following the last day of the month in which the compensation being reported was earned; and

(3) The applicable portions of the report are received no later than 44 calendar days following the pay date.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Sections 23004, 23006 and 23008, Education Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27004. Assessment of Penalties for Late Reports—Cash Balance Benefit Program

(a) A report received 11 or more working days following the pay period in which the salary being reported was earned shall be subject to penalties based on the number of calendar days it is late, in an amount equal to the cumulative value of interest accruing on the sum of employer and employee contributions due for the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(b) A report due on the 10th working day that is received after 5:00 p.m. Pacific Time on the 10th working day shall be considered to have been received on the 11th working day, and therefore is late.

(c) Those portions of a report that adjust contributions remitted in a prior report shall be aggregated and treated as a report adjusting incorrect contributions. The report shall be late if received after 5:00 p.m. Pacific Time on the 60th calendar day following discovery by the employer or notification by the system. The penalty for a late report adjusting incorrect contributions shall be the cumulative value of interest accruing on the sum of the absolute value of the change in employer and employee contribu-

tions for each employee on the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(1) Notification by the system shall be on a form containing the following items of information and shall be delivered to the employer by mail or email: date the notification was mailed or emailed; fiscal year; member client id; member name; reporting source or unit; member code; assignment code; pay rate; pay code; earnings; contribution rate; contribution code; contribution amount; beginning and ending dates of the service period; and the business rule error number.

(2) A final audit report delivered to the employer by mail or email shall constitute notification by the system.

(d) Those portions of a report that adjust incorrect contributions for a pay period prior to the effective date of this article shall not be subject to the penalties provided for in this section.

(e) Those portions of a report that neither increase nor decrease employer and employee contributions for an employee shall not be subject to the penalties provided for in this section.

(f) Those portions of a report that adjust contributions remitted in a prior month shall not be subject to the penalties provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and

(4) The adjustments are reported to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.

(g) Those portions of a report that are otherwise late shall not be subject to the penalties provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The portions of a report that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which compensation is awarded and shall be subject to the penalties provided for in this section beginning on the 11th working day.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation that requires a retroactive change in the creditable compensation paid to a member for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. The portions of a report that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which the period of time expires and shall be subject to the penalties provided for in this section beginning on the 11th working day.

(h) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, those portions of a report for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on a late report provided for in subdivision (a) of this section if all of the following are true:

(1) The date the substitute or part-time position is paid matches the pay date listed on a published salary schedule for that position; and

(2) The pay date is no more than 31 calendar days following the last day of the pay period in which the compensation being reported was earned; and

(3) The applicable portions of the report are received no later than 10 working days following the pay date.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections; 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 26301, Education Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27005. Late Contributions—Defined Benefit Program

In order to process contributions for any given day, the contributions must be received on or before 3:00 p.m. Pacific Time. Therefore,

(a) Contributions received after 3:00 p.m. Pacific Time shall be considered to have been received on the following working day.

(b) The portion of contributions due on the fifth working day that are not received by 3:00 p.m. Pacific Time on that fifth working day shall be considered to have been received on the sixth working day, and therefore are late.

(c) The remaining portion of contributions due on the 15th working day that are not received by 3:00 p.m. Pacific Time on that 15th working day shall be considered to have been received on the 16th working day, and therefore are late.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 23002, Education Code; and Section 4108, Commercial Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27006. Late Contributions—Cash Balance Benefit Program

In order to process contributions for any given day, the contributions must be received on or before 3:00 p.m. Pacific Time. Therefore,

(a) Contributions received after 3:00 p.m. Pacific Time shall be considered to have been received on the following working day.

(b) Contributions due on the 10th working day that are not received by 3:00 p.m. Pacific Time on that 10th working day shall be considered to have been received on the 11th working day, and therefore are late.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 26303, Education Code; and Section 4108, Commercial Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27007. Assessment of Penalties for Late Contributions—Defined Benefit Program

(a) A late contribution shall be subject to a penalty equal to 5% of the creditable compensation upon which the contribution was based if that contribution is received after March 1st of the state fiscal year that immediately follows the state fiscal year in which the contribution was due.

(b) Interest on late contributions shall be imposed as follows:

(1) If less than 95 percent of contributions due have been received by the 6th working day, interest shall be charged on the balance of those contributions due and compounded daily based on the regular interest rate in effect that day.

(2) For contributions received more than 15 working days after the date those contributions are due, interest shall be charged on the balance of contributions due and compounded daily based on the regular interest rate in effect that day.

(c) The penalty and interest assessed on late contributions provided for in this section shall not apply to adjustments made to contributions for a month prior to the effective date of this article.

(d) Adjustments to contributions remitted in a prior month shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and

(4) The adjustments are remitted to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.

(e) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, contributions for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:

(1) The date the substitute or part-time position is paid is based upon a published salary schedule;

(2) That date is no more than 31 calendar days following the last day of the month in which the compensation being reported was earned; and

(3) 95% of the contributions due are received five working days immediately following the date the substitute or part-time position is paid, and the balance of contributions due are received no more than 15 working days following the date the employee is paid.

(f) Contributions that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. 95% of the contributions that are exempt under this subdivision shall be due five working days immediately following the month in which compensation is awarded and shall be late thereafter, and the balance of contributions are due 15 working days following the month in which compensation is awarded and shall be late thereafter.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive change in the creditable compensation paid to a member for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. 95% of the contributions that are exempt under this subdivision shall be due five working days immediately following the month in which the period of time expires and shall be late thereafter, and the balance of contributions shall be due 15 working days following the month in which the period of time expires and shall be late thereafter.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Sections 23002 and 23003, Education Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27008. Assessment of Interest on Late Contributions—Cash Balance Benefit Program

(a) Interest shall be charged on contributions received more than 10 working days after the date those contributions are due and compounded daily based on the regular interest rate in effect that day.

(b) The interest assessed on late contributions provided for in this section shall not apply to adjustments made to contributions for a pay period prior to the effective date of this article.

(c) Adjustments to contributions remitted in a prior pay period shall not be subject to the interest assessed on late contributions provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and

(4) The adjustments are remitted to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.

(d) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, contributions for the substitute or part-time position that are otherwise late shall not be subject to the interest assessed on late contributions provided for in this section if all of the following are true:

(1) The date the substitute or part-time position is paid is based upon a published salary schedule;

(2) That date is no more than 31 calendar days following the last day of the pay period in which the compensation being reported was earned; and

(3) The contributions are received 10 working days immediately following the date the substitute or part-time position is paid.

(e) Contributions that are otherwise late shall not be subject to the interest assessed on late contributions provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The contributions that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which compensation is awarded and shall be late thereafter.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive change in the creditable compensation paid to a participant for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. The contributions that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which the period of time expires and shall be late thereafter.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 26303, Education Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27009. Right to an Administrative Hearing

An administrative hearing shall be available to an employer that reports directly to the system when there is disagreement over the assessment of penalties, interest, or both, pursuant to this article. A written request for an administrative hearing and the reasons therefore must be received by the System at its headquarters within 90 days of the mailing of written notice of such penalties, interest, or both. If

no request for an administrative hearing is made within the time prescribed, the penalties, interest, or both assessed shall be final and any right to an administrative hearing or judicial review shall be deemed forfeit and waived.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22219, 22250 and 22305, Education Code. Reference: Sections 23010 and 26303.5, Education Code.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

ARTICLE 16. MEMBER'S RIGHT TO INTERNAL INFORMAL APPEAL OF A DETERMINATION BY CALSTRS STAFF OF A RIGHT TO A BENEFIT OR OBLIGATION

§ 27100. Definitions

(a) For purposes of this article, an applicant seeking an administrative remedy is defined as any member, former member, participant, former participant, or beneficiary requesting review or appealing with respect to payment of allowances, benefits or refunds, or with respect to crediting service, or correction of records pursuant to Parts 13, 13.5 and 14 of Division 1 of Title 1 of the Education Code and Title 5, Division 3, Chapter 1, section 20520 of the California Code of Regulations.

(b) For purposes of this article, Program Executive is defined as the CalSTRS Executive, or his/her designee, overseeing the Program Area to which the administrative matter was assigned, as deemed appropriate by the System.

(c) For purposes of this article, a Decision means a decision designated as final by a Director of the Program Area, or his/her designee, to which the administrative matter was assigned, as deemed appropriate by the System.

(d) For purposes of this article, a Determination means a determination made by the Program Executive, the Director of Audit Services, or his/her designee.

(e) For purposes of this article, System Headquarters is defined by Education Code section 22375.

(f) For purposes of this article, a Field Office is a retirement counseling office defined by Education Code section 22303 which is either established by contract or by the System.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Section 22219, Education Code. Reference: Sections 22107, 22108, 22146, 22161.5, 22174, 22303, 22375 and 26132, Education Code.

1. New article 16 (sections 27100-27103) and section filed 2-9-2012; operative 3-10-2012 (Register 2012, No. 6).

§ 27101. Administrative Remedy for Benefits & Services and Financial Services

(a) Any applicant who disagrees with a Decision, excluding audit findings as referenced in section 27102, may request a review of that Decision by the Program Executive. The request for review must:

(1) Be made in writing;

(2) Be addressed to the Program Executive;

(3) State all facts, any basis in the Education Code or other law that applicant believes are relevant, and any other pertinent information, which may include but is not limited to medical records, which the applicant relies on to dispute the Decision.

(A) The stated facts, law, and pertinent information, which may include but is not limited to medical records, must be submitted with all documentary evidence applicable to the disputed Decision. If there is no documentary evidence, the writing should expressly state there is an absence of such evidence.

(B) It is the applicant's burden to show that the facts, law, and pertinent information would provide a legal basis for CalSTRS to reverse the Decision.

(4) Within forty-five (45) days after the date of the disputed written Decision, be received by the System Headquarters or by a CalSTRS Field Office or at the following email address: [CalSTRSInternalReview@calstrs.com].

(b) CalSTRS will inform the applicant of the applicant's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings, notify the applicant that the applicant has a right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

(c) If the applicant's request for review by a Program Executive ("Executive Review") does not contain additional information or legal basis for review beyond the facts and/or documentary evidence previously provided to or obtained by the program area and merely repeats information previously provided, the applicant's request for Executive Review by the Program Executive shall be denied and the applicant may request an administrative hearing. The Program Executive may consult with CalSTRS staff prior to denying applicant's request for Executive Review.

(d) If the Program Executive determines that the applicant has provided sufficient additional information or legal basis for review, the Program Executive will review the Decision and make one of the following Determinations:

(1) Based upon review of the law and facts, including any additional information provided by applicant, applicant has not provided a legal basis to reverse the Decision and has therefore failed to meet his or her legal burden. The Program Executive shall inform the party in writing of the Determination and the applicant's right to an administrative hearing.

(2) Informal fact finding is necessary in regard to the applicant's dispute with the Decision and the matter is referred to staff for investigation. The informal factual investigation may include, but is not limited to, inquiries made to the applicant and requests for further documentary evidence pursuant to Education Code sections 22207, 22250, 22450, 24003, 24103, and 26002. The applicant must in good faith cooperate with and respond to staff.

(A) The applicant must respond in writing, either through mail, facsimile or email, to any inquiries made and/or requests for further documentary evidence. If the applicant fails to respond in writing or produce documentary evidence within forty-five (45) days after the inquiry or request was made, the applicant shall be deemed to have waived the right to pursue any additional administrative remedies. Accordingly, the Decision will be deemed to be a Determination by the Program Executive.

(B) At the discretion of the Program Executive an extension to respond to any inquiries made and/or requests for further documentary evidence may be granted if the request for an extension is made prior to the last day to respond, in writing, and received at the System Headquarters, at a CalSTRS field office, or at the following email address: [CalSTRSInternalReview@calstrs.com].

(C) Upon completion of the informal factual investigation, the Program Executive will conduct a review of the additional information, the legal basis for review that applicant believes are relevant, and the information gathered through investigation. The review may include consultation with, including but not limited to, staff, the Ombudsman, a Legal Services representative, and a representative from the relevant program area. After the review is complete, the Program Executive shall make a Determination and shall inform the applicant in writing within fifteen (15) days. If the applicant disagrees with the Program Executive's Determination under subdivisions d(1) or d(2)(C) of this section, the applicant may request an administrative hearing.

(e) The request for an administrative hearing shall be directed to CalSTRS Legal Services within ninety (90) days of the date of the Determination signed by the Program Executive. The request shall be in writing and mailed to the following address: CalSTRS Legal Services, PO Box 15275, MS #3,

Sacramento, CA 95851. If the applicant fails to make a written request for administrative hearing within the time prescribed, the Program Executive's Determination shall be final and the right to an administrative hearing shall be deemed waived.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22219 and 26002, Education Code. Reference: Sections 22207, 22250, 22303, 22375, 22450, 22455, 24003, 24103, 26002, 26132 and 26301, Education Code; and Sections 11415.40 and 11505(b), Government Code.

1. New section filed 2-9-2012; operative 3-10-2012 (Register 2012, No. 6).

§ 27102. Administrative Remedy for Audits

(a) If an applicant, as defined in Section 27100, subdivision (a) or an entity, including but not limited to a public agency or employer, is affected by the preliminary findings of an audit pursuant to Education Code section 22206, the applicant or the entity may provide a written response to the preliminary audit findings. A final audit report is a Determination and is not subject to internal review by a Program Executive ("Executive Review") or the Director of Audit Services.

(b) CalSTRS will inform the applicant or entity of the applicant's or entity's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings and provide notification of the right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

(c) If an applicant or entity disagrees with the final audit Determination, the applicant or entity may request an administrative hearing. The request for an administrative hearing shall be directed to the CalSTRS Legal Services within ninety (90) days from the date of the final audit Determination. The request shall be in writing and mailed to the following address: CalSTRS Legal Services, PO Box 15275, MS #3, Sacramento, CA 95851. If an applicant or entity fails to request an administrative hearing within the time prescribed, such Determination or action shall be final and the right to an administrative hearing shall be deemed waived.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Section 22219, Education Code. Reference: Sections 22206 and 22375, Education Code; and Section 11505(b), Government Code.

1. New section filed 2-9-2012; operative 3-10-2012 (Register 2012, No. 6).

§ 27103. Administrative Hearing

Following the timely receipt of an administrative hearing request, the CalSTRS Legal Services or the Attorney General's Office will process the request for hearing in accordance with the provisions of Education Code section 22219, subdivision (b) relating to administrative litigation.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; Section 22219, Education Code; and Section 11501, Government Code. Reference: Section 22219, Education Code.

1. New section filed 2-9-2012; operative 3-10-2012 (Register 2012, No. 6).

INDEX

Section number references in the index are preceded by an abbreviation for the code to which the section numbers refer, as follows:

5 CCR: Title 5 of the California Code of Regulations (Volume 1); **Ed:** Parts 13, 13.5 and 14 of Title 1 of the Education Code (Volume 1); **Ex 26 USC:** Extracts – Title 26 of the U.S. Code (Volume 2); **Ex 42 USC:** Extracts – Title 42 of the U.S. Code (Volume 2); **Ex CCP:** Extracts – Code of Civil Procedure (Volume 2); **Ex Ed:** Extracts – Education Code (Volume 2); **Ex Gov:** Extracts – Government Code (Volume 2); **Ex Pen:** Extracts – Penal Code (Volume 2); **Ex Pro:** Extracts – Probate Code (Volume 2); **Ex PubCon:** Extracts – Public Contract Code (Volume 2); **Ex PubRes:** Extracts – Public Resources Code (Volume 2).

A

ABSENCE, LEAVES OF. (*See* LEAVES OF ABSENCE)

ACCOUNTS
Individual account statements, Ed §22309

ACTIONS
Subrogation
Permissible activities under provisions, Ed §24502

ACTUARIAL INVESTIGATIONS, Ed §22311
Actuary's duties, Ed §22311.5
Plan amendments in light of investigation, Ed §22311.7

AD HOC INCREASE; LESS THAN 20 YEARS SERVICE, Ed §24406

ADJUSTMENTS OF ERRORS AND OMISSIONS, Ed §22008

ADMINISTRATION OF SYSTEM, Ed §22300 to 22335; 5 CCR §20520, 20521
Accounts
Individual account statements, Ed §22309
Actuarial investigations, Ed §22311
Actuary's duties, Ed §22311.5
Plan amendments in light of investigation, Ed §22311.7
Applications
Signatures
Validity, Ed §22011
Chief executive officer
Designation as chief administrative officer, Ed §22300
Oaths
Administration, Ed §22300
Powers, Ed §22301; 5 CCR §20520
Computation of benefits
Amount of compensation
Members as of July 1, 1996, Ed §22317.5
Confidentiality
Information filed with system, Ed §22306
Contracts with third party administrators, Ed §22302.5
Contributions
Rate adjustments
Retroactive adjustments, Ed §22313
Correction of errors or omissions, Ed §22308
Costs of administration
Allocation, Ed §22304
Source of payment, Ed §22304
Counseling services
Retirement counseling services, Ed §22303
Criminal offenses, Ed §22010
Death benefits
Outstanding death benefits
Report, Ed §22323
Death benefits, active
Family allowance
Time for payment, Ed §22320
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322
Disability allowance
Cancellation
Credits on cancellation of allowances accrued after July 1, 1972, Ed §22328
Checks, payment, Ed §22318
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322
Earnings of recipient of disability benefits
Disclosure, Ed §22327
Disability retirement
Checks, payment, Ed §22318
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322
Earnings of recipient of disability benefits
Disclosure, Ed §22327
Documents
Signatures
Validity, Ed §22011
Fraudulent activities, Ed §22010
Income tax
Advisement of tax liabilities, Ed §22314
Late payments
Interest on late payments, Ed §22322
Reporting, Ed §22322
Legislation affecting investment strategy
Analysis of asset and liability implications, Ed §22330
Midcareer retirement information program, Ed §22303.5
Ombudsman, Ed §22302
Report of board
Annual report, Ed §22324
Retirement allowance
Cancellation
Credits on cancellation of allowances accrued after July 1, 1972, Ed §22328
Rulemaking
Legal effect of rules and regulations, Ed §22305
Service credit
Time required, 5 CCR §20521
Service retirement
Checks, payment, Ed §22319
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322

ADMINISTRATION OF SYSTEM—Cont'd
Signatures
Validity, Ed §22011
Teachers' retirement development fund, Ed §22307.5
Transfer of assets in fund to designated fund, Ed §22307.6
Teachers tax-sheltered annuity fund
Disbursements from fund, Ed §22335
Toll-free telephone assistance, Ed §22329
Transfer and disbursement of funds, Ed §22307, 22307.6
Unclaimed refund or benefit, Ed §22310
Unlawful acceptance of benefits, Ed §22010

AMENDMENT OF PLEADINGS, Ex CCP §473

ANNUAL STATEMENT, Ed §22309

ANNUITY CONTRACT AND CUSTODIAL ACCOUNTS, Ed §24950 to 24953
Administration of account, Ed §24950
Contracting for services, Ed §24953
Costs and expenses, responsibility, Ed §24952
Community college employees
Third-party administrator, contracting with, Ex Ed §87040.5
Contracting for services, Ed §24953
Third party administrator, contracting with, Ex Ed §44041.5
Community college employees, Ex Ed §87040.5
Contributions, Ed §24950
Costs and expenses, responsibility, Ed §24952
Income tax, federal
Qualified pension, etc, plans
Taxation of employee annuities, Ex 26 USC §403
Investment options, Ed §24950
Offering account, Ed §24950
Roth IRA, administration of, Ed §24950.5
Termination if participation insufficient, Ed §24951
Vendor registration and information bank generally, Ed §25100 to 25115. (*See* **VENDOR REGISTRATION AND INFORMATION BANK**)

ANNULMENT
Community property
Cash balance benefit program, Ed §27400 to 27413. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Generally, Ed §22650 to 22666. (*See* **COMMUNITY PROPERTY**)
Option elections
Cancellation of options, Ed §24305

APPEAL
Member's right to internal informal appeal of benefit or obligation
Administrative hearing, 5 CCR §27103
Administrative remedy for audits, 5 CCR §27102
Administrative remedy for benefits and services, 5 CCR §27101
Definitions, 5 CCR §27100

ASSIGNMENTS
Cash balance benefit program
Rights to benefits not subject to execution or assignment, Ed §26701

AUDITS
Board
Accountant to be employed, Ed §22217
Power to audit public agencies, Ed §22206
Financial and compliance audits, Ex Ed §14502.1
Public pensions and retirement plans, general regulation, Ex Gov §7504
University and postsecondary education, Ex Ed §84040.5

AUTHORIZATION TO CONTRACT WITH STATE FUND OR ATTORNEY GENERAL FOR RECOVERY FROM THIRD PERSONS, Ed §24501

AUXILIARY SUPPLEMENTAL BENEFIT MAINTENANCE ACCOUNT, Ed §24417

B

BANKS
Financial institutions generally. (*See* **FINANCIAL INSTITUTIONS**)

BARNES ACT; TEACHERS' RETIREMENT LAW Ed §22000

BENEFICIARIES
Birth date
Proof, Ed §22451.5
Withholding benefit payments pending receipt of proof, Ed §22451.7
Cash balance benefit program
Annuity
Changes to beneficiary, Ed §26811
Disability benefits, Ed §26910
Death benefits
Death of beneficiary under program
Payments after death of beneficiary, Ed §27008
Definition of beneficiary, Ed §26108
Designation, Ed §27100 to 27102
Community property
Nonparticipant spouse, designation of beneficiary, Ed §27410
Failure to find participant or beneficiary
Forfeiture of benefit, Ed §27302
Information provided by participants and beneficiaries, Ed §26306
Spouse signature requirement, Ed §26703
Action upon refusal of spouse to sign, Ed §26704
Community property
Effect of community property on designation, Ed §23300
Nonmember spouse
Designation of beneficiaries, Ed §22660
Death benefits, active
Survivor benefits, Ed §23852

BENEFICIARIES—Cont'd
Death benefits, retired
Payment to beneficiary, Ed §23880
Option beneficiary, payment to, Ed §23881
Defined benefit supplement program
Final benefits
Death of beneficiary, Ed §25023
Elections as to receipt of final benefit, Ed §25021
Joint and survivor annuities
Designation of beneficiaries, Ed §25015
Designation, Ed §23300 to 23304
Allowed, Ed §23300
Cash balance benefit program, Ed §27100 to 27102
Community property
Nonparticipant spouse, designation of beneficiary, Ed §27410
Community property
Effect, Ed §23300
Defined benefit supplement program
Joint and survivor annuities, Ed §25015
Discharge of liability upon payment to designee, Ed §23302
Entities capable of designation, Ed §23301
Funeral expenses
Circumstances for payment, Ed §23303
No designation effective at death
Estate of member as payee, Ed §23304
Health care benefits program
Definition of beneficiaries, Ed §25910
Information affecting status
Contents, Ed §22451
Employing agency and county superintendent to supply, Ed §22455
Providing to board, Ed §22450
Option elections
Death of option beneficiary, Ed §24300.5
New beneficiary designation if beneficiary predeceases member, Ed §24306
Retirement allowance without modification, Ed §24313
Spouse, designation as new beneficiary, Ed §24305.5
Unmarried retirees
Marriage or registration of domestic partnership
Authority to elect, Ed §24300.6

BENEFIT EFFECTIVE DATE, Ed §24204

BENEFIT LIMITATIONS
Income tax, federal
Qualified pension, etc, plans
Limitation on benefits and contributions, Ex 26 USC §415
Postretirement compensation limitation, Ed §24214.5

BENEFIT MAINTENANCE AND PURCHASING POWER PROTECTION, Ed §24400 to 24417
Actions or claims against board or system
Provisions not intended to generate, Ed §24401
Annual allowance
Minimum annual allowance, Ed §24410.5, 24410.6
Applicability of benefit improvement factor, Ed §24402
Increase in allowances by application of factor, Ed §24403
Appropriations, Ed §24412
Elk Hills Naval Petroleum Reserve, revenues from, Ed §24413
Increases, Ed §24404
1980 increases, Ed §24407
Base date for postretirement increases, Ed §24410
Less than specified years of service, Ed §24406
Minimum unmodified allowance of retired person, Ed §24408
Reduction, Ed §24409
Monthly allowance increases, Ed §24410.7
Procedure, Ed §24403
Scheduled increases, Ed §24405
Legislative findings and intent, Ed §24400
Less than specified years of service
Increases, Ed §24406
Minimum annual allowance, Ed §24410.5, 24410.6
Minimum unmodified allowance of retired person, Ed §24408
Reduction, Ed §24409
Monthly allowance increases, Ed §24410.7
Option elections
Minimum annual allowance, Ed §24410.5, 24410.6
Process for purchasing power adjustments, 5 CCR §26000
Supplemental benefit maintenance account, Ed §24415
Adjustment of purchasing power protection benefits payable to account, Ed §24415.5, 24416
Appropriations for supplemental benefit maintenance account, Ed §22954.5
Distributions, Ed §24415, 24417
Process for purchasing power adjustments, 5 CCR §26000

BLIND PERSONS
California school for the blind
Pupil rights and responsibilities, state special schools, Ex Ed §48927

BOARD, Ed §22200 to 22228
Accounts, Ed §22218
Affirmations
Witnesses and others transacting business of system, Ed §22204
Allowances
Actions by board to assure continued monthly payments, Ed §22214
Fixing and modifying, Ed §22215
Appointments to board, Ed §22200
Assets and liabilities of system
Actuary recommendations
Adoption, Ed §22221
Audits
Accountant to be employed, Ed §22217
Power to audit public agencies, Ed §22206
Bonds, surety
Members, officers and employees, Ed §22259

BOARD—Cont'd
Campaign contributions and investment relationships
Campaign disclosures generally, Ex Gov §84200.5 to 84225
Generally, 5 CCR §24010 to 24013. (*See* **CAMPAIGN CONTRIBUTIONS AND INVESTMENT RELATIONSHIPS**)
Political reform generally, Ex Gov §82002 to 87314
Cash balance benefit program
Administration of plan, Ed §26002, 26200 to 26216
Definition of board, Ed §26109
Chairperson
Defined, 5 CCR §20500
Chief executive officer
Administration of system generally. (*See* **ADMINISTRATION OF SYSTEM**)
Appointment, Ed §22209
Compensation, Ed §22212.5
Reversal of actions by board, Ed §22210
Secretary
Service of CEO as secretary to board, Ed §22201.3; 5 CCR §20514
Service at pleasure of board, Ed §22209
Committees
Appointment, Ed §22208
Reversal of actions by board, Ed §22210
Compensation of investment officers and portfolio managers, Ex Gov §20098
Compensation of members, Ed §22223, 22225
Composition, Ed §22200
Conflicts of interest, Ed §22253
Contributions
Interest credit, Ed §22216
Death benefits
Adjustment, Ed §22222
Defined, Ed §22109
Delegation of board authority, Ed §22208
Elections to board, Ed §22200.5; 5 CCR §24000 to 24009
Ballots
Counting, 5 CCR §24005
Distribution, 5 CCR §24004
Campaign contributions and investment relationships, 5 CCR §24010 to 24013. (*See* **CAMPAIGN CONTRIBUTIONS AND INVESTMENT RELATIONSHIPS**)
Campaign statements for candidates, Ed §22227; 5 CCR §24003
Candidates
Nominations, 5 CCR §24002
Statements, Ed §22227; 5 CCR §24003
Conduct of elections, 5 CCR §24000
Counting ballots, 5 CCR §24005
Nomination of candidates, 5 CCR §24002
Notice, 5 CCR §24001
Protest, 5 CCR §24008
Recount, 5 CCR §24007
Results
Notice, 5 CCR §24006
Vacant seats, election for, 5 CCR §24009
Emergency meetings
Defined, 5 CCR §20500
Emerging investment managers
Strategic plan for participation, Ed §22228
Employees
Appointment, Ed §22212
Employers and employing agencies
Regulation, Ed §22213
Fiduciary duty towards members and beneficiaries, Ed §22250 to 22261. (*See* **FIDUCIARY DUTY TOWARDS MEMBERS AND BENEFICIARIES**)
Funds
Control of administration, Ed §22202
Health insurance
Study on providing benefits, Ed §22226
Hearings, Ed §22219
Indemnification of members, Ex Gov §16642
Information requests
Dependents
Information provided to board, 5 CCR §21023
Power of board, Ed §22207
Investment officers and portfolio managers
Compensation, Ex Gov §20098
Investments
Authority, Ed §22203
Campaign contributions and investment relationships
Campaign disclosures generally, Ex Gov §84200.5 to 84225
Generally, 5 CCR §24010 to 24013. (*See* **CAMPAIGN CONTRIBUTIONS AND INVESTMENT RELATIONSHIPS**)
Political reform generally, Ex Gov §82002 to 87314
Officers and portfolio managers
Civil service appointment of investment officers, Ed §22212.5
Compensation for certain investment officers, Ed §22212.5
Departure from position, restrictions on subsequent employment, Ed §22212.5
Public disclosure of investment transactions, Ed §22203.5
Rollcall vote on investment decisions, Ed §22203.5
Meetings, Ed §22201; 5 CCR §20510
Emergency meetings
Defined, 5 CCR §20500
Quorum, Ed §22201.2; 5 CCR §20513
Regular meetings
Defined, 5 CCR §20500
Special meetings
Defined, 5 CCR §20500
Oaths
Witnesses and others transacting business of system, Ed §22204
Other states
Agreements of board with other states, Ed §22205
Policy making, Ed §22201
Procedures, 5 CCR §20510 to 20514
Public authorities
Regulation, Ed §22213

BOARD—Cont'd
Quorum, Ed §22201.2; 5 CCR §20513
Records, Ed §22218
Regular meetings
Defined, 5 CCR §20500
Release time to allow board, committee, etc, service, Ed §22224
Report of board
Annual report, Ed §22324
Secretary
Chief executive officer of system acting as secretary, Ed §22201.3
Duties, Ed §22201.3; 5 CCR §20514
Service
Determinations by board, Ed §22215
Special meetings
Defined, 5 CCR §20500
Terms of members, Ed §22200
Travel expense reimbursements, Ed §22223
Vacancies
Filling, Ed §22200.5
Election for vacant elected seats, 5 CCR §24009
Vice chairman
Defined, 5 CCR §20500
Witnesses
Subpoenas, Ed §22220

BOND ISSUES
Financing of pension obligations of state. (*See* **FINANCING OF PENSION OBLIGATIONS OF STATE**)

BONDS, SURETY
Board members, officers and employees, Ed §22259

BRIBERY
Public officers and employees
Forfeiture of rights under retirement system, Ex Gov §7522.70

C

CALCULATION OF PART-TIME SERVICE CREDIT (7/1/1956 THROUGH 6/30/1968), Ed §24218

CALENDAR
School month, Ex Ed §37201
School year, Ex Ed §37200

CALIFORNIA STATE UNIVERSITY
Disability retirement
Employment of retired employees
Applicable employment limitations, Ed §24116
Retirement incentives, Ed §22716
Service retirement
Activities of retired member
Service by retired teachers, Ed §24215

CAMPAIGN CONTRIBUTIONS AND INVESTMENT RELATIONSHIPS, 5 CCR §24010 to 24013
Definitions, 5 CCR §24013
Disclosures, 5 CCR §24011
Enforcement, 5 CCR §24012
Inadvertent violations, 5 CCR §24012
Investigations, 5 CCR §24012
Public pensions and retirement plans, general regulation
Boards, commissions, etc
Elections
Campaign disclosures generally, Ex Gov §84200.5 to 84225
Recusals, 5 CCR §24011
Restrictions on contributions, 5 CCR §24010

CAMPAIGN CONTRIBUTIONS OF GIFTS, Ed §22363

CANCELLATION OF BENEFIT, Ed §27204

CAREER FACTOR, Ed §24203.5

CASH BALANCE BENEFIT PROGRAM, Ed §26000 to 28101
Accounts and financial records of plan, Ed §26208
Accounts, employee and employer, Ed §26600 to 26607
Additional annuity credit
Declaration, Ed §26607
Additional earnings credit
Credits to account, Ed §26601, 26602
Declaration of credit, Ed §26605
Determination of credit, Ed §26606
Community property
Nonparticipant spouse
Nominal accounts, rights in, Ed §27404
Credits to accounts, Ed §26600 to 26602
Date to credit, Ed §26603
Definition of employee accounts, Ed §26119
Discontinuation of plan
Effect of discontinuation, Ed §28101
Minimum interest rate
Credits to account, Ed §26601, 26602
Declaration of minimum interest rate, Ed §26604
Actuarial equivalent
Defined, Ed §26101
Actuary
Adoption of actuarial assumptions, rates, etc, as plan amendment, Ed §26213
Defined, Ed §26102
Duties, Ed §26211
Employment, Ed §26211
Investigation of plan, Ed §26211
Database for actuarial investigation, Ed §26212
Additional earnings credit
Accounts, employee and employer
Credits to accounts, Ed §26601, 26602
Declaration of credit, Ed §26605
Determination of credit, Ed §26606
Defined, Ed §26103
Administration of plan, Ed §26002, 26200 to 26216
Accounts and financial records of plan, Ed §26208
Actuary
Adoption of actuarial assumptions, rates, etc, as plan amendment, Ed §26213
Duties, Ed §26211
Investigation of plan
Database for actuarial investigation, Ed §26212

CASH BALANCE BENEFIT PROGRAM—Cont'd
Administration of plan—Cont'd
Annuitant reserve
Established, Ed §26204
Transfers between reserves, Ed §26205
Confidentiality of information in custody of plan, Ed §26215
Costs
Definition of administrative costs, Ed §26104
Payment from fund, Ed §26206
Database for actuarial investigation, Ed §26212
Deposits into fund, Ed §26200
Investment earnings, Ed §26201
Funding of plan, Ed §26207.5
Gain and loss reserve
Established, Ed §26202
Transfers between reserves, Ed §26205
Investment of retirement fund, Ed §26210
Statement to participants
Annual statement, Ed §26214
Third party administration, Ed §26216
Transfer and disbursement of funds from fund, Ed §26209
Transfers between reserves, Ed §26205
Unfunded actuarial obligation
Amortization, Ed §26203
Amortization of unfunded actuarial obligation, Ed §26203
Annuitant reserve
Defined, Ed §26105
Established, Ed §26204
Transfer of credits to annuitant reserve upon election of annuity, Ed §26809
Death benefits, Ed §27006
Disability benefits, Ed §26908
Transfers between reserves, Ed §26205
Annuity
Additional annuity credit
Declaration, Ed §26607
Amount of annuity
Determination, Ed §26808
Beneficiary changes, Ed §26811
Community property
Credits awarded to nonparticipant spouse counted towards participant eligibility for annuity, Ed §27412
Determination of rights in annuity, Ed §27405
Election by nonparticipant spouse, Ed §27411
Death benefits
Amount of annuity, Ed §27005
Annuitant under program, death
Payment pursuant to terms of annuity, Ed §27007
Beneficiary under program, death
Payments after death of beneficiary, Ed §27008
Election to take benefit as annuity, Ed §27004
Transfer of credits to annuitant reserve, Ed §27006
Participant dying prior to commencement of annuity
Amount of benefit, Ed §27002
Death of annuitant under program
Payment pursuant to terms of annuity, Ed §27007
Defined, Ed §26106
Disability benefits, election of annuity, Ed §26906, 26906.5
Beneficiary change, Ed §26910
Change of annuity, Ed §26906.6
Reemployment, effect, Ed §26911
Transfer of credits to annuitant reserve, Ed §26908
Value of annuity, Ed §26907
Discharge of plan obligation upon final payment, Ed §27301
Election to take distribution as annuity, Ed §26807, 26807.5
Change of annuity, Ed §26807.6
Transfer of credits to annuitant reserve, Ed §26809
Reemployment of retired annuitant
Effect, Ed §26505
Termination of annuity upon employment, Ed §26810
Applicability of definitions, Ed §26100
Assignments
Rights to benefits not subject to execution or assignment, Ed §26701
Basis of employment
Defined, Ed §26107
Beneficiaries
Annuity
Changes to beneficiary, Ed §26811
Disability benefits, Ed §26910
Community property
Nonparticipant spouse, designation of beneficiary, Ed §27410
Death benefits
Death of beneficiary under program
Payments after death of beneficiary, Ed §27008
Definition of beneficiary, Ed §26108
Designation, Ed §27100 to 27102
Community property
Nonparticipant spouse, designation of beneficiary, Ed §27410
Failure to designate, Ed §27101
Persons or entities that may be designated, Ed §27100
Process for designation, Ed §27100
Simultaneous death, applicable provisions, Ed §27102
Failure to find participant or beneficiary
Forfeiture of benefit, Ed §27302
Information provided by participants and beneficiaries, Ed §26306
Spouse signature requirement, Ed §26703
Action upon refusal of spouse to sign, Ed §26704
Board
Administration of plan, Ed §26002, 26200 to 26216
Definition of board, Ed §26109
Cash balance benefit program defined, Ed §22110.1
Change in employment
Eligibility, Ed §26400

CASH BALANCE BENEFIT PROGRAM—Cont'd
Class of employees
Defined, Ed §26112.5
Community property, Ed §27400 to 27413
Annuities
Credits awarded to nonparticipant spouse counted towards participant eligibility for annuity, Ed §27412
Determination of rights in annuity, Ed §27405
Election by nonparticipant spouse, Ed §27411
Division of credits upon dissolution or separation, Ed §27402
Joinder of plan, Ed §27407
Lump sum payment
Determination of rights in lump sum, Ed §27406
Nonparticipant spouse
Annuity
Credits awarded to nonparticipant spouse counted towards participant eligibility for annuity, Ed §27412
Election, Ed §27411
Rights in, Ed §27405
Applicability of various provisions to nonparticipant spouse in same was as applicable to participant, Ed §27408
Beneficiary designation, Ed §27410
Defined, Ed §27401
Information required from nonparticipant spouse, Ed §27409
Lump sum payment
Determination of rights in lump sum, Ed §27406
Nominal accounts, rights in, Ed §27404
Status, Ed §27403
Purpose of provisions, Ed §27400
Terminable interest doctrine
Legislative intent, Ed §27413
Confidentiality of information in custody of plan, Ed §26215
Contributions, Ed §26500 to 26507
Adjustment of employer contribution rate, Ed §26507
Amount, Ed §26501, 26503, 26503.5
Collective bargaining agreement to determine, Ed §26504
Collective bargaining agreement to determine amount, Ed §26504
Consent to deduction, Ed §26500
Election to participate, effect, Ed §26501.5
Employee contributions
Accounts, employee and employer
Credits to accounts, Ed §26601
Amount, Ed §26501
Collective bargaining agreement to determine, Ed §26504
Correction of erroneous contribution amounts, employer duty, Ed §26302
Deduction and remission of employee contributions
Consent to deduction, Ed §26500
Duty of employer, Ed §26301.5
Defined, Ed §26121
Delinquent payments, Ed §26303
Election to participate, effect, Ed §26501.5
Penalty or interest assessed, appeal, Ed §26303.5
Pick up by employer, Ed §26502
Rates
Definition of employee contribution rate, Ed §26120
Time to transmit contributions, Ed §26303
USERRA, benefits for reemployed members, Ed §28001
Employer contributions
Accounts, employee and employer
Credits to accounts, Ed §26602
Adjustment of employer contribution rate, Ed §26507
Amount, Ed §26503, 26503.5
Collective bargaining agreement to determine, Ed §26504
Correction of erroneous contribution amounts, employer duty, Ed §26302
Defined, Ed §26125
Delinquent payments, Ed §26303
Penalty or interest assessed, appeal, Ed §26303.5
Rates
Definition of employer contribution rates, Ed §26124
Reports by employers, Ed §26301
Time to transmit contributions, Ed §26303
USERRA, benefits for reemployed members, Ed §28002
Pick up by employer of employee contributions, Ed §26502
Reemployment of retired annuitant
Effect on contributions, Ed §26505
USERRA, benefits for reemployed members
Employee contributions, Ed §28001
Employer contributions, Ed §28002
Voluntary contributions, rollovers or redeposits, Ed §26506
Creditable service
Defined, Ed §26113
Database for actuarial investigation, Ed §26212
Death benefits, Ed §27000 to 27008
Annuitant under program, death
Payment pursuant to terms of annuity, Ed §27007
Annuity, election to take benefit, Ed §27004
Amount of annuity, Ed §27005
Transfer of credit to annuitant reserve, Ed §27006
Annuity not commenced, death of participant
Amount of benefit, Ed §27002
Beneficiary under program, death
Payments after death of beneficiary, Ed §27008
Defined, Ed §26114
Lump sum payment
Effect, Ed §27003
Proof of death, Ed §27000
Time for payment, Ed §27001
Defined, Ed §26112
Defined benefit program
Defined, Ed §26115

CASH BALANCE BENEFIT PROGRAM—Cont'd
Definitions, Ed §26100 to 26145
Applicability of definitions, Ed §26100
Disability benefits, Ed §26900 to 26911
Amount, Ed §26904
Annuity, election, Ed §26906, 26906.5
Beneficiary change, Ed §26910
Change of annuity, Ed §26906.6
Reemployment, effect, Ed §26911
Transfer of credits to annuitant reserve, Ed §26908
Value of annuity, Ed §26907
Application, Ed §26900
Persons authorized to apply, Ed §26901
Defined, Ed §26116
Determination of disability, Ed §26902
Lump sum payment
Effect, Ed §26905
Termination of creditable service, Ed §26903
Total and permanent disability
Determination of disability, Ed §26902
Disability date
Defined, Ed §26117
Discontinuation of plan
Accounts, employee and employer
Effect of discontinuation on accounts, Ed §28101
Notice, Ed §28100
Right of employer to discontinue, Ed §28100
Distributions, Ed §27300 to 27303
Annuity, election to take distribution as, Ed §26807, 26807.5
Amount of annuity
Determination, Ed §26808
Beneficiary changes, Ed §26811
Change of annuity, Ed §26807.6
Community property
Credits awarded to nonparticipant spouse counted towards participant eligibility for annuity, Ed §27412
Determination of rights in annuity, Ed §27405
Nonparticipant spouse, election, Ed §27411
Death benefits, Ed §27004 to 27008
Disability benefits, Ed §26906 to 26911
Discharge of plan obligation upon final payment, Ed §27301
Termination of annuity upon employment, Ed §26810
Transfer of credits to annuitant reserve, Ed §26809
Commencement, Ed §26802
Forfeiture of benefit upon failure to find participant or beneficiary, Ed §27302
Limitation on benefits, Ed §26004
Lump sum payment
Community property
Determination of rights in lump sum, Ed §27406
Death benefits
Effect of payment, Ed §27003
Disability benefits
Effect of payment, Ed §26905
Discharge of plan obligation, Ed §27300
Retirement benefits
Effect of payment, Ed §26806
Simultaneous death, applicable provisions, Ed §27102
Termination benefits
Effect of payment, Ed §27207
Overpayment
Deduction, Ed §27303
Erroneous information reported by employer, consequences, Ed §27303.5
Reinstatement of forfeited distribution, Ed §27302
Eligibility, Ed §26400 to 26403
Change in employment, Ed §26400
Part-time employees, Ed §26400
Election to become participant for creditable service, Ed §26401
Social security coverage
Election, Ed §26400
Temporary employees
Community college district temporary employees, Ed §26400
Trustee service
Persons performing trustee service, Ed §26403
Employed
Defined, Ed §26126
Employee accounts
Accounts, employee and employer generally, Ed §26600 to 26607. (*See* within this heading, "Accounts, employee and employer")
Defined, Ed §26119
Employee contribution rates
Contributions generally. (*See* within this heading, "Contributions")
Defined, Ed §26120
Employee contributions
Contributions generally. (*See* within this heading, "Contributions")
Defined, Ed §26121
Employees
Defined, Ed §26118
Employer accounts defined, Ed §26123
Employer contribution rates defined, Ed §26124
Contributions by employers generally. (*See* within this heading, "Employers/employing agencies")
Employer contributions defined, Ed §26125
Contributions by employers generally. (*See* within this heading, "Employers/employing agencies")
Employers/employing agencies
Accounts, employee and employer, Ed §26600 to 26607
Agreement with retirement system to provide cash balance benefit program, Ed §26000.5
Change of status of employee
Report by employer, Ed §26304
Compensation of employees
Information to be provided by employer, Ed §26305
Contributions
Accounts, employee and employer
Credits to accounts, Ed §26602
Adjustment of employer contribution rate, Ed §26507

CASH BALANCE BENEFIT PROGRAM—Cont'd
Employers/employing agencies—Cont'd
Contributions—Cont'd
Amount, Ed §26503, 26503.5
Collective bargaining agreement to determine, Ed §26504
Correction of erroneous contribution amounts, employer duty, Ed §26302
Deduction and remission of employee contributions, duty of employer, Ed §26301.5
Definition of employer contributions, Ed §26125
Delinquent payments, Ed §26303
Penalty or interest assessed, appeal, Ed §26303.5
Rates
Definition of employer contribution rates, Ed §26124
Reports by employers, Ed §26301
Time to transmit contributions, Ed §26303
USERRA, benefits for reemployed members, Ed §28002
Correction of erroneously reported information, Ed §26302
Definition of employer, Ed §26122
Election to provide benefits, Ed §26000.6
Information provided to employees, Ed §26300
Responsibilities of employers and participants, Ed §26300 to 26306
Employment
Defined, Ed §26126
Errors and omissions, adjustment
Limitations period, Ed §26702
Established, Ed §26000
Exemptions from legal process
Rights to benefits not subject to execution or assignment, Ed §26701
Forfeitures
Failure to find participant or beneficiary, Ed §27302
Full-time equivalent
Defined, Ed §26127
Funding of plan, Ed §26207.5
Gain and loss reserve
Defined, Ed §26129
Established, Ed §26202
Transfers between reserves, Ed §26205
Income tax, California
Compliance with federal and state provisions, Ed §26001
Income tax, federal
Combination defined benefit plans and qualified cash or deferred arrangements
Special rules, Ex 26 USC §414
Compliance with federal and state provisions, Ed §26001
Limitation on benefits, Ed §26004
Interest
Minimum interest rate
Accounts, employee and employer
Credits to accounts, Ed §26601, 26602
Declaration of minimum interest rate, Ed §26604
Defined, Ed §26131
Investment earnings
Defined, Ed §26130
Surplus
Additional earnings credit, declaration, Ed §26605
Determination of credit, Ed §26606
Teachers' retirement fund
Deposits into fund, Ed §26201
Investments
Control of investment of retirement fund, Ed §26210
Legislative findings and intent, Ed §22001.5, 26000
Limitation on benefits, Ed §26004
Lump sum payment
Community property
Determination of rights in lump sum, Ed §27406
Death benefits
Effect of payment, Ed §27003
Disability benefits
Effect of payment, Ed §26905
Discharge of plan obligation, Ed §27300
Retirement benefits
Effect of payment, Ed §26806
Simultaneous death, applicable provisions, Ed §27102
Termination benefits
Effect of payment, Ed §27207
Military service
USERRA, benefits for reemployed members, Ed §28000 to 28006
Minimum interest rate
Accounts, employee and employer
Credits to accounts, Ed §26601, 26602
Declaration of minimum interest rate, Ed §26604
Defined, Ed §26131
Normal retirement age, Ed §26800
Overpayment
Deduction, Ed §27303
Erroneous information reported by employer, consequences, Ed §27303.5
Partial distributions
Termination benefits, Ed §27206
Participants
Accounts, employee and employer
Definition of employee accounts, Ed §26119
Generally, Ed §26600 to 26607. (*See* within this heading, "Accounts, employee and employer")
Defined, Ed §26132
Failure to find participant or beneficiary
Forfeiture of benefit, Ed §27302
Information provided by participants and beneficiaries, Ed §26306
Responsibilities of employers and participants, Ed §26300 to 26306
Statement to participants
Annual statement, Ed §26214
Part-time employees
Election to become participant for creditable service, Ed §26401
Eligibility, Ed §26400
Pay periods
Defined, Ed §26133

CASH BALANCE BENEFIT PROGRAM—Cont'd
Plan year
Defined, Ed §26135
Redeposits
Voluntary contributions, rollovers or redeposits, Ed §26506
Reemployment of retired annuitant
Effect, Ed §26505
Responsibilities of employers and participants, Ed §26300 to 26306
Retirement
Defined, Ed §26136
Retirement benefits, Ed §26800 to 26813
Activities of retired, Ed §26812, 26813
Amount of benefits, Ed §26805
Annuity, Ed §26812
Annuity, election to take distribution as, Ed §26807, 26807.5
Amount of annuity
Determination, Ed §26808
Beneficiary changes, Ed §26811
Change of annuity, Ed §26807.6
Termination of annuity upon employment, Ed §26810
Transfer of credits to annuitant reserve, Ed §26809
Application, Ed §26804
Date for retirement, Ed §26801
Defined, Ed §26137
Distribution
Annuity, election to take distribution as, Ed §26807, 26807.5
Amount, determination, Ed §26808
Beneficiary changes, Ed §26811
Change of annuity, Ed §26807.6
Termination of annuity upon employment, Ed §26810
Transfer of credits to annuitant reserve, Ed §26809
Commencement, Ed §26802
Lump sum payment, effect, Ed §26806
Form of benefit, Ed §26806
Limitation on benefits, Ed §26812, 26813
Lump sum payment
Effect, Ed §26806
Normal retirement age, Ed §26800
Rate of pay, Ed §26812
Records, Ed §26813
Termination of creditable service, Ed §26803
Retirement date, Ed §26801
Defined, Ed §26138
Rights to benefits, Ed §26700 to 26704
Errors and omissions, adjustment
Limitations period, Ed §26702
Spouse signature requirement, Ed §26703
Action upon refusal of spouse to sign, Ed §26704
Vested right to benefit, Ed §26700
Rollovers
Voluntary contributions, rollovers or redeposits, Ed §26506
Salary
Defined, Ed §26139
Employer to provide information, Ed §26305
USERRA, benefits for reemployed members
Computation of salary during military service, Ed §28003
Service credit
Permissive and additional service credit
Previous exclusion from membership
Election to purchase credit, Ed §22802
Severability of provisions, Ed §26003
Simultaneous death
Applicable provisions, Ed §27102
Spouse
Defined, Ed §26140
Signatures, Ed §26703
Action upon refusal of spouse to sign, Ed §26704
Term includes registered domestic partner, Ed §26002.5
State teachers' retirement plan
Definition of plan, Ed §26134
System
Defined, Ed §26142
Teachers' retirement fund
Definition of fund, Ed §26128
Deposits into fund, Ed §26200
Investment earnings, Ed §26201
Transfer and disbursement of funds from fund, Ed §26209
Transfer of funds to plan, Ed §22403
Temporary employees
Community college district temporary employees
Eligibility, Ed §26400
Termination benefits, Ed §27200 to 27207
Application for benefit, Ed §27200
Cancellation of application, Ed §27205
Form, Ed §27202
Multiple applications, time between, Ed §27203
Cancellation of application, Ed §27205
Defined, Ed §26143
Lump sum payments
Effect, Ed §27207
Multiple applications
Time between, Ed §27203
Partial distributions, Ed §27206
Termination of creditable service, Ed §27201
Time for payment, Ed §27204
Termination of annuity, Ed §26810
Disability benefits, Ed §26911
Termination of creditable service, Ed §26803
Disability benefits, Ed §26903
Termination benefits, Ed §27201
Total and permanent disability
Defined, Ed §26144
Disability benefits
Determination of disability, Ed §26902
Trustee service
Defined, Ed §26144.5
Persons performing trustee service
Eligibility for plan, Ed §26403

CASH BALANCE BENEFIT PROGRAM—Cont'd
Unfunded actuarial obligation
Amortization, Ed §26203
Defined, Ed §26145
USERRA, benefits for reemployed members, Ed §28000 to 28006
Continuity in employment, break for military notwithstanding, Ed §28001
Contributions
Employee contributions, Ed §28001
Employer contributions, Ed §28002
Definitions, Ed §28000
Five year absence, longer than, Ed §28004
Legislative findings and intent, Ed §28000
Salary
Computation of salary during military service, Ed §28003
Tax impact, Ed §28006
Termination of rights
Grounds, Ed §28005
Vested right to benefit, Ed §26700
Voluntary contributions, rollovers or redeposits, Ed §26506

CERTIFICATED EMPLOYEES
Classification on salary schedule, Ex Ed §45028
Definition of certificated, 5 CCR §20500
Employers/employing agencies to employ, Ex Ed §44830
Leaves of absence
Boards, commissions, etc, service on, Ex Ed §44987.3
Employee organizations, service as officer, Ex Ed §44987
Industrial accident and illness leave, Ex Ed §44984
Pregnancy and childbirth, Ex Ed §44965
Study and travel, Ex Ed §44966
Compensation during leave, Ex Ed §44968, 44968.5
Default in service upon return, reduction in payment, Ex Ed §44970
Payment for leave time, manner, Ex Ed §44969
Service during leave, Ex Ed §44968
Time qualifications, Ex Ed §44967
Part-time employees
Reduction of workload to part-time, Ex Ed §44922
Salary, Ex Ed §45025
Retirement, effect of, Ex Ed §44907
Sojourn teachers, Ex Ed §44856
Substitute employees
Classification of substitute employees, Ex Ed §44917
Technical assistance and planning grant funding, Ex Ed §45028
Termination
Probationary employees
Reduction in employees as reason for termination, Ex Ed §44957

CHANGE OF OPTION; WINDOW PERIOD; JANUARY 1, 2007 THROUGH JUNE 30, 2007, Ed §24300.2

CHARTER SCHOOLS
Establishment and operation
Conditions, Ex Ed §47605
Local educational agencies
Intervention
Early warning program, Ex Ed §52055.57, 52055.59
Pupil academic achievements, measurable pupil outcomes, Ex Ed §47605
State teachers' retirement plan
Participation in plan, Ex Ed §47611
Reports required by system
Creation, Ex Ed §47611.3

CHILDBIRTH LEAVE, Ex Ed §44965

CHILDREN OR MINORS
Death benefits, active
Family allowance
Payment of benefits to children, Ed §23806
Survivor benefits, Ed §23852
Eligibility of dependent children, Ed §23856
Disability allowance
Reduction
Dependent children becoming ineligible, Ed §24009
Disability retirement
Reduction of allowance
Dependent children becoming ineligible, Ed §24108
Payment procedures
Custodian receiving payment, Ed §24612

CITATION OF PROVISIONS, Ed §22000

CLASSIFIED EMPLOYEES
Age limits
No establishment of age limits, Ex Ed §45134
Community college employees
Age limits not to be used, Ex Ed §88033
Definitions, Ex Ed §88001
Retirement allowance recipients
Eligibility for employment, Ex Ed §45134

CLASS SIZE REDUCTION PROGRAM
Service retirement
Compensation of retired members
Exemptions from limits, Ed §24216.5

CLERICAL MISTAKES IN COURT PROCEEDINGS
Correction, Ex CCP §473

C.O.L.A.
Benefit maintenance generally, Ed §24400 to 24417; 5 CCR §26000. (*See* **BENEFIT MAINTENANCE AND PURCHASING POWER PROTECTION**)

COMMUNITY COLLEGE EMPLOYEES
Academic employees
Full-time employment, teachers' retirement system, Ed §22138.5
Annuity contract and custodial accounts
Third-party administrator, contracting with, Ex Ed §87040.5
Classified employees
Age limits not to be used, Ex Ed §88033
Definitions, Ex Ed §88001
Deductions in salary payments, Ex Ed §87040
Definitions, Ex Ed §87002

COMMUNITY COLLEGE EMPLOYEES—Cont'd
Finances
Annual audit, Ex Ed §84040
Fiscal accountability, Ex Ed §84040
Full-time employment, Ed §22138.5
Part-time employees
Reduction in workload to part-time, Ex Ed §87483
Service credit
Additional service credit to encourage retirement, Ex Ed §87488
Temporary employees
Classification of certain instructors, Ex Ed §87482.5

COMMUNITY PROPERTY, Ed §22650 to 22666
Beneficiaries
Designation, Ed §22660
Effect of community property, Ed §23300
Cash balance benefit program, Ed §27400 to 27413. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Court order upon separation or dissolution
Contents, Ed §22652
Retired members
Determination of community property rights in allowance, Ed §22655
Service of judgment or order on system, Ed §22656
Court's powers, Ed §22650
Defined benefit supplement program
Final benefits
Death of nonmember spouse during receipt of annuity, Ed §25022.5
Nonmember spouses
Defined, Ed §25000.9
Retirement benefits under program
Effect on community property rights, Ed §25009 to 25011.5
Joinder of plan, Ed §22656
Judgments upon separation or dissolution
Contents, Ed §22652
Retired members
Determination of community property rights in allowance, Ed §22655
Service of judgment or order on system, Ed §22656
Members
Eligibility determinations, Ed §22665
Nonmember registered domestic partners
Defined, Ed §22651
Nonmember spouse
Administration of accounts, Ed §22658
Beneficiaries
Designation, Ed §22660
Defined, Ed §22651
Defined benefit supplement program, Ed §25000.9
Effect of award, Ed §22653
Information provided by nonmember spouse, Ed §22659
Provisions applicable to nonmember spouse, Ed §22657
Redeposit of previously refunded contributions, Ed §22662
Refund of contributions, Ed §22661
Service credit
Purchase of additional service credit, Ed §22663
Service retirement
Right to allowance and benefit, Ed §22664
Retired members
Determination of community property rights in allowance, Ed §22655
Terminable interest doctrine
Legislative intent to abolish, Ed §22666

COMMUNITY SERVICE TEACHER, Ed §22712.5

COMPENSATION EARNABLE
Defined, Ed §22115
Military service
USERRA, benefits for reemployed members
Computation of compensation earnable, Ed §22853

COMPLIANCE WITH FEDERAL AND STATE TAX CODES, Ed §25000.5

COMPOSITION OF THE BOARD, Ed §22200

CONDITIONS FOR APPLICATION, Ed §24102

CONFIDENTIALITY
Cash balance benefit program
Confidentiality of information in custody of plan, Ed §26215
Information filed with system, Ed §22306
Investments
Public employees' retirement system
Cooperation between PERS and teachers' retirement system
Confidentiality maintained while cooperating, Ex Gov §7516

CONFLICTS IN LAW, Ed §22003

CONFLICTS OF INTEREST
Board, Ed §22253
Fiduciary duty towards members and beneficiaries, Ed §22253
Investment products
Providing products that would be assets of funds by board members, Ex Gov §7513.95
Placement agents, regulation, Ex Gov §7513.8 to 7513.9
Public officials
Investment management by public officials, Ex Gov §87314
Teachers' retirement system conflict of interest code, 5 CCR §22000

CONSOLIDATION OF ACTIONS
Subrogation
Permissible activities under provisions, Ed §24502

CONSOLIDATION OF BENEFITS, Ed §22802
Transfer to retirement fund, Ed §22955

CONTINUING QUALIFICATION
Medical examinations, Ed §24112, 24301, 234001

CONTINUOUS APPROPRIATION, Ed §22955

CONTRIBUTIONS
Annuity contract and custodial accounts, Ed §24950
Annuity deposit contributions, Ed §22908
Refunds, Ed §23107
Cash balance benefit program, Ed §26500 to 26507
Adjustment of employer contribution rate, Ed §26507
Amount, Ed §26501, 26503, 26503.5
Collective bargaining agreement to determine, Ed §26504
Consent to deduction, Ed §26500
Election to participate, effect, Ed §26501.5
Employee contributions
Accounts, employee and employer
Credits to accounts, Ed §26601
Amount, Ed §26501
Collective bargaining agreement to determine, Ed §26504
Correction of erroneous contribution amounts, employer duty, Ed §26302
Deduction and remission of employee contributions
Consent to deduction, Ed §26500
Duty of employer, Ed §26301.5
Defined, Ed §26121
Delinquent payments, Ed §26303
Election to participate, effect, Ed §26501.5
Penalty or interest assessed, appeal, Ed §26303.5
Pick up by employer, Ed §26502
Rates
Definition of employee contribution rate, Ed §26120
Time to transmit contributions, Ed §26303
USERRA, benefits for reemployed members, Ed §28001
Employer contributions
Accounts, employee and employer
Credits to accounts, Ed §26602
Adjustment of employer contribution rate, Ed §26507
Amount, Ed §26503, 26503.5
Collective bargaining agreement to determine, Ed §26504
Correction of erroneous contribution amounts, employer duty, Ed §26302
Defined, Ed §26125
Delinquent payments, Ed §26303
Penalty or interest assessed, appeal, Ed §26303.5
Rates
Definition of employer contribution rates, Ed §26124
Reports by employers, Ed §26301
Time to transmit contributions, Ed §26303
USERRA, benefits for reemployed members, Ed §28002
Pick up by employer of employee contributions, Ed §26502
Reemployment of retired annuitant
Effect on contributions, Ed §26505
USERRA, benefits for reemployed members
Employee contributions, Ed §28001
Employer contributions, Ed §28002
Voluntary contributions, rollovers or redeposits, Ed §26506
Collection and reporting procedures, Ed §23000 to 23010
Deductions, Ed §23000
Delinquency
When due, payable and delinquent, Ed §23002
Failure to pay assessments, Ed §23007
Incorrect contributions
Adjustments, Ed §23008
Interest, Ed §23009
Appeal of assessed penalties or interest, Ed §23010
Interest, Ed §23003
Appeal of assessed penalties or interest, Ed §23010
Penalties, Ed §23003
Appeal of assessed penalties or interest, Ed §23010
Reports to administer provisions, Ed §23004
Deadline, Ed §23005
Penalties for late or unacceptable reports, Ed §23006
Appeal of assessed penalties or interest, Ed §23010
Requisitions for contributions, Ed §23001
Retired members, disabled members or deceased persons, collection from, Ed §24615
Year-round or continuous school programs, Ed §23002.5
Crediting interest
Board duties, Ed §22216
Deductions, Ed §23000
Delinquency
Appeal of assessed penalties or interest, Ed §23010
Interest, Ed §23003
Penalties, Ed §23003
When due, payable and delinquent, Ed §23002
Election of method of payment, Ed §23100
Employee contributions, Ed §22900 to 22909
Adjustments
Birth date change, Ed §22907
Allocation, Ed §22905
Amount, Ed §22901
State employees, Ed §22901.3
Annuity deposit contributions, Ed §22908
Cash balance benefit program. (*See* within this heading, "Cash balance benefit program")
Computation of accumulated contributions, Ed §22902
Consent, Ed §22900
Employer payment of employee contributions, Ed §22909
Pick-up of contributions
Employer pick-up to defer taxes, Ed §22903
State pick-up via salary reduction program, Ed §22904
Service erroneously credited
Refund of contributions, Ed §22906
State employees
Rate, Ed §22901.3
Employer and state contributions, Ed §22950 to 22956
Additional percentage contributed, Ed §22951
Allocation, Ed §22950, 22956
Amount, Ed §22950

CONTRIBUTIONS—Cont'd
Employer and state contributions—Cont'd
Appropriations, Ed §22954
Transfer to retirement fund, Ed §22955
Cash balance benefit program. (*See* within this heading, "Cash balance benefit program")
Collection and reporting procedures, Ed §23000 to 23010
Creditable compensation
Defined, Ed §22955.5
Evaluation of rate
Quadrennial evaluation, Ed §22954.1
Increase in rate, Ed §22951.5
Monthly, Ed §22950
Purchasing power protection
Evaluation of rate, Ed §22954.1
Forfeiture of benefits, Ed §23101
Income tax, federal
Catch-up contributions, Ex 26 USC §414
Qualified pension, etc, plans
Limitation on benefits and contributions, Ex 26 USC §415
Tax sheltered annuity contributions, 5 CCR §20554, 20554.1
Tax treatment of certain contributions, Ex 26 USC §414
Withdrawals from eligible automatic contribution arrangements, Ex 26 USC §414
Incorrect contributions
Collection and reporting procedures
Adjustments, Ed §23008
Interest, Ed §23009
Appeal of assessed penalties or interest, Ed §23010
Military service
USERRA, benefits for reemployed members
Cash balance benefit program
Employee contributions, Ed §28001
Employer contributions, Ed §28002
Employer liability, Ed §22852
Public pensions and retirement plans, general regulation
Sex differential in contribution rate
Remediation, Ex Gov §7500
Rate adjustments
Retroactive adjustments, Ed §22313
Redeposits, Ed §23200 to 23203
Amount of redeposit, Ed §23202, 23203
Cancellation of redeposit, Ed §23202
Circumstances for redeposit, Ed §23200
Community property
Nonmember spouse
Redeposit of previously refunded contributions, Ed §22662
Other retirement allowances, Ed §23201
Payment of contributions, Ed §23203
Time for election to redeposit, Ed §23202
Refunds, Ed §23100 to 23107
Annuity deposits, Ed §23107
Community property
Nonmember spouse, right to refund, Ed §22661
Employee contributions
Service erroneously credited, Ed §22906
Events triggering refund, Ed §23100
Certification of termination of employment, Ed §23102
Forfeiture of rights to service credit benefit, Ed §23101
Redeposits of refunded contributions, Ed §23200 to 23203. (*See* within this heading, "Redeposits")
Request for refund, Ed §23103
Service in other system, Ed §23106
Warrants refunding contributions
Cancellation, Ed §23104
Mailing, Ed §23104
Requisitions for contributions, Ed §23001
Service credit
Out-of-state service credit
Nonqualified service, Ed §22826
Purchase
Payment of contributions, Ed §22823
Service retirement
Retired members, Ed §24214
Exemptions, Ed §24216.6
Limitation on postretirement compensation, Ed §24214.5
Sex differential in contribution rate
Remediation, Ex Gov §7500
Tax sheltered annuity contributions, 5 CCR §20554, 20554.1

CONTRIBUTIONS TO BE REFUNDED, Ed §23100

CONVICTIONS OF CRIME
County employees retirement law
Forfeiture of position, Ex Gov §31563
Public employees' retirement system (PERS)
Forfeiture of position, Ex Gov §20343

CORRECTION OF ERRORS OR OMISSIONS, Ed §22308

COST OF LIVING ADJUSTMENTS
Benefit maintenance generally, Ed §24400 to 24417; 5 CCR §26000. (*See* **BENEFIT MAINTENANCE AND PURCHASING POWER PROTECTION**)

COUNSELING SERVICES
Retirement counseling services, Ed §22303

COUNTY EMPLOYEES RETIREMENT LAW
Forfeiture of position
Conviction of crime relating to official duties, Ex Gov §31563
Transfer of membership to teachers' retirement system, Ex Gov §31565

COURT ORDERED DEDUCTION, Ed §22652

CREDENTIALING OF TEACHERS
Basic skills proficiency test
Administration, Ex Ed §44252.5
Definition of credentials, Ed §22110.2; 5 CCR §20500

CREDITABLE COMPENSATION, Ed §22119.3

CREDIT FOR JOB RELATED INJURY OR ILLNESS, Ed §22710

CUSTODIAL ACCOUNTS
Annuity contract and custodial accounts, Ed §24950 to 24953. (*See* **ANNUITY CONTRACT AND CUSTODIAL ACCOUNTS**)

D

DEAF PERSONS
California schools for the deaf
Pupil rights and responsibilities, state special schools, Ex Ed §48927

DEATH BENEFITS
Active employees. (*See* **DEATH BENEFITS, ACTIVE**)
Adjustment
Board's standards for adjustment, Ed §22222
Cash balance benefit program
Definition of death benefit, Ed §26114
Generally, Ed §27000 to 27008. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Family allowance, Ed §23800 to 23812. (*See* **DEATH BENEFITS, ACTIVE**)
Outstanding death benefits
Report, Ed §22323
Payment procedures
Overpayments
Deduction of overpayment from subsequent payments, Ed §24616
Erroneous information reported by employer, consequences, Ed §24616.5
Pre-1972 benefits
Continuation, Ed §23402
Retired, Ed §23880 to 23882. (*See* **DEATH BENEFITS, RETIRED**)
Survivor benefits, Ed §23850 to 23859. (*See* **DEATH BENEFITS, ACTIVE**)

DEATH BENEFITS, ACTIVE
Family allowance, Ed §23800 to 23812
Amount, Ed §23801
Applicability of provisions, Ed §23800
Benefit maintenance
Applicability of benefit improvement factor, Ed §24402
Children
Payment of allowance to children, Ed §23806
Components, Ed §23802
Conditions for payment of family allowance, Ed §23804
Election of disability and death benefit coverage, Ed §23700 to 23706
Acknowledgment of receipt of election, Ed §23705
Effective date of new programs, Ed §23700
Eligibility, Ed §23702
Failure to file election
Effect, Ed §23706
Requirements of election, Ed §23703
Signature by spouse
Refusal, Ed §23704
Time for election, Ed §23701
Lump sum payment upon termination, Ed §23811
Parents claiming benefits
Dependency determinations, Ed §23805.5
Payment of benefits, Ed §23801
Children, payment to, Ed §23806
Priority for payment of family allowance, Ed §23805
Reduction in light of benefits from other systems, Ed §23809
Remarriage causing loss of allowance
Resumption of allowance for deceased member's surviving spouse, Ed §23812
Termination of allowance, Ed §23810
Lump sum payment upon termination, Ed §23811
Time for payment, Ed §22320, 23803
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322
Survivor benefits, Ed §23850 to 23859
Amount, Ed §23851
Applicability of provisions, Ed §23850
Beneficiaries, Ed §23852
Benefit maintenance
Applicability of benefit improvement factor, Ed §24402
Circumstances triggering payment, Ed §23851
Computation of allowance, Ed §23855
Death of beneficiary
Remaining accumulated contributions, disposition, Ed §23859
Termination of allowance, Ed §23858
Dependent children, Ed §23852
Eligibility, Ed §23856
Election of disability and death benefit coverage, Ed §23700 to 23706
Acknowledgment of receipt of election, Ed §23705
Effective date of new programs, Ed §23700
Eligibility, Ed §23702
Failure to file election
Effect, Ed §23706
Requirements of election, Ed §23703
Signature by spouse
Refusal, Ed §23704
Time for election, Ed §23701
Eligibility for survivor allowance, Ed §23854
Members
Defined, Ed §23850
Payments on death, Ed §23851
Request for benefits, Ed §23853
Return of contributions
Request, Ed §23853
Surviving spouse
Elections, Ed §23852

DEATH BENEFITS, RETIRED, Ed §23880 to 23882
Amount, Ed §23880
Beneficiaries
Payment to beneficiary, Ed §23880
Option beneficiary, payment to, Ed §23881
Request for payment and return of contributions, Ed §23882

DEATH OF MEMBERS
Notice to board, Ed §22457

DECEDENTS' ESTATES
Beneficiaries
Designation
No designation effective at death
Estate of member as payee, Ed §23304
Cash balance benefit program
Beneficiary not designated at death
Payment of lump sum to estate, Ed §27101
Death benefits, active
Survivor benefits
Death of beneficiary
Remaining accumulated contributions, disposition, Ed §23859
Personal property
Collection or transfer without probate, Ex Pro §13100

DEDUCTIONS FROM SALARY, Ex Ed §44041
Cash balance benefit program
Contributions, deduction and remission
Consent to deduction, Ed §26500
Duty of employer, Ed §26301.5
Community college employees, Ex Ed §87040
Contributions
Collection and reporting procedures, Ed §23000

DEFERRED COMPENSATION PLANS, Ed §24975 to 24977
Adoption of plan by employer, Ed §24975
Community college employees
Third-party administrator, contracting with, Ex Ed §87040.5
Contracting for services, Ed §24977
Third party administrator, contracting with, Ex Ed §44041.5
Community college employees, Ex Ed §87040.5
Development of plans, Ed §24975
Income tax, federal, Ex 26 USC §457
Combination defined benefit plans and qualified cash or deferred arrangements
Special rules, Ex 26 USC §414
Roth IRA operating account, Ed §24976
Teachers' deferred compensation fund, Ed §24976

DEFINED BENEFIT AND DEFINED BENEFIT SUPPLEMENT ACCOUNTS
Contributions, crediting
Pretax and posttax contributions, Ed §22905

DEFINED BENEFIT AND DEFINED BENEFIT SUPPLEMENT PROGRAM
Computation of service, Ed §22703

DEFINED BENEFIT SUPPLEMENT PROGRAM, Ed §25000 to 25025
Accounts, Ed §25001 to 25008.5
Additional annuity credit, Ed §25007
Additional earnings credit to accounts, Ed §25006
Annuitant reserve, Ed §25002
Distribution of credits
Time for and manner of distribution, Ed §25008.5
Gain and loss reserve, Ed §25001
Interest
Declaration of rate, Ed §25005
Member accounts, Ed §25004
Vesting of account balance, Ed §25008
Transfers of funds, Ed §25003
Additional annuity credit, Ed §25007
Additional earnings credit to accounts, Ed §25006
Administration
Contracts with third party administrators, Ed §22302.5
Amendment of plan
Circumstances authorizing, Ed §25000.5
Annuitant reserve, Ed §25002
Transfers of funds, Ed §25003
Credits, transfer to annuitant reserve, Ed §25013
Annuities
Calculation, Ed §25012
Determination of value, Ed §25012
Disability benefits
Change of annuity, Ed §25018.2
Details of payment options, Ed §25018, 25018.1
Methods of distribution, Ed §25016
Termination of allowance
Effect, Ed §25019
Final benefits
Death of beneficiary, Ed §25023
Death of member during member's receipt of annuity, Ed §25022
Death of nonmember spouse during receipt of annuity, Ed §25022.5
Election to receive as annuity, Ed §25021
Joint and survivor annuities
Beneficiary designations, Ed §25015
Reinstatement to service
Effect on annuity, Ed §25014
Retirement benefits under program
Annuity as payment option, Ed §25011, 25011.1
Change of annuity, Ed §25011.5
Transfer of credits to annuitant reserve, Ed §25013
Community property
Final benefits
Death of nonmember spouse during receipt of annuity, Ed §25022.5
Nonmember spouses
Defined, Ed §25000.9
Retirement benefits under program
Effect on community property rights, Ed §25009 to 25011.5
Death of member or annuitant
Final benefits generally, Ed §25020 to 25023. (*See* within this heading, "Final benefits")
Disability benefits, Ed §25016 to 25019
Annuities
Change of annuity, Ed §25018.2
Details of payment options, Ed §25018, 25018.1
Termination of allowance
Effect, Ed §25019
Application for benefits, Ed §25017
Date of receipt, Ed §25017
Described, Ed §25016

DEFINED BENEFIT SUPPLEMENT PROGRAM—Cont'd
Disability benefits—Cont'd
Election of method of distribution, Ed §25018
Change of annuities, Ed §25018.2
Methods of distribution, Ed §25016, 25018.1
Change of election, Ed §25018.2
Election, Ed §25018
Return to work
Recurrence of original disability, Ed §25018.5
Termination of allowance
Effect, Ed §25019
Established, Ed §25000
Final benefits, Ed §25020 to 25023
Annuities
Death of beneficiary, Ed §25023
Death of member during member's receipt of annuity, Ed §25022
Death of nonmember spouse during receipt of annuity, Ed §25022.5
Election to receive as annuity, Ed §25021
Beneficiaries
Elections as to receipt of final benefit, Ed §25021
Death of member, Ed §25020
Gain and loss reserve, Ed §25001
Transfers of funds, Ed §25003
Income tax, federal
Combination defined benefit plans and qualified cash or deferred arrangements
Special rules, Ex 26 USC §414
Interest
Declaration of rate, Ed §25005
Joint and survivor annuities
Beneficiary designations, Ed §25015
Member accounts, Ed §25004
Additional annuity credit, Ed §25007
Additional earnings credit to accounts, Ed §25006
Vesting of account balance, Ed §25008
Nonmember spouses
Defined, Ed §25000.9
Final benefits
Death of nonmember spouse during receipt of annuity, Ed §25022.5
Option elections
Joint and survivor annuity
Change of annuity or beneficiary, Ed §24305.3
Purpose, Ed §25000
Reinstatement to service
Termination of annuity, Ed §25014
Retirement benefits under program, Ed §25009 to 25011.5
Annuity as payment option, Ed §25011, 25011.1
Change of annuity, Ed §25011.5
Application for benefits, Ed §25010
Described, Ed §25009
Election of method of distribution, Ed §25011
Eligibility, Ed §25010
Method of distribution, Ed §25009
Election, Ed §25011
Change, Ed §25011.5
Restrictions on use, Ed §25009
Return to work
Disability benefits
Recurrence of original disability, Ed §25018.5
Rollovers, Ed §25000.7
Termination benefits, Ed §25024 to 25025
Application for termination benefits, Ed §25024
Certification of termination, Ed §25024
Eligibility, Ed §25024
Method of payment, Ed §25024
Multiple termination benefits
Lapse of time between terminations, Ed §25024.5
Time for payment, Ed §25025
Vested rights, Ed §25000.7

DEFINITIONS
Accredited, 5 CCR §20500
Accumulated annuity deposit contributions, Ed §22101
Accumulated defined benefit supplement account balance, Ed §22101.5
Accumulated retirement contributions, Ed §22102
Accumulated tax-sheltered annuity contributions, Ed §22103
Active members, Ed §22146
Actuarial equivalent, Ed §22104
Cash balance benefit program, Ed §26101
Public pension and retirement systems, Ex Gov §7513.97
Actuary, Ed §22104.5
Cash balance benefit program, Ed §26102
Additional earnings credit, Ed §22104.7
Cash balance benefit program, Ed §26103
Administrative actions
Public utilities commission proceedings, Ex Gov §82002
Administrative costs
Cash balance benefit program, Ed §26104
Administrators
Community college employees, Ex Ed §87002
Affiliated service group
Income tax, federal, Ex 26 USC §414
All school districts, Ex Ed §80
Annuitant reserve, Ed §22104.9
Cash balance benefit program, Ed §26105
Annuity, Ed §22105
Cash balance benefit program, Ed §26106
Annuity beneficiary, Ed §22105.5
Annuity contracts
Annuity contract and custodial accounts, contracting for services, Ed §24953
Community college employees, contracting with third-party administrators, Ex Ed §87040.5
Third party administrator, contracting with, Ex Ed §44041.5
Annuity deposit contributions, Ed §22106
Any school district, Ex Ed §80
Applicability, Ed §22100
Awarding body
Iran Contracting Act of 2010, Ex PubCon §2202
Base days, Ed §22106.1
Base hours, Ed §22106.2
Basic sick leave days, Ed §22170.5

DEFINITIONS—Cont'd
Basis of employment, Ed §22106.5
Cash balance benefit program, Ed §26107
Beneficiary, Ed §22107
Cash balance benefit program, Ed §26108
Health care benefits program, Ed §25910
Public pension and retirement systems, Ex Gov §7513.97
Benefits, Ed §22108
Board, Ed §22109
Cash balance benefit program, Ed §26109
Placement agents, regulation, Ex Gov §7513.8
Break in service, Ed §22109.5
California desert
School land bank, PubRes §8721
California service, Ed §22110
Cash balance plan
Cash balance benefit program, Ed §26112
Cause
Community college employees, classified, Ex Ed §88001
Certificated, Ed §22110.5; 5 CCR §20500
Certificated employees
Health and welfare benefits, Ex Ed §7004
Certificates, Ed §22110.2
Chairperson, 5 CCR §20500
Change in placement
Pupil rights and responsibilities, state special schools, Ex Ed §48927
Children's portion, Ed §22111
Child's portion, Ed §22111
Church plan
Income tax, federal, Ex 26 USC §414
City and county, Ed §22118
Classification
Community college employees, classified, Ex Ed §88001
Classified administrators
Community college employees, Ex Ed §87002
Class of employees, Ed §22112.5
Cash balance benefit program, Ed §26112.5
Commission
School land bank, Ex PubRes §8702
Committee
Political reform, Ex Gov §82013
Comparable level positions, Ed §22113
Compensation
Income tax, federal, Ex 26 USC §414
Compensation earnable, Ed §22115
Concurrent membership, Ed §22115.2
Concurrent retirement, Ed §22115.5
Contribution rate for additional service credit, Ed §22117
County, Ed §22118
County board of education
Pupil rights and responsibilities, state special schools, Ex Ed §48927
County superintendent, Ed §22119
Credentials, Ed §22110.2; 5 CCR §20500
Creditable compensation, Ed §22119.2
Employer and state contributions, Ed §22955.5
Creditable service, Ed §22119.5
Cash balance benefit program, Ed §26113
Credited interest, Ed §22120
Credited service, Ed §22121
Custodial accounts
Annuity contract and custodial accounts, contracting for services, Ed §24953
Community college employees, contracting with third-party administrators, Ex Ed §87040.5
Third party administrator, contracting with, Ex Ed §44041.5
Custodians, Ed §22122
Days of service for classes of employees, Ed §22112.6
Death benefits
Cash balance benefit program, Ed §26114
Death payment, Ed §22122.4
Deferred compensation plans
Community college employees, contracting with third-party administrators, Ex Ed §87040.5
Third party administrator, contracting with, Ex Ed §44041.5
Defined benefit formula
Public Pension Reform Act of 2013, Ex Gov §7522.04
Defined benefit plan
Income tax, federal, Ex 26 USC §414
Defined benefit program, Ed §22122.5
Cash balance benefit program, Ed §26115
Defined benefit supplement contributions, Ed §22122.7
Defined contribution plan
Income tax, federal, Ex 26 USC §414
Demotions
Community college employees, classified, Ex Ed §88001
Dependent child
Disability allowance and family allowance programs, Ed §22123
Disability retirement and survivor benefit allowance programs, Ed §22123.5
Health care benefits program, Ed §25915
Dependent parents, Ed §22124
Health care benefits program, Ed §25920
Determination of final compensation, Ed §22134.5
Disability, Ed §22126
Disability allowance, Ed §22127
Disability benefits, Ed §22127.2
Cash balance benefit program, Ed §26116
Disability date
Cash balance benefit program, Ed §26117
Disabled, Ed §22126
Disabled members, Ed §22146
Disciplinary actions
Community college employees, classified, Ex Ed §88001
Early retirement, Ed §22128
Early retirement age, Ed §22128
Educational administrators
Community college employees, Ex Ed §87002
Educational institutions, Ed §22129
Effective date, Ed §22130

DEFINITIONS—Cont'd
Election cycle
Political reform, Ex Gov §85204
Elective office
Political reform, Ex Gov §82023
Elective state office
Political reform, Ex Gov §82024
Emergency meetings, 5 CCR §20500
Employed, Ed §22132
Cash balance benefit program, Ed §26126
Employee accounts
Cash balance benefit program, Ed §26119
Employee contribution rates
Cash balance benefit program, Ed §26120
Employee contributions
Cash balance benefit program, Ed §26121
Public Pension Reform Act of 2013, Ex Gov §7522.04
Employees
Cash balance benefit program, Ed §26118
Employees of controlled group of corporations
Income tax, federal, Ex 26 USC §414
Employees of partnerships, proprietorships, etc, under common control
Income tax, federal, Ex 26 USC §414
Employer accounts
Cash balance benefit program, Ed §26123
Employer contribution rates
Cash balance benefit program, Ed §26124
Employer contributions
Cash balance benefit program, Ed §26125
Employers, Ed §22131
Cash balance benefit program, Ed §26122
Health care benefits program, Ed §25921
Third party administrator, contracting with, Ex Ed §44041.5
Employing agencies, Ed §22131
Employment, Ed §22132
Cash balance benefit program, Ed §26126
Energy sector
Iran Contracting Act of 2010, Ex PubCon §2202
Excess sick leave days, Ed §22170.5
External managers
Placement agents, regulation, Ex Gov §7513.8
Political reform, Ex Gov §82025.3
Family allowance, Ed §22133
Federal system
Public Pension Reform Act of 2013, Ex Gov §7522.04
Final benefit, Ed §22133.5
Final compensation, Ed §22134
Classroom teachers, Ed §22135
Managerial or supervisory employees, Ed §22137
Reduced salary, Ed §22136
Final vesting, Ed §22138
Financial institution
Iran Contracting Act of 2010, Ex PubCon §2202
Financially dependent
Disability allowance and family allowance programs, Ed §22123
Disability retirement and survivor benefit allowance programs, Ed §22123.5
Health care benefits program, Ed §25915
403(b) product or 403(b) products
Vendor registration and information bank, Ed §25100
Full-time
Community colleges, minimum standard, Ed §22138.5
K to 12, minimum standard, Ed §22138.5
Full-time basis, Ed §22106.5
Full-time equivalent, Ed §22138.6
Cash balance benefit program, Ed §26127
Fund
Cash balance benefit program, Ed §26128
Health care benefits program, Ed §25923
School land bank, Ex PubRes §8702
Gain and loss reserve, Ed §22139.5
Cash balance benefit program, Ed §26129
Governing board
Pupil rights and responsibilities, state special schools, Ex Ed §48927
Governing board of each school district
Pupil rights and responsibilities, state special schools, Ex Ed §48927
Governmental plan
Income tax, federal, Ex 26 USC §414
Highly compensated employee
Income tax, federal, Ex 26 USC §414
Improvement factor, Ed §22140
Increase of minimum unmodified allowance, Ed §22141
Inactive members, Ed §22146
Indexed final compensation, Ed §22142
Individualized education program team
Pupil rights and responsibilities, state special schools, Ex Ed §48927
Investment activities
Iran Contracting Act of 2010, Ex PubCon §2202.5
Investment advisers, Ed §22143
Investment earnings
Cash balance benefit program, Ed §26130
Investment managers, Ed §22143
Investment transactions, Ed §22144
Iran
Iran Contracting Act of 2010, Ex PubCon §2202
Late contribution
Political reform, Ex Gov §82036
Late independent expenditure
Political reform, Ex Gov §82036.5
Layoff for lack of funds
Community college employees, classified, Ex Ed §88001
Layoff for lack of work
Community college employees, classified, Ex Ed §88001
Liability gains and losses, Ed §22144.5
Lobbyist
Political reform, Ex Gov §82039

DEFINITIONS—Cont'd
Local educational agency
Early warning program, Ex Ed §52055.57
Pupil rights and responsibilities, state special schools, Ex Ed §48927
Local systems, Ed §22145
Mandatory furloughs
Service credit, effect of mandatory furloughs, Ed §22708
Member
Public Pension Reform Act of 2013, Ex Gov §7522.04
Members, Ed §22146
Death benefits, active
Survivor benefits, Ed §23850
Disability allowance and family allowance programs, Ed §22123
Disability retirement and survivor benefit allowance programs, Ed §22123.5
Health care benefits program, Ed §25925
Membership, Ed §22146.5
Minimum interest rate, Ed §22146.7
Cash balance benefit program, Ed §26131
Month, Ed §22147
Multiemployer plan
Income tax, federal, Ex 26 USC §414
New employee
Public Pension Reform Act of 2013, Ex Gov §7522.04
New member
Public Pension Reform Act of 2013, Ex Gov §7522.04
Nonmember registered domestic partner
Community property, Ed §22651
Defined benefit supplement program purposes, Ed §25000.9
Nonmember spouse
Community property, Ed §22651
Defined benefit supplement program, Ed §25000.9
Nonparticipant registered domestic partners, Ed §27401
Nonparticipant spouse
Cash balance benefit program, community property, Ed §27401
Nonqualified service, Ed §22147.5
Normal cost
Public Pension Reform Act of 2013, Ex Gov §7522.04
Normal retirement, Ed §22148
Normal retirement age, Ed §22148
Offspring
Disability allowance and family allowance programs, Ed §22123
Disability retirement and survivor benefit allowance programs, Ed §22123.5
Health care benefits program, Ed §25915
Option beneficiary, Ed §22149
Other public systems, Ed §22150
Overtime, Ed §22151
Parent, Ed §22152
Participants
Cash balance benefit program, Ed §26132
Part-time basis, Ed §22106.5
Pay period, Ed §22154
Cash balance benefit program, Ed §26133
Payroll, Ed §22155
Permanent
Community college employees, classified, Ex Ed §88001
Permanent reservation
Lieu lands, Ex PubRes §7401
Person
Iran Contracting Act of 2010, Ex PubCon §2202
Placement agents, regulation, Ex Gov §7513.8
Placement agents, Ex Gov §7513.8
Political reform, Ex Gov §82047.3
Plan, Ed §22155.5
Cash balance benefit program, Ed §26134
Plan administrators
Income tax, federal, Ex 26 USC §414
Plan vesting, Ed §22156
Plan year, Ed §22156.05
Cash balance benefit program, Ed §26135
Present value, Ed §22156.1
Present value factor, Ed §22156.2
Prior year's compensation earnable, Ed §22156.5
Projected final compensation, Ed §22157
Projected service, Ed §22158
Proof of death, Ed §22159
Provisional vesting, Ed §22160
Public agency
Federal old age and survivors insurance, Ex Gov §22009.03
Public employee
Public Pension Reform Act of 2013, Ex Gov §7522.04
Public employer
Public Pension Reform Act of 2013, Ex Gov §7522.04
Public retirement system
Public Pension Reform Act of 2013, Ex Gov §7522.04
Public schools, Ed §22161
Qualified domestic relations orders
Income tax, federal, Ex 26 USC §414
Qualified military service, Ed §22161.3
Quasi-legislative proceeding
Public utilities commission proceedings, Ex Gov §82002
Ratemaking proceeding
Public utilities commission proceedings, Ex Gov §82002
Reclassification
Community college employees, classified, Ex Ed §88001
Refunds, Ed §22161.5
Registered domestic partners, Ed §22007.5, 22171
Cash balance plan purposes, Ed §26002.5
Regular
Community college employees, classified, Ex Ed §88001
Regular interest, Ed §22162
Regular meeting, Ed §22162.5; 5 CCR §20500
Reinstatement, Ed §22163
Replacement benefits program, Ed §22164
Retired member activities
Teachers' retirement system, Ed §22164.5
Retired members, Ed §22146

DEFINITIONS—Cont'd
Retirement, Ed §22165
Cash balance benefit program, Ed §26136
Retirement allowance, Ed §22166
Retirement benefit, Ed §22166.5
Cash balance benefit program, Ed §26137
Retirement date
Cash balance benefit program, Ed §26138
Retirement fund, Ed §22167
Retirement systems
Federal old age and survivors insurance, Ex Gov §22009.1
Return on investments, Ed §22168
Salary
Cash balance benefit program, Ed §26139
Public pension and retirement systems, Ex Gov §7513.97
School district
Health and welfare benefits, Ex Ed §7004
Pupil rights and responsibilities, state special schools, Ex Ed §48927
School land
School land bank, Ex PubRes §8702
School year, Ed §22169
Health care benefits program, Ed §25926
Service, Ed §22170
Service for predecessor employer
Income tax, federal, Ex 26 USC §414
Service in the uniformed services
USERRA, benefits for reemployed members, Ed §22850
Cash balance benefit program, Ed §28000
Sick leave days, Ed §22170.5
Special meetings, 5 CCR §20500
Spouse, Ed §22171
Cash balance benefit program, Ed §26140
Health and welfare benefits, Ex Ed §7004
Stakeholder
Local educational agencies early warning program, Ex Ed §52055.57
Superintendent
Pupil rights and responsibilities, state special schools, Ex Ed §48927
Superintendent of schools of the governing board
Pupil rights and responsibilities, state special schools, Ex Ed §48927
Survivor allowance, Ed §22172
Survivor benefit allowance, Ed §22173
System, Ed §22174
Cash balance benefit program, Ed §26142
Temporary reservation
Lieu lands, Ex PubRes §7401
Termination benefit, Ed §22176
Cash balance benefit program, Ed §26143
Third-party administrators
Annuity contract and custodial accounts, contracting for services, Ed §24953
Community college employees, contracting with third-party administrators, Ex Ed §87040.5
Contracting with third-party administrators, Ex Ed §44041.5
Total and permanent disability
Cash balance benefit program, Ed §26144
Trustee
School land bank, Ex PubRes §8702
Trustee service
Cash balance benefit program, Ed §26144.5
Unforeseen emergency condition, 5 CCR §20500
Unfunded actuarial obligation, Ed §22177
Cash balance benefit program, Ed §26145
Uniformed services
USERRA, benefits for reemployed members, Ed §22850
Cash balance benefit program, Ed §28000
Unmodified pension or retirement allowance
Public pension and retirement systems, Ex Gov §7513.97
Vendors
Vendor registration and information bank, Ed §25100
Vice chairman, 5 CCR §20500

DELINQUENCY
Cash balance benefit program
Contributions
Payments by employer, Ed §26303
Penalty or interest assessed, appeal, Ed §26303.5
Contributions
Appeal of assessed penalties or interest, Ed §23010
Interest, Ed §23003
Penalties, Ed §23003
When due, payable and delinquent, Ed §23002

DENIAL OF BENEFITS, Ed §28005

DENTAL COVERAGE
Health and welfare benefits generally, Ex Ed §7000 to 7008. (*See* **HEALTH AND WELFARE BENEFITS**)

DEPENDENTS
Board
Information requests
Information provided to board, 5 CCR §21023
Power of board, Ed §22207
Death benefits, active
Family allowance
Parents claiming benefits
Dependency determinations, Ed §23805.5
Survivor benefits
Dependent children, Ed §23852
Eligibility of dependent children, Ed §23856
Definition of dependent child
Disability allowance and family allowance programs, Ed §22123
Disability retirement and survivor benefit allowance programs, Ed §22123.5
Health care benefits program, Ed §25915
Disability allowance
Reduction
Dependent children becoming ineligible, Ed §24009

DEPENDENTS—Cont'd
Disability retirement
Reduction of allowance
Dependent children becoming ineligible, Ed §24108
Financially dependent defined
Disability allowance and family allowance programs, Ed §22123
Disability retirement and survivor benefit allowance programs, Ed §22123.5
Health care benefits program, Ed §25915
Information provided to board, 5 CCR §21023
Parents
Definition of dependent parents, Ed §22124
Health care benefits program, Ed §25920

DIRECT DEPOSIT
Authorized, Ex Gov §21267
Methods of deposit in account, Ed §24604
Public pensions and retirement plans, general regulation
Direct deposit to financial institution, Ex Gov §7505, 7506
Agreements, Ex Gov §7506.5

DISABILITY ALLOWANCE, Ed §24001 to 24018
Accommodation allowing for employment
Board may require member to request, Ed §24003
Amount, Ed §24006
Application for allowance, Ed §24001
Conditions, Ed §24002
Time for application, Ed §24002
Benefit maintenance
Applicability of benefit improvement factor, Ed §24402
Cancellation
Credits on cancellation of allowances accrued after July 1, 1972, Ed §22328
Cash balance benefit program
Disability benefits under program, Ed §26900 to 26911. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Checks, payment, Ed §22318
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322
Credited service
Calculation of allowance on credited service, Ed §24007
Defined benefit supplement program
Disability benefits, Ed §25016 to 25019
Dependent children
Ineligibility
Reduction of allowance upon children becoming ineligible, Ed §24009
Earnings of recipient of disability benefits
Disclosure, Ed §22327
Excessive earnings
Effect on allowance, Ed §24016
Rehabilitation program participants, Ed §24017
Income limits to retain allowance, Ed §24015
Effective date of allowance, Ed §24005
Eligibility for allowance, Ed §24001
Employee organizations
Officers
Eligibility for allowance, Ed §24001.5
Employment of disabled member
Creditable service, performance of
Effect on allowance, Ed §24014
Income limits to retain allowance, Ed §24015
Last day of service
Notice, Ed §24005
Limitation of allowance, Ed §24004
Medical documentation, Ed §24003
Medical examinations
Requiring examination, Ed §24003, 24013
Notice of last day of service, Ed §24005
Recurrence of original disability, Ed §24018
Reduction
Dependent children becoming ineligible, Ed §24009
Other systems, benefits under, Ed §24010
Rehabilitation
Earnings of recipient of disability benefits
Excessive earnings
Participants in rehabilitation program, Ed §24017
Requirement to participate in rehabilitation, Ed §24012
Return to work
Recurrence of original disability, Ed §24018
Substance abuse
Limitation of allowance, Ed §24004
Time for application, Ed §24002
Treatment of disability
Requirement to pursue treatment, Ed §24011

DISABILITY ALLOWANCE AND DISABILITY RETIREMENT
Earnings of recipient of disability benefits
Disclosure, Ed §22327

DISABILITY ALLOWANCE TO SERVICE RETIREMENT
Termination of disability allowance upon retirement age, Ed §24213

DISABILITY RETIREMENT, Ed §24100 to 24119
Applicability of provisions, Ed §24100
Application for disability retirement, Ed §24101
Time for application, Ed §24102
Benefit maintenance
Applicability of benefit improvement factor, Ed §24402
California state university
Employment of retired employees
Applicable employment limitations, Ed §24116
Cash balance benefit program
Disability benefits under program, Ed §26900 to 26911. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Checks, payment, Ed §22318
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322
Composition of allowance, Ed §24106
Defined benefit supplement program
Disability benefits, Ed §25016 to 25019
Dependent children
Ineligibility
Reduction of allowance upon children becoming ineligible, Ed §24108

DISABILITY RETIREMENT—Cont'd
Earnings of recipient of disability benefits
Disclosure, Ed §22327
Limitation on earnings, Ed §24114
Effective date, Ed §24105
Eligibility, Ed §24101
Employee organizations
Officers, service as, Ed §24101.5
Employee organizations
Officers, service as
Ineligibility, Ed §24101.5
Employment of retired members
California state university
Applicable employment limitations, Ed §24116
Creditable service performed
Effect of employment, Ed §24113
Earnings limitation, Ed §24114
Last day of service
Notice of last day of service, Ed §24105
Limitation of retirement period, Ed §24104
Medical documentation of impairment, Ed §24103
Medical examinations
Requiring examination, Ed §24103, 24112
Modification of allowance
Options, Ed §24107
Notice of last day of service, Ed §24105
Options
Modification of allowance, Ed §24107, 24301
Pre-1972 benefits, Ed §23400, 23401
Medical examination, Ed §23401
Reduction of allowance, Ed §23400
Recurrence of original disability, Ed §24119
Reduction of allowance
Dependent children becoming ineligible, Ed §24108
Workers' compensation benefits, Ed §24109
Rehabilitation
Requiring participation in rehabilitation, Ed §24111
Return to work
Recurrence of original disability, Ed §24119
Substance abuse
Limitation of retirement period, Ed §24104
Termination of allowance, Ed §24117
Credits to member's accounts, Ed §24118
Service retirement following prior terminated disability retirement, Ed §24210
Treatment
Requiring treatment of impairment, Ed §24110
Workers' compensation
Reduction of allowance, Ed §24109

DISCHARGE OF MEMBERS
Cash balance benefit program
Termination benefits, Ed §27200 to 27207
Contributions
Refunds
Events triggering refund, Ed §23100
Certification of termination of employment, Ed §23102
Defined benefit supplement program
Termination benefits, Ed §25024 to 25025
Notice to board, Ed §22457
Probationary employees
Reduction in employees
Rights of terminated employees, Ex Ed §44957

DISSOLUTION OF MARRIAGE
Community property
Cash balance benefit program, Ed §27400 to 27413. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Generally, Ed §22650 to 22666. (*See* **COMMUNITY PROPERTY**)
Option elections
Cancellation of options, Ed §24305

DIVORCE
Community property
Cash balance benefit program, Ed §27400 to 27413. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Generally, Ed §22650 to 22666. (*See* **COMMUNITY PROPERTY**)
Option elections
Cancellation of options, Ed §24305

DOMESTIC PARTNERS
Cash balance benefit program
Community property
Nonparticipant spouse, treatment of domestic partner as, Ed §27401
Spouse includes registered domestic partner, Ed §26002.5, 26140
Defined benefit supplement program
Community property interest of partner or former partner
Treatment of partner as nonmember spouse, Ed §25000.9
Option elections
Unmarried retirees
Marriage or registration of domestic partnership
Authority to elect, Ed §24300.6
Spouses, treatment as, Ed §22007.5
Termination, nullity, etc, of domestic partnership
Community property
Cash balance benefit program, Ed §27400 to 27413. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Generally, Ed §22650 to 22666. (*See* **COMMUNITY PROPERTY**)

E

EARLY RETIREMENT
Credit for additional years to encourage retirement, Ex Ed §44929
Community college employees, Ex Ed §87488
Incentives to encourage retirement, Ed §22714, 22715
Service retirement, Ed §24203
Partial allowance with reversion to full allowance for normal retirement age, Ed §24205

EARLY RETIREMENT LIMITED TERM REDUCTION PROGRAM, Ed §24205

EARNINGS LIMITATION
Effect of employment on disability allowance, Ed §24015
Reduction of disability retirement allowance, Ed §23400

EDUCATION LEAVE
Service credit
Computation
Accumulated and unused leave, Ed §22717.5

ELECTION OF AN OPTION; NEW SPOUSE, Ed §24300.6

ELECTION OF DISABILITY AND DEATH BENEFIT COVERAGE, Ed §23700 to 23706
Acknowledgment of receipt of election, Ed §23705
Effective date of new programs, Ed §23700
Eligibility, Ed §23702
Failure to file election
Effect, Ed §23706
Requirements of election, Ed §23703
Signature by spouse
Refusal, Ed §23704
Time for election, Ed §23701

ELECTION OF OPTIONS
Options generally, Ed §24300 to 24313. (*See* **OPTION ELECTIONS**)

ELECTION OF RETIREMENT SYSTEM, Ed §22508, 22508.5; Ex Gov §20309
County employees retirement law
Transfer of membership to teachers' retirement system, Ex Gov §31565
Notice of right to elect, Ed §22509
Procedure to effect election, Ed §22509
Public employees' retirement system (PERS)
Transfer to PERS, Ed §22510
Continuity of service, effect of transfer, Ed §22512
Effect of electing not to transfer, Ed §22511
Nonvested members, tacking of service to attain vested status, Ed §22514
Vested members, retention of survivor and disability benefits, Ed §22513
Service credit
Permissive and additional service credit
Coverage elected, Ed §22801.5
Subsequent employment, Ed §22508.6; Ex Gov §20309.5

ELECTIONS
Board, election to
Campaign statements for candidates, Ed §22227
Generally, Ed §22200.5; 5 CCR §24000 to 24009. (*See* **BOARD**)
Campaign contributions and investment relationships
Campaign disclosures generally, Ex Gov §84200.5 to 84225
Generally, 5 CCR §24010 to 24013. (*See* **CAMPAIGN CONTRIBUTIONS AND INVESTMENT RELATIONSHIPS**)
Political reform generally, Ex Gov §82002 to 87314
Political reform, Ex Gov §82002 to 87314
Applicability of political reform provisions to retirement board elections, Ex Gov §84225
Campaign disclosures
Committee organization, Ex Gov §84101
Filing of campaign statements, Ex Gov §84200.5 to 84225
Copies to be filed, Ex Gov §84215
Preelection statements, Ex Gov §84200.5, 84200.9
Conflicts of interest
Investment management by public officials, Ex Gov §87314
Definitions, Ex Gov §82002 to 82047.3
Election cycle, Ex Gov §85204

ELECTRONIC FUNDS TRANSFERS (EFT)
Direct deposit generally. (*See* **DIRECT DEPOSIT**)
Methods of deposit in account, Ed §24604

ELIGIBILITY REQUIREMENTS
Disability allowance, application, Ed §24001
Disability retirement, application, Ed §24101

EMBEZZLEMENT
Public officers and employees
Forfeiture of rights under retirement system, Ex Gov §7522.70

EMINENT DOMAIN
Headquarters of system
Condemnation to purchase selected property, Ed §22378
School land bank, Ex PubRes §8703

EMPLOYEE AND EMPLOYER CONTRIBUTIONS
Cash balance benefit program
USERRA, benefits for reemployed members
Computation of salary during military service, Ed §28003

EMPLOYEE CONTRIBUTIONS, Ed §22900 to 22909. (*See* CONTRIBUTIONS)

EMPLOYEE LEASING
Income tax, federal, Ex 26 USC §414

EMPLOYEE ORGANIZATIONS
Disability allowance or retirement
Officers of employee organizations
Eligibility for allowance, Ed §24001.5
Leaves of absence for service as officer, Ex Ed §44987
Service credit
Inclusion of service, Ed §22711
Meeting and negotiating in public educational employment
Definitions, Ex Gov §3540.1
Service credit
Leave to serve as elected officer
Inclusion of service, Ed §22711

EMPLOYER PICK-UP OF EMPLOYEE CONTRIBUTIONS
Cash balance benefit program, Ed §26502

EMPLOYERS/EMPLOYING AGENCIES
Beneficiaries
Information affecting status
Employing agency and county superintendent to supply, Ed §22455
Board
Regulation by board, Ed §22213
Cash balance benefit program
Accounts, employee and employer, Ed §26600 to 26607
Agreement with retirement system to provide program, Ed §26000.5
Change of status of employee
Report by employer, Ed §26304
Compensation of employees
Information to be provided by employer, Ed §26305
Contributions
Accounts, employee and employer
Credits to accounts, Ed §26602
Adjustment of employer contribution rate, Ed §26507
Amount, Ed §26503, 26503.5
Collective bargaining agreement to determine, Ed §26504
Assessment of interest of late contributions, 5 CCR §27008
Correction of erroneous contribution amounts, employer duty, Ed §26302
Deduction and remission of employee contributions, duty of employer, Ed §26301.5
Definition of employer contributions, Ed §26125
Late contributions, 5 CCR §27006
Penalty or interest assessed, appeal, Ed §26303.5
Rates
Definition of employer contribution rates, Ed §26124
Reports by employers, Ed §26301
Time to transmit contributions, Ed §26303
USERRA, benefits for reemployed members, Ed §28002
Correction of erroneously reported information, Ed §26302
Definition of employer, Ed §26122
Election to provide benefits, Ed §26000.6
Employer accounts
Defined, Ed §26123
Reports
Acceptable report, 5 CCR §27002
Assessment of penalties for late reports, 5 CCR §27004
Monthly reports format, 5 CCR §27000
Responsibilities of employers and participants, Ed §26300 to 26306
Right to administrative hearing, 5 CCR §27009
Certificated persons to be employed, Ex Ed §44830
Sojourn certificated employees, Ex Ed §44856
Contributions
Cash balance benefit program. (*See* within this heading, "Cash balance benefit program")
Employee contributions
Employer payment of employee contributions, Ed §22909
Pick-up of contributions to defer taxes, Ed §22903
Employer and state contributions
Collection and reporting procedures, Ed §23000 to 23010. (*See* **CONTRIBUTIONS**)
Generally, Ed §22950 to 22956. (*See* **CONTRIBUTIONS**)
Deferred compensation plans
Adoption of plan, Ed §24975
Defined, Ed §22131
Defined benefit program
Contributions
Assessment of interest of late contributions, 5 CCR §27007
Late contributions, 5 CCR §27005
Reports
Acceptable report, 5 CCR §27001
Assessment of penalties for late reports, 5 CCR §27003
Monthly reports format, 5 CCR §27000
Right to administrative hearing, 5 CCR §27009
Fiduciary duty towards members and beneficiaries
Credit enhancement for employer instruments, Ed §22260
Surplus property of employers
Investments by board, Ed §22261
Health care benefits program
Definition of employers, Ed §25921
Interns
Employment of district interns, Ex Ed §44830.3
Members
Coverage by qualified retirement plan
Employer to provide opportunity for membership, Ed §22455.5
Failure to provide information or to pay amounts due
Withholding salary, Ed §22459
Information affecting status
Compensation, Ed §22458
Contents of information provided by employers, Ed §22456
Death, employment, resignation or discharge
Notice to board, Ed §22457
Employing agency and county superintendent to supply, Ed §22455
Failure to provide information or to pay amounts due
Withholding salary, Ed §22459
Military service
USERRA, benefits for reemployed members
Contributions, employer liability, Ed §22852
Service credit
Sick leave
Accumulated and unused leave
Billing employers, Ed §22718
Third-party employers, Ed §24214

ERRORS OR OMISSIONS
Correction of errors or omissions, Ed §22308

ESTABLISHMENT OF SYSTEM, Ed §22001

EXCEPTION TO PROBATE CODE
Request for death payments and return of contributions, Ed §23853, 23882
Time benefit to be paid, Ed §27001
Time of payment, Ed §23803

EXCESS SICK LEAVE, Ed §22718

EXCHANGE TEACHERS
Exclusions from membership
Out of state exchange or sojourn teachers, Ed §22601
Service credit
Inclusion of service, Ed §22712

EXCLUSION FROM PARTICIPATION IN CASH BALANCE BENEFIT PROGRAM, Ed §27403

EXCLUSION OF SICK LEAVE SERVICE BENEFITS FROM FINAL COMPENSATION, Ed §22720

EXCLUSIONS FROM MEMBERSHIP, Ed §22601 to 22604
Exchange teachers from out of state, Ed §22601
Part-time employees, Ed §22601.5
Hourly or daily basis, Ed §22604
Persons not excluded, Ed §22516
Sojourn teachers from out of state, Ed §22601
Substitute employees, Ed §22602

EXEMPTIONS FROM LEGAL PROCESS
Annuity, allowance, contribution returns, etc, Ed §22006
Cash balance benefit program
Rights to benefits not subject to execution or assignment, Ed §26701

EXTORTION
Public officers and employees
Forfeiture of rights under retirement system, Ex Gov §7522.70

F

FAMILY ALLOWANCE
Death benefits, active
Election of disability and death benefit coverage, Ed §23700 to 23706
Generally, Ed §23800 to 23812. (*See* **DEATH BENEFITS, ACTIVE**)

FEDERAL LAW REFERENCED
No Child Left Behind Act
Local educational agency intervention
Early warning program, Ex Ed §52055.57, 52055.59

FEDERAL OLD AGE AND SURVIVORS INSURANCE
Administrative costs
Reimbursements, Ex Gov §22560
Agreements for coverage
Application made by public agency, Ex Gov §22202
Board and public agency, agreement between, Ex Gov §22203
Division of retirement system
Modification of transfer agreement, Ex Gov §22155
Referendum provisions inapplicable, Ex Gov §22308
Execution, Ex Gov §22201
Inclusion of employees in groups covered
Formal application, Ex Gov §22208
Referendum for specified employees, Ex Gov §22302
Benefit payments, Ex 42 USC §402
Computation of insurance amount, Ex 42 USC §415
Division of retirement system, Ex Gov §22150
Modification of transfer agreement, Ex Gov §22155
Referendum provisions inapplicable, Ex Gov §22308
Husband's benefits, Ex 42 USC §402
Medicare coverage
Teachers' retirement plan, coverage through, Ex Gov §22156
Parent's benefits, Ex 42 USC §402
Public agencies
Agreements for coverage
Application made by public agency, Ex Gov §22202
Board and public agency, agreement between, Ex Gov §22203
Defined, Ex Gov §22009.03
Retirement system
Defined, Ex Gov §22009.1
Division of retirement system, Ex Gov §22150
Simultaneous entitlement to benefits, Ex 42 USC §402
Widower's benefits, Ex 42 USC §402
Widow's benefits, Ex 42 USC §402
Wife's benefits, Ex 42 USC §402

FIDUCIARY DUTY TOWARDS MEMBERS AND BENEFICIARIES, Ed §22250 to 22261
Assets
Purposes for which held, Ed §22251
Board's responsibility to act for members and beneficiaries, Ed §22250
Bonds, surety for board members, officers and employees, Ed §22259
Conflicts of interest, Ed §22253
Consideration
Adequate consideration required for transactions, Ed §22252
Employers/employing agencies
Credit enhancement for employer instruments, Ed §22260
Surplus property
Investments by board, Ed §22261
Insurance
Liability insurance for fiduciaries, Ed §22259
Appropriation, Ed §22258
Loans
Security, Ed §22252
Personal liability for breach, Ed §22254
Bases of personal liability, Ed §22256
Investment managers liability
Imputation to board members or officers, Ed §22257

FIDUCIARY DUTY TOWARDS MEMBERS AND BENEFICIARIES—Cont'd
Personal liability for breach—Cont'd
Scope of liability, Ed §22255
Prohibited transactions, Ed §22252

FINAL BENEFIT, Ed §25020

FINANCIAL INSTITUTIONS
Investments
Custodian services
Bank or trust company providing, Ed §22359
Mail to financial institution
Methods of deposit in account, Ed §24604
Privacy between customers and institutions
Permissible disclosures, Ex Gov §7480
Public pensions and retirement plans, general regulation
Direct deposit to financial institution, Ex Gov §7505, 7506
Agreements, Ex Gov §7506.5
Investments
International financial institutions, obligations of, Ex Gov §7514.1
Savings and loan associations
Deposits with associations in exchange for residential construction loans, Ex Gov §7520

FINANCING OF DEFINED BENEFIT PROGRAM
Legislative findings and intent, Ed §22002

FIVE-YEAR RULE
Cash balance benefit program
Termination benefits
Application for benefit
Multiple applications, time between, Ed §27203

403(B) PLANS
Annuity contract and custodial accounts generally, Ed §24950 to 24953. (*See* **ANNUITY CONTRACT AND CUSTODIAL ACCOUNTS**)
Vendor registration and information bank generally, Ed §25100 to 25115. (*See* **VENDOR REGISTRATION AND INFORMATION BANK**)

FREEDOM OF INFORMATION ACT
Exemption of public records from disclosure, Ex Gov §6254
Investments
Alternative investments invested in by public funds, Ex Gov §6254.26

FULL-TIME EMPLOYEES
Community colleges, minimum standard, Ed §22138.5
Full-time basis
Defined, Ed §22106.5
Full-time equivalent
Defined, Ed §22138.6
K to 12, minimum standard, Ed §22138.5
Status as members, Ed §22501

FUNDS, ESTABLISHMENT AND CONTROL, Ed §22400 to 22404

FUNERAL EXPENSES
Beneficiaries
Circumstances for payment, Ed §23303

FURLOUGHS
Service credit
Mandatory furloughs, effect, Ed §22708

G

GAIN AND LOSS RESERVE, Ed §25001

GENERAL REGULATION OF PUBLIC PENSIONS AND RETIREMENT PLANS, Ex Gov §7500 to 7514.5. (*See* PUBLIC PENSIONS AND RETIREMENT PLANS, GENERAL REGULATION)

GIFTS
School land bank, Ex PubRes §8716

H

HEADQUARTERS OF SYSTEM, Ed §22375 to 22380
Building account, Ed §22380
Condemnation to purchase selected property, Ed §22378
Excess building space
Authorizing of acquisition or improvements to provide, Ed §22376
Insuring building, Ed §22380
Permanent facility
Real property
Acquisition to establish permanent facility, Ed §22375
Public contract procedures, Ed §22379
State agency assistance
Contract for state agency assistance, Ed §22377

HEALTH AND WELFARE BENEFITS
Applicability of provisions, Ex Ed §7005
Conflict between provisions and existing regulations or contracts, Ex Ed §7003
Contacting retired employees and spouses
Not required, Ex Ed §7002.5
Definitions, Ex Ed §7004
Enrollment
Prerequisites, Ex Ed §7000.3
Retired employees and spouses, Ex Ed §7000
Exclusions from coverage, Ex Ed §7000.5
Medicare enrollment
Prerequisites, Ex Ed §7000.3
Preexisting conditions
Exclusions from coverage, Ex Ed §7000.5
Qualified organizations
Health benefits plan for qualified organizations, Ex Ed §7007
Vested right in benefits not created, Ex Ed §7002.5
Victims of violent act while in performance of job
Disabling injury
Continuing coverage under provisions while receiving other benefits, Ex Ed §7008

HEALTH CARE BENEFITS PROGRAM, Ed §25900 to 25955
Actuarial investigation and valuation, Ed §25933
Applicability of definitions, Ed §25901
Beneficiaries
Defined, Ed §25910
Costs
Source of payment, Ed §25900
Definitions, Ed §25900 to 25926
Dependent children
Defined, Ed §25915
Dependent parents
Defined, Ed §25920
Employers
Defined, Ed §25921
Financially dependent
Defined, Ed §25915
Legislative authorization, Ed §25900
Medicare premium payment program, Ed §25940 to 25955
Overpayments, recovery, Ed §25955
Part A premium payments, Ed §25940
Prescription drug program
Report to legislature, Ed §25950
Surcharges for Part A or Part B enrollment, Ed §25940
Members
Defined, Ed §25925
Offspring
Defined, Ed §25915
Prescription drug program
Report to legislature, Ed §25950
School year
Defined, Ed §25926
Teachers' health benefits fund, Ed §25930 to 25933
Actuarial investigation and valuation, Ed §25933
Administration of fund, Ed §25931
Appropriation of proceeds of fund to purposes of provisions, Ed §25930
Board control of fund, Ed §25931
Definition of fund, Ed §25923
Deposits, Ed §25930
Return on investments, Ed §25932
Established, Ed §25930
Plan
Defined, Ed §25933
Return on investments
Collection and deposit, Ed §25932

HEALTH INSURANCE
Study on providing benefits
Board to study, Ed §22226

HOME LOAN PROGRAM
Hundred percent residential financing, procedures to obtain, Ed §22360.5
Investments
Authorized investments, Ed §22360

HOME REPAIR OR REBUILDING
Natural disasters
Loans from retirement fund, Ed §22361

HUSBAND AND WIFE
Federal old age and survivors insurance
Benefits for husband and wife, Ex 42 USC §402
Signature of spouse on applications, Ed §22453
Refusal of spouse to sign, Ed §22454

I

INCOME TAX, CALIFORNIA
Advisement of tax liabilities, Ed §22314
Cash balance benefit program
Compliance with federal and state provisions, Ed §26001

INCOME TAX, FEDERAL
Advisement of tax liabilities, Ed §22314
Affiliated service groups, Ex 26 USC §414
Cash balance benefit program
Compliance with federal and state provisions, Ed §26001
Limitation on benefits, Ed §26004
USERRA, benefits for reemployed members, Ed §28006
Combination defined benefit plans and qualified cash or deferred arrangements
Special rules, Ex 26 USC §414
Contributions
Catch-up contributions, Ex 26 USC §414
Tax treatment of certain contributions, Ex 26 USC §414
Withdrawals from eligible automatic contribution arrangements, Ex 26 USC §414
Deferred compensation plans
Federal provisions, Ex 26 USC §457
Definitions, Ex 26 USC §414
Exempt organizations
Requirements for exemption, Ex 26 USC §503
Individual retirement accounts (IRA), Ex 26 USC §408
Leasing of employees, Ex 26 USC §414
Military service
Differential play for members on active duty, Ex 26 USC §414
USERRA, benefits for reemployed members
Effect of adverse tax consequences, Ed §22856
Qualified domestic relations orders, Ex 26 USC §414
Qualified pension, etc, plans, Ex 26 USC §401
Annuity plans
Taxation of employee annuities, Ex 26 USC §403
Beneficiaries of employees' trust
Taxability, Ex 26 USC §402
Limitation on benefits and contributions, Ex 26 USC §415
Merger or consolidation, Ex 26 USC §414
Transfer of assets of plans, Ex 26 USC §414
Replacement benefits program
Reduction of benefit pursuant to federal tax provisions
Restoration, Ed §24270
USERRA (Uniformed Services Employment and Reemployment Rights Act)
Special rules relating to reemployment rights, Ex 26 USC §414

INCREASE PROCEDURE (PRE-7/1/72 ALLOWANCES), Ed §24403

INDIVIDUAL RETIREMENT ACCOUNTS (IRA)
Income tax, federal, Ex 26 USC §408
Roth IRA
Administration, Ed §24950.5
Operating account
Deferred compensation plans, Ed §24976

INDUSTRIAL ACCIDENT AND ILLNESS LEAVE, Ex Ed §44984

INFLATION PROTECTION
Benefit maintenance generally, Ed §24400 to 24417; 5 CCR §26000. (*See* **BENEFIT MAINTENANCE AND PURCHASING POWER PROTECTION**)

INSURANCE
Fiduciary duty towards members and beneficiaries
Liability insurance for fiduciaries, Ed §22259
Appropriation, Ed §22258
Public pensions and retirement plans, general regulation
Insurance for system or fiduciary
Purchase of insurance, Ex Gov §7511

INSURANCE CODE §770.3
Applicability, Ed §25115

INTEREST
Cash balance benefit program
Minimum interest rate
Accounts, employee and employer
Credits to accounts, Ed §26601, 26602
Declaration of minimum interest rate, Ed §26604
Defined, Ed §26131
Contributions
Collection and reporting procedures
Incorrect contributions
Adjustments, Ed §23009
Delinquency, Ed §23003
Appeal of assessed penalties or interest, Ed §23010
Defined benefit supplement program
Declaration of rate, Ed §25005
Public pensions and retirement plans, general regulation
Loans made by systems, Ex Gov §7509

INTEREST PENALTY, Ed §22321

INTERNAL REVENUE CODE §415
Benefits subject to limitation, Ed §24275
Conflicts with, Ed §22824

INTERNS
Employment of district interns, Ex Ed §44830.3

INTERVENTION
Subrogation
Permissible activities under provisions, Ed §24502

INVESTMENT INFORMATION BANK
Vendor registration and information bank generally, Ed §25100 to 25115. (*See* **VENDOR REGISTRATION AND INFORMATION BANK**)

INVESTMENTS, Ed §22350 to 22364
Board
Authority of board over investments, Ed §22203
Investment officers and portfolio managers
Civil service appointment of investment officers, Ed §22212.5
Compensation for certain investment officers, Ed §22212.5
Departure from position, restrictions on subsequent employment, Ed §22212.5
Public disclosure of investment transactions, Ed §22203.5
Rollcall vote on investment decisions, Ed §22203.5
Campaign contributions and investment relationships
Campaign disclosures generally, Ex Gov §84200.5 to 84225
Generally, 5 CCR §24010 to 24013. (*See* **CAMPAIGN CONTRIBUTIONS AND INVESTMENT RELATIONSHIPS**)
Contracting for investment services, Ed §22352
Closed sessions to consider vendors and contractors, Ed §22363
Communications with interested parties, Ed §22364
Custodian services
Bank or trust company providing, Ed §22359
Freedom of Information Act
Exemption of public records from disclosure
Alternative investments invested in by public funds, Ex Gov §6254.26
Guidelines for board investments, Ed §22362
Home loan program
Authorized investments, Ed §22360
Hundred percent residential financing, procedures to obtain, Ed §22360.5
Investment advisers
Defined, Ed §22143
Separate individual advisers, Ed §22353
Legislation affecting investment strategy
Analysis of asset and liability implications, Ed §22330
Legislative findings and intent, Ed §22350, 22351
Managers
Definition of investment manager, Ed §22143
Duties of investment managers, Ed §22354
Fiduciary duty towards members and beneficiaries
Breach by investment manager
Imputation to board members or officers, Ed §22257
Natural disaster victims
Home repair or rebuilding
Loans from retirement fund, Ed §22361
Public employees' retirement system (PERS)
Board of administration
Investment staff of board serving teachers system, Ed §22355
Cooperation between PERS and teachers' retirement system, Ex Gov §7515
Confidentiality maintained while cooperating, Ex Gov §7516

INVESTMENTS—Cont'd
Public pensions and retirement plans, general regulation
Cooperation between PERS and teachers' retirement system, Ex Gov §7515
Confidentiality maintained while cooperating, Ex Gov §7516
Financial institutions
International financial institutions, obligations of, Ex Gov §7514.1
Foreign government guarantee of bonds or other debt, Ex Gov §7514
Iran
Public Divest from Iran Act, Ex Gov §7513.7
Northern Ireland, companies doing business in
Nondiscrimination, Ex Gov §7513.5
Real property, Ex Gov §7510
Sudan
Prohibition on investments in Sudan, Ex Gov §7513.6
Reduction of book value of securities, Ed §22356
Return on investments
Defined, Ed §22168
Deposits to teachers' retirement fund, Ed §22401
Surplus property
Employer surplus property
Board investments, Ed §22261
Vendors
Closed sessions to consider, Ed §22363
Communications with interested parties, Ed §22364
Vendor registration and information bank generally, Ed §25100 to 25115. (*See* **VENDOR REGISTRATION AND INFORMATION BANK**)

IRA (INDIVIDUAL RETIREMENT ACCOUNTS)
Income tax, federal, Ex 26 USC §408
Roth IRA
Administration, Ed §24950.5
Operating account
Deferred compensation plans, Ed §24976

IRAN
Public pensions and retirement plans, general regulation
Investments
Public Divest from Iran Act, Ex Gov §7513.7

IRAN CONTRACTING ACT OF 2010
Definitions, Ex PubCon §2202, 2202.5
Investment activities
Certification regarding, Ex PubCon §2204
Fines and civil penalties, Ex PubCon §2205
Defined, Ex PubCon §2202.5
Ineligibility to contract, Ex PubCon §2203
Legislative findings, Ex PubCon §2201
Preemption of local provisions, Ex PubCon §2206
Reports, Ex PubCon §2207
Severability of provisions, Ex PubCon §2208

J

JOINDER
Community property
Joinder of plan, Ed §22656
Cash balance benefit program, Ed §27407
Subrogation
Permissible activities under provisions, Ed §24502

JUDGMENTS
Clerical mistakes in court proceedings
Correction, Ex CCP §473

L

LAND BANK ACT
School land bank, Ex PubRes §8700 to 8723

LATE PAYMENTS
Interest on late payments, Ed §22322
Reporting, Ed §22322

LEASING OF EMPLOYEES
Income tax, federal, Ex 26 USC §414

LEAVES OF ABSENCE
Boards, commissions, etc, service on, Ex Ed §44987.3
Employee organizations, service as officer, Ex Ed §44987
Industrial accident and illness leave, Ex Ed §44984
Maternity leave, Ed §22803
Pregnancy and childbirth, Ex Ed §44965
Sick leave
Service credit, accumulated and unused leave, Ed §22717
Billing employers, Ed §22718
Chief executive officer, delegation of powers as to program, 5 CCR §23005
Excess days, determination, Ed §22724
Final compensation, effect on, Ed §22720
Payment for accumulated sick leave, effect on service credit, Ed §22721
Reinstated employees
Effect of reinstatement, Ed §22719
Study and travel, Ex Ed §44966
Compensation during leave, Ex Ed §44968, 44968.5
Default in service upon return, reduction in payment, Ex Ed §44970
Payment for leave time, manner, Ex Ed §44969
Service during leave, Ex Ed §44968
Time qualifications, Ex Ed §44967

LEGAL SEPARATION
Community property
Cash balance benefit program, Ed §27400 to 27413. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Generally, Ed §22650 to 22666. (*See* **COMMUNITY PROPERTY**)
Option elections
Cancellation of options, Ed §24305

LIENS
Subrogation
Permissible activities under provisions, Ed §24502

LIMITATION OF ACTIONS
Application of limitation periods, Ed §22008
Cash balance benefit program
Errors and omissions, adjustment
Limitations period, Ed §26702
Subrogation, Ed §24505

LIMITED-TERM DISABILITY BENEFIT COVERAGE A, Ed §24004

LIMITED-TERM DISABILITY BENEFIT COVERAGE B, Ed §24104

LOBBYIST REGISTRATION
Public pensions and retirement plans, general regulation
Definitions, Ex Gov §82039
Placement agent regulation, Ex Gov §7513.86
Contractual services provided by placement agent
Fees not prohibited, Ex Gov §86206
PUC proceedings as ratemaking and quasi-legislative, Ex Gov §82002

LOCAL SERVICE CREDIT, Ed §24751

LOCAL SYSTEMS
Los Angeles unified school district plan, Ed §24750, 24751
San Francisco local system, Ed §24700 to 24706

LONGEVITY BONUS, Ed §24203.6

LOS ANGELES UNIFIED SCHOOL DISTRICT PLAN, Ed §24750, 24751
Refunded contributions and refunded permanent fund contributions taken, Ed §24751
Refunded contributions for members with permanent fund contributions, Ed §24750

LOSS OF PAYMENT
Warrants
Duplicate warrant, issuance on proof of loss, Ed §24605

LUMP SUM PAYMENT, Ed §26905

M

MAIL
Methods of deposit in account, Ed §24604

MAINTENANCE OF BENEFITS, Ed §24400 to 24417; 5 CCR §26000. (*See* BENEFIT MAINTENANCE AND PURCHASING POWER PROTECTION)

MANDATORY FURLOUGHS
Service credit
Effect of mandatory furloughs, Ed §22708

MATERNITY LEAVE, Ed §22803

MEDICAL EXAMINATIONS
Disability allowance
Requiring examination, Ed §24003, 24013
Disability retirement
Pre-1972 benefits, Ed §23401
Requiring examination, Ed §24103, 24112

MEDICARE ENROLLMENT
Federal old age and survivors insurance
Teachers' retirement plan, Medicare coverage through, Ex Gov §22156
Health and welfare benefits
Enrollment
Prerequisites, Ex Ed §7000.3

MEDICARE PREMIUM PAYMENT PROGRAM, Ed §25940 to 25955. (*See* HEALTH CARE BENEFITS PROGRAM)

MEMBERS
Applications
Spouses
Signatures, Ed §22453
Refusal to sign, Ed §22454
Birth date
Proof, Ed §22451.5
Withholding benefit payments pending receipt of proof, Ed §22451.7
Changes in employment
Effect, Ed §22508
Election of retirement system, Ed §22508.5
Notice of right of election, Ed §22509
Procedure to effect election, Ed §22509
Subsequent employment, Ed §22508.6
Community property
Eligibility determinations, Ed §22665
Coverage by qualified retirement plan
Employer to provide opportunity for membership, Ed §22455.5
Duration of membership obligations, Ed §22007
Election of retirement system, Ed §22508.5
Notice of right to elect, Ed §22509
Procedure to effect election, Ed §22509
Subsequent employment, Ed §22508.6
Transfer to PERS, Ed §22510
Continuity of service, effect of transfer, Ed §22512
Effect of electing not to transfer, Ed §22511
Nonvested members, tacking of service to attain vested status, Ed §22514
Vested members, retention of survivor and disability benefits, Ed §22513
Exchange teachers
Exclusions from membership
Out of state exchange or sojourn teachers, Ed §22601
Exclusions from membership, Ed §22601 to 22604
Exchange teachers from out of state, Ed §22601
Part-time employees, Ed §22601.5
Hourly or daily basis, Ed §22604
Persons not excluded, Ed §22516
Sojourn teachers from out of state, Ed §22601
Substitute employees, Ed §22602
Full-time employees
Status as members, Ed §22501
Health care benefits program
Definition of member, Ed §25925

MEMBERS—Cont'd
Information affecting status
Compensation, Ed §22458
Contents, Ed §22451
Employers, information provided by, Ed §22456
Death, employment, resignation or discharge
Notice to board, Ed §22457
Employing agency and county superintendent to supply, Ed §22455
Failure of members to provide
Withholding of salary, Ed §22459
Providing to board, Ed §22450
Leaving employment
Less than 5 years credited service
Notice to employee of benefits, Ed §22460
Military service
USERRA, benefits for reemployed members, Ed §22850 to 22856
Part-time employees
Daily basis, Ed §22504
Exclusions from membership, Ed §22604
Election to join plan, Ed §22515
Eligibility for membership, Ed §22502
Exclusions from membership, Ed §22601.5
Hourly basis, Ed §22504
Exclusions from membership, Ed §22604
Payments due from members
Failure of members to pay
Withholding of salary, Ed §22459
Reemployment of retired members
Employer obligation upon reemployment, Ed §22461
Right to internal informal appeal of benefit or obligation
Administrative hearing, 5 CCR §27103
Administrative remedy for audits, 5 CCR §27102
Administrative remedy for benefits and services, 5 CCR §27101
Definitions, 5 CCR §27100
San Francisco local system
Membership in plan, Ed §24700
Sojourn teachers
Exclusions from membership
Out of state exchange or sojourn teachers, Ed §22601
Status of members as of June 30, 1996, Ed §22500
Substitute employees
Election to join plan, Ed §22515
Exclusions from membership, Ed §22602
Status as members, Ed §22503

MEMORANDA OF UNDERSTANDING
Effect of memoranda, Ed §22004

MERCHANT MARINE
Service credit
Permissive and additional service credit, Ed §22806

MIDCAREER RETIREMENT INFORMATION PROGRAM, Ed §22303.5

MILITARY SERVICE
Income tax, federal
Differential play for members on active duty, Ex 26 USC §414
USERRA, benefits for reemployed members
Tax consequences
Effect of adverse tax consequences, Ed §22856
Service credit
Deceased members
Computation, Ed §22853.5
Permissive and additional service credit, Ed §22805, 22806
Contribution exemption, Ed §22808
Extension of military service, Ed §22807
USERRA, benefits for reemployed members, Ed §22850 to 22856
Cash balance benefit program, Ed §28000 to 28006. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Compensation earnable
Computation, Ed §22853
Contributions
Employer liability, Ed §22852
Definitions, Ed §22850
Disqualification from benefits, Ed §22855
Five years, absence greater than
Effect, Ed §22854
Legislative intent, Ed §22850
Same employer, return to
Calculation of benefits, Ed §22851
Tax consequences
Effect of adverse tax consequences, Ed §22856

MILITARY SERVICE (CONTRIBUTION EXEMPTION), Ed §22808

MINIMUM GUARANTEE, Ed §24410.6

MUNICIPAL PENSION AND RETIREMENT SYSTEMS
Forfeiture of position for certain convictions, Ex Gov §7522.70

N

NATURAL DISASTERS
Home repair or rebuilding
Loans from retirement fund, Ed §22361

NONMEMBER REGISTERED DOMESTIC PARTNERS
Community property purposes, Ed §22651
Defined benefit supplement program purposes, Ed §25000.9

NONMEMBER SPOUSE
Community property purposes, Ed §22651
Defined benefit supplement program purposes, Ed §25000.9

NONPARTICIPANT REGISTERED DOMESTIC PARTNERS, Ed §27401

NONPARTICIPANT SPOUSE, Ed §27401

NORTHERN IRELAND
Public pensions and retirement plans, general regulation
Investments in companies doing business in Northern Ireland
Nondiscrimination, Ex Gov §7513.5

O

OASI. (*See* FEDERAL OLD AGE AND SURVIVORS INSURANCE)

OLD AGE AND SURVIVORS INSURANCE. (*See* FEDERAL OLD AGE AND SURVIVORS INSURANCE)

OMBUDSMAN
Duties, Ed §22302
Established, Ed §22302
Purpose, Ed §22302

ONE-YEAR
Determination of final compensation, Ed §22134.5

OPEN MEETINGS
Closed sessions
Investment services, contracting for
Closed sessions to consider vendors and contractors, Ed §22363
Public employees, issues relating to, Ex Gov §11126

OPTION ELECTIONS, Ed §24300 to 24313
Available options, Ed §24300
January 1, 2007, availability on, Ed §24300.1
Beneficiaries
Death, Ed §24300.5
New beneficiary designation if beneficiary predeceases member, Ed §24306
Retirement allowance without modification, Ed §24313
Spouse, designation as new beneficiary, Ed §24305.5
Unmarried retirees
Marriage or registration of domestic partnership
Authority to elect, Ed §24300.6
Benefit maintenance
Applicability of benefit improvement factor, Ed §24402
Minimum annual allowance, Ed §24410.5, 24410.6
Cancellation
Preretirement election, Ed §24309
Reelection, right of, Ed §24310
Change of options, Ed §24306.5, 24306.7
Preretirement election, Ed §24309, 24311
Availability of options on January 1, 2007, change without reduction, Ed §24312.1
Temporary opportunity to change without reduction, Ed §24312
Retired members, Ed §24300.2
Death prior to retirement
Preretirement election
Allowances, Ed §24307
Defined benefit supplement program
Joint and survivor annuity
Change of annuity or beneficiary, Ed §24305.3
Retirement benefits under program
Election of method of distribution, Ed §25011
Disability retirement allowance, Ed §24301
Dissolution of marriage
Cancellation of options, Ed §24305
Joint and survivor annuity
Change of annuity or beneficiary, Ed §24305.3
Listing of options
January 1, 2007, availability on, Ed §24300.1
Modification of allowance
Preretirement election, Ed §24307.5
Preretirement election, Ed §24307
Cancellation, Ed §24309
Reelection, right of, Ed §24310
Change, Ed §24309, 24311
Availability of options on January 1, 2007, change without reduction, Ed §24312.1
Temporary opportunity to change without reduction, Ed §24312
Modification of allowance, Ed §24307.5
Other benefits, effect of election, Ed §24308
Reelection following cancellation, Ed §24310
Termination of disability retirement allowance
Reinstatement, effect on options, Ed §24304
Termination of service retirement allowance
Reinstatement, effect on options already elected, Ed §24302, 24303
Unmarried retirees
Marriage or registration of domestic partnership
Authority to elect, Ed §24300.6

OTHER RETIREMENT SYSTEMS
Membership, Ed §22115.2
Retirement, Ed §22115.5

OTHER RETIREMENT SYSTEMS, MEMBERSHIP, Ed §22115.2

OTHER RETIREMENT SYSTEMS, RETIREMENT, Ed §22115.5

OTHER STATES
Board
Agreements of board with other states, Ed §22205
Exclusions from membership
Exchange or sojourn teachers from out of state, Ed §22601
Service credit
Out-of-state service credit, Ed §22820 to 22826. (*See* **SERVICE CREDIT**)

OUT-OF-STATE SERVICE CREDIT, Ed §22821

P

PARENTS
Federal old age and survivors insurance
Parent's benefits, Ex 42 USC §402

PARTIAL LUMP-SUM, Ed §24221

PART-TIME OR TEMPORARY EMPLOYEES
Cash balance benefit program
Community college district temporary employees
Eligibility, Ed §26400
Election to become participant for creditable service, Ed §26401
Eligibility, Ed §26400
Community college employees
Cash balance benefit program
Temporary employees of community college district
Eligibility, Ed §26400
Classification of certain instructors, Ex Ed §87482.5
Reduction in workload to part-time, Ex Ed §87483
Daily basis, Ed §22504
Exclusions from membership, Ed §22604
Election to join plan, Ed §22515
Eligibility for membership, Ed §22502
Exclusions from membership, Ed §22601.5
Hourly basis, Ed §22504
Exclusions from membership, Ed §22604
Part-time basis
Defined, Ed §22106.5
Probationary nature of temporary employment, Ex Ed §44917
Reduction of workload to part-time, Ex Ed §44922
Community college employees, Ex Ed §87483
Salary, Ex Ed §45025
Service credit
Permissive and additional service credit
Previous exclusion from membership
Election to purchase credit, Ed §22802
Service retirement
Part-time service credit
Calculation, Ed §24218

PAYMENT CONDITIONS, Ed §23854

PAYMENT OF DEATH BENEFIT TO BENEFICIARY, Ex Pro §13100

PAYMENT OF TERMINATION BENEFIT, Ed §25025

PAYMENT PROCEDURES, Ed §24600 to 24620
Accrual dates, Ed §24600
Children or minors
Custodian receiving payment, Ed §24612
Contributions
Collection from retired members, disabled members or deceased persons, Ed §24615
Death of retired or disabled member
Accrued allowances, payment, Ed §24609, 24610
Effect on payment, Ed §24607
Simultaneous death
Applicable provisions, Ed §24611
Deductions from allowances
Authorization, Ed §24608
Discharge and release from liability
Effect of good faith payment, Ed §24613
Discontinuance of certain district plan
Continued payments to retirees under, Ed §24614
Special reserve
Continuance of special reserve, Ed §24620
Emergency payments, Ed §24602
Estimated allowances
Adjustment of incorrect estimated allowances, Ed §24603
Authorization to pay based on, Ed §24601
Good faith payment
Discharge and release from liability
Effect of good faith payment, Ed §24613
Loss of payment
Warrants
Duplicate warrant, issuance on proof of loss, Ed §24605
Methods of deposit in account, Ed §24604
Overpayments
Collection, Ed §24617
Death benefits
Deduction of overpayment from subsequent payments, Ed §24616
Erroneous information reported by employer, consequences, Ed §24616.5
Debiting or crediting reserves in retirement fund, Ed §24618
Reporting, Ed §24619
Simultaneous death
Applicable provisions, Ed §24611
Termination dates, Ed §24600
Unclaimed warrants, Ed §24606
Underpayments
Debiting or crediting reserves in retirement fund, Ed §24618
Reporting, Ed §24619

PAYROLL
Defined, Ed §22155

PENALTIES
Contributions
Collection and reporting procedures
Appeal of assessed penalties or interest, Ed §23010
Reports to administer provisions
Late or unacceptable reports, Ed §23006
Delinquency, Ed §23003
Iran Contracting Act of 2010, Ex PubCon §2205

PERJURY
Public officers and employees
Forfeiture of rights under retirement system, Ex Gov §7522.70

PERMISSIVE SERVICE, Ed §22801

PERSONAL LEAVE PROGRAMS
Service credit
Inclusion, Ed §22708

PLEADINGS
Amendment of pleadings, Ex CCP §473

POLITICAL REFORM, Ex Gov §82002 to 87314
Applicability of political reform provisions to retirement board elections, Ex Gov §84225
Campaign disclosures
Committee organization, Ex Gov §84101
Filing of campaign statements, Ex Gov §84200.5 to 84225
Copies to be filed, Ex Gov §84215
Preelection statements, Ex Gov §84200.5, 84200.9
Conflicts of interest
Investment management by public officials, Ex Gov §87314
Definitions, Ex Gov §82002 to 82047.3
Election cycle, Ex Gov §85204
Organizational statements
Fee, Ex Gov §84101.5

POST-RETIREMENT EARNINGS LIMITATIONS
Activities of retired members
Compensation, limitations, Ed §24214
California state university
Service by certain retired teachers, Ed §24116

POSTSECONDARY EDUCATION
Audits, Ex Ed §84040.5
California state university. (*See* **CALIFORNIA STATE UNIVERSITY**)
Community college employees. (*See* **COMMUNITY COLLEGE EMPLOYEES**)
University of California retirement system
Public pensions and retirement plans, general regulation
Notice to legislature of proposed changes, Ex Gov §7507.5

PRE-1972 BENEFITS, Ed §23400 to 23404
Effect of legislative revisions from 1971 and 1972, Ed §22003

PREGNANCY AND CHILDBIRTH LEAVE, Ex Ed §44965

PRERETIREMENT ELECTION OF AN OPTION, Ed §24307.5

PRESCRIPTION DRUG PROGRAM
Report to legislature, Ed §25950

PRETAX AND POSTTAX CONTRIBUTIONS
Crediting to defined benefit and defined benefit supplement accounts, Ed §22905

PRISONS
Classes for inmates, Ex Pen §2054

PRIVACY
Financial institutions
Privacy between customers and institutions
Permissible disclosures, Ex Gov §7480

PROBATE
Personal property
Collection or transfer without probate, Ex Pro §13100

PUBLIC CONTRACTS
Annuity contract and custodial accounts
Contracting for services, Ed §24953
Third party administrator, contracting with, Ex Ed §44041.5
Community college employees, Ex Ed §87040.5
Cash balance benefit program
Administration of plan
Third party administration, Ed §26216
Deferred compensation plans
Contracting for services, Ed §24977
Headquarters of system
Applicable procedures, Ed §22379
Investments
Contracting for investment services, Ed §22352
Closed sessions to consider vendors and contractors, Ed §22363
Communications with interested parties, Ed §22364
Iran Contracting Act of 2010, Ex PubCon §2200 to 2208. (*See* **IRAN CONTRACTING ACT OF 2010**)

PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT (PEMHCA)
Health and welfare benefits
Applicability of provisions, Ex Ed §7005
Public school employees health care pool feasibility study, Ex Gov §22849

PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)
Board
Indemnification of members, Ex Gov §16642
Investments
Investment staff of board serving teachers system, Ed §22355
Changes in employment to position covered by PERS
Effect, Ed §22508
Conviction of certain felonies
Forfeiture of rights under retirement system, Ex Gov §7522.70
Cooperation between PERS and teachers' retirement system, Ex Gov §7515
Confidentiality maintained while cooperating, Ex Gov §7516
Direct deposit
Authorized, Ex Gov §21267
Election of retirement system, Ex Gov §20309
Subsequent service of member, Ex Gov §20309.5
Felony convictions
Forfeiture of rights under retirement system, Ex Gov §7522.70
Forfeiture of position
Conviction of crime relating to official duties, Ex Gov §20343
Former officers and employees disqualification
Aiding, advising, consulting or assisting in obtaining award or negotiating contract, Ex Gov §87409
Placement agent
Acceptance of compensation for providing services, Ex Gov §87410

PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)—Cont'd
Former officers and employees disqualification—Cont'd
Representation, appearance or communication, Ex Gov §87408
Investments
Board of administration
Investment staff of board serving teachers system, Ed §22355
Cooperation between PERS and teachers' retirement system, Ex Gov §7515
Confidentiality maintained while cooperating, Ex Gov §7516
Transfer of membership to PERS
Election, Ed §22510
Continuity of service, effect of transfer, Ed §22512
Effect of electing not to transfer, Ed §22511
Nonvested members, tacking of service to attain vested status, Ed §22514
Vested members, retention of survivor and disability benefits, Ed §22513

PUBLIC LANDS
Revenues
Disposition, Ex PubRes §6217.5
School and lieu lands
Reservations, lieu lands, Ex PubRes §7401
Sale of school lands
Exchange of land with United States, Ex PubRes §7303, 7303.5
Indemnity scrip, use of lands for, Ex PubRes §7304
Lands authorized for sale, Ex PubRes §7301
Patent, right to, Ex PubRes §7305
Timber, sale separate from land, Ex PubRes §7306
State Teachers' Retirement Lands Act
Citation, Ex PubRes §6475
Reports, Ex PubRes §6477

PUBLIC MEETINGS
Closed sessions
Investment services, contracting for
Closed sessions to consider vendors and contractors, Ed §22363
Public employees, issues relating to, Ex Gov §11126

PUBLIC PENSIONS AND RETIREMENT PLANS, GENERAL REGULATION, Ex Gov §7500 to 7514.5
Actuarial advisory panel
Impartial and independent information
Duty to provide, Ex Gov §7507.2
Actuarial evaluation of future annual costs
Changes in benefits considered by legislature or local legislative bodies, Ex Gov §7507
Actuarial services, Ex Gov §7504
Audits, Ex Gov §7504
Boards, commissions, etc
Conflicts of interest
Investment management by public officials, Ex Gov §87314
Elections
Applicability of political reform provisions to retirement board elections, Ex Gov §84225
Campaign disclosures
Copies to be filed, Ex Gov §84215
Generally, Ex Gov §84200.5 to 84225
Preelection campaign statements, Ex Gov §84200.9
Election cycle
Defined, Ex Gov §85204
Former members, administrators, officers, etc
Appearances before board to represent persons, 2 year waiting period, Ex Gov §7508.5
Investment products
Providing products that would be assets of funds by board members, Ex Gov §7513.95
Placement agents, regulation, Ex Gov §7513.8 to 7513.9
Retirees of state systems, service on boards, etc, Ex Gov §7508
Conflicts of interest
Investment management by public officials, Ex Gov §87314
Contributions
Sex differential in contribution rate
Remediation, Ex Gov §7500
Credit enhancement programs
Authorized, Ex Gov §7514.3
Direct deposit to financial institution, Ex Gov §7505, 7506
Agreements, Ex Gov §7506.5
External managers
Defined, Ex Gov §82025.3
Financial reports and valuations
Actuarial services, Ex Gov §7504
Annual report by systems, Ex Gov §7503
Review, Ex Gov §7502
Financing of pension obligations of state. (*See* **FINANCING OF PENSION OBLIGATIONS OF STATE**)
Insurance for system or fiduciary
Purchase of insurance, Ex Gov §7511
Interest
Loans made by systems, Ex Gov §7509
Investments
Conflicts of interest
Investment management by public officials, Ex Gov §87314
Cooperation between PERS and teachers' retirement system, Ex Gov §7515
Confidentiality maintained while cooperating, Ex Gov §7516
Financial institutions
International financial institutions, obligations of, Ex Gov §7514.1
Foreign government guarantee of bonds or other debt, Ex Gov §7513.97, 7514
Iran
Public Divest from Iran Act, Ex Gov §7513.7

PUBLIC PENSIONS AND RETIREMENT PLANS, GENERAL REGULATION—Cont'd
Investments—Cont'd
Northern Ireland, companies doing business in Nondiscrimination, Ex Gov §7513.5
Prioritization of investment in in-state infrastructure projects, Ex Gov §7514.2
Real property, Ex Gov §7510
Sudan
Prohibition on investments in Sudan, Ex Gov §7513.6
Legislative intent, Ex Gov §7501
Legislature or local legislative bodies, changes in benefits
Actuarial evaluation of future annual costs, Ex Gov §7507
Loans made by systems
Interest, Ex Gov §7509
Membership in another retirement system
Transitional provisions, Ex Gov §7514.5
Placement agents, regulation, Ex Gov §7513.8 to 7513.9
Campaign contributions by agents
Disclosures, Ex Gov §7513.9
Definitions, Ex Gov §7513.8, 82047.3
Lobbyist registration, Ex Gov §7513.86
Contractual services provided by placement agent
Fees not prohibited, Ex Gov §86206
Payments to agents
Disclosures, Ex Gov §7513.85
Reports by placement agents, Ex Gov §7513.87
Political reform, Ex Gov §82002 to 87314
Applicability of political reform provisions to retirement board elections, Ex Gov §84225
Campaign disclosures
Committee organization, Ex Gov §84101
Filing of campaign statements, Ex Gov §84200.5 to 84225
Copies to be filed, Ex Gov §84215
Preelection statements, Ex Gov §84200.5, 84200.9
Definitions, Ex Gov §82002 to 82047.3
Election cycle, Ex Gov §85204
Public Pension Reform Act of 2013, Ex Gov §7522 to Ex Gov §7522.74
Applicability, Ex Gov §7522.02
Citation of article, Ex Gov §7522
Defined benefit formulas
Limitations, Ex Gov §7522.15
Nonsafety members, Ex Gov §7522.20
Safety members, Ex Gov §7522.25
Teachers' retirement system, formula applicable to new members, Ex Gov §7522.20
Defined benefit pension plan required by provisions, Ex Gov §7522.02
Supplemental defined benefit plan, Ex Gov §7522.18
Definitions, Ex Gov §7522.04
Elected or appointed officers on city councils or county boards of supervisors, Ex Gov §7522.48
Employer contributions, Ex Gov §7522.10
Combination with employee contributions, minimum amount, Ex Gov §7522.52
Equal sharing of normal costs, effect on contribution rates, Ex Gov §7522.30
Suspension of contributions, Ex Gov §7522.52
Employment following retirement
Public employer in same public retirement system, Ex Gov §7522.56
Service on state board or commission, Ex Gov §7522.57
Enhancement of retirement formulas or benefits, Ex Gov §7522.44
Equal sharing of normal costs by employers and employees, Ex Gov §7522.30
Felony convictions arising from performance of official duties
Forfeiture of rights and benefits, Ex Gov §7522.70 to Ex Gov §7522.74
Health benefit vesting schedule
Managerial or supervisory employees, restrictions applicable, Ex Gov §7522.40
Impasse procedures
Prohibited acts of employers offering plans to safety members, Ex Gov §7522.25
Individuals employed by subsequent employer for first time or after specified date, Ex Gov §7522.02
Limitations on defined or combination of defined benefits, Ex Gov §7522.10
Managerial or supervisory employees
Health benefit vesting schedule, restrictions, Ex Gov §7522.40
Prohibited acts of employers offering plans to safety members, Ex Gov §7522.25
Modification of plans, Ex Gov §7522.10
New member retirement benefits
Determination of benefit, Ex Gov §7522.32
Factors in determining retirement benefit, Ex Gov §7522.42
Pensionable compensation, Ex Gov §7522.34
Nonsafety members
Defined benefit formulas for plans offered to, Ex Gov §7522.20
Pensionable compensation
Calculation generally, Ex Gov §7522.10
Defined benefit formulas
Nonsafety members, limitation of compensation used to calculate, Ex Gov §7522.20
Safety members, limitation of compensation used to calculate, Ex Gov §7522.25
New member of retirement system, Ex Gov §7522.34
Postretirement employment
Service on state board or commission, Ex Gov §7522.57
With public employer in same public retirement system, Ex Gov §7522.56
Prohibited acts of employers offering plans to safety members, Ex Gov §7522.25

PUBLIC PENSIONS AND RETIREMENT PLANS, GENERAL REGULATION—Cont'd
Public Pension Reform Act of 2013—Cont'd
Purchase of nonqualified service credit, Ex Gov §7522.46
Reinstatement from retirement
Postretirement employment with public employer in same public retirement system, Ex Gov §7522.56
Replacement benefits for members, survivors or beneficiaries, Ex Gov §7522.43
Safety members
Defined benefit formulas for plans offered to, Ex Gov §7522.25
Industrial disability retirement benefit, Ex Gov §7522.66
Service following retirement on state board or commission, Ex Gov §7522.57
Supplemental defined benefit plan, Ex Gov §7522.18
Suspension of contributions, Ex Gov §7522.52
Teachers' retirement system, formula applicable to new members, Ex Gov §7522.20
Report on system performance
Members, providing to, Ex Gov §7512
Rollovers
Direct rollovers, Ex Gov §7513
Savings and loan associations
Deposits with associations in exchange for residential construction loans, Ex Gov §7520
University of California retirement system
Notice to legislature of proposed changes, Ex Gov §7507.5

PUBLIC RECORDS
Inspection of public records
Exemption of public records from disclosure, Ex Gov §6254
Investments
Alternative investments invested in by public funds, Ex Gov §6254.26

PUBLIC UTILITIES COMMISSION
Proceedings as ratemaking and quasi-legislative for lobbying purposes, Ex Gov §82002

PURCHASING POWER AD HOC INCREASE, Ed §24407

PURCHASING POWER PROTECTION
Benefit maintenance generally, Ed §24400 to 24417; 5 CCR §26000. (*See* **BENEFIT MAINTENANCE AND PURCHASING POWER PROTECTION**)

Q

QUALIFIED DOMESTIC RELATIONS ORDERS
Income tax, federal, Ex 26 USC §414

R

REAL PROPERTY
Public pensions and retirement plans, general regulation
Investments in real property, Ex Gov §7510

RED CROSS
Service credit
Permissive and additional service credit, Ed §22805
Contribution exemption, Ed §22808

REDEPOSIT OF CONTRIBUTIONS, Ed §23200 to 23203. (*See* CONTRIBUTIONS)

REDUCED WORKLOAD PROGRAM, Ed §22713

REEMPLOYMENT (PRIOR TO AGE 60), Ed §26911

REEMPLOYMENT OF RETIRED MEMBERS
Limitation on earnings
Advising member as to, Ed §22461
Reporting earnings, Ed §22461

REFUND OF CONTRIBUTIONS, Ed §23100 to 23107. (*See* CONTRIBUTIONS)

REFUNDS UPON DEATH OF MEMBER
Active death benefits
Family allowance, Ed §23802
Survivor benefits, Ed §23852

REGISTERED DOMESTIC PARTNERS
Defined, Ed §22007.5, 22171
Cash balance plan purposes, Ed §26002.5

REHABILITATION
Disability allowance
Earnings of recipient of disability benefits
Excessive earnings
Participants in rehabilitation program, Ed §24017
Requirement to participate in rehabilitation, Ed §24012
Disability retirement
Requiring participation in rehabilitation, Ed §24111

REINSTATEMENT, Ed §24208

RENEWABLE ENERGY RESOURCES PROGRAM
School land bank, land exchanges, PubRes §8720 to 8723
Approval of proposals, PubRes §8723
Consolidation efforts, PubRes §8722
Definitions, PubRes §8721
Memorandum of agreement, PubRes §8722
Submission of proposals, PubRes §8723

REPLACEMENT BENEFITS PROGRAM, Ed §24250 to 24275
Establishment of program, Ed §24260
Income tax, federal
Reduction of benefit pursuant to federal tax provisions
Restoration, Ed §24270
Legislative intent, Ed §24250
Limitation on benefits, Ed §24275
Purpose of program, Ed §24260
Reduction of benefit pursuant to federal tax provisions
Restoration, Ed §24270
Teachers' replacement benefits program fund, Ed §24255

REPORT ON EROSION OF PURCHASING POWER, Ed §24400

RESIGNATION OF MEMBERS
Notice to board, Ed §22457

RETIREMENT ALLOWANCE
Cancellation
Credits on cancellation of allowances accrued after July 1, 1972, Ed §22328
Classified employees
Recipients of retirement allowance
Eligibility for employment, Ex Ed §45134
Member first hired after specified date, Ed §24202.6 to Ed §24202.8
Pre-1972 benefits
Termination
Credits on termination, Ed §23404
Reduction, Ed §24202.5
Retired participants, Ed §24202.7

RETIREMENT BOARD, Ed §22200 to 22228. (*See* BOARD)

RETIREMENT, EFFECT OF, Ex Ed §44907

RETIREMENT INCENTIVES
Certificated or academic employees, Ed §22714
CSU employees, Ed §22716
State employees, Ed §22715

RETURN OF CONTRIBUTIONS AND INTEREST, Ed §23881

REVOLVING DOOR
Investments
Officers and portfolio managers
Departure from position, restrictions on subsequent employment, Ed §22212.5
Public pensions and retirement plans, boards, commissions, etc
Former members, administrators, officers, etc
Appearances before board to represent persons, 2 year waiting period, Ex Gov §7508.5

RIGHT OF ELECTION
Changes in employment, Ed §22508
Election of retirement system generally. (*See* **ELECTION OF RETIREMENT SYSTEM**)

RIGHT TO ELECT DEFINED BENEFIT MEMBERSHIP, Ed §22455.5, 22508.6

RIGHT TO REDEPOSIT, Ed §23201

ROTH IRA
Administration, Ed §24950.5
Operating account
Deferred compensation plans, Ed §24976

S

SABBATICAL
Leaves of absence for study and travel, Ex Ed §44966
Compensation during leave, Ex Ed §44968, 44968.5
Default in service upon return, reduction in payment, Ex Ed §44970
Payment for leave time, manner, Ex Ed §44969
Service during leave, Ex Ed §44968
Time qualifications, Ex Ed §44967

SALARY REDUCTION PROGRAMS
Contributions
Employee contributions
Pick-up of contributions
State pick-up via salary reduction program, Ed §22904

SAN FRANCISCO LOCAL SYSTEM, Ed §24700 to 24706
Classified service in local system
No transfer, Ed §24703
Concurrent certificated service, Ed §24701
Other states, performance in, Ed §24705
Concurrent retirement benefits, Ed §24704
Other states, performance in, Ed §24705
Membership in plan, Ed §24700
Minimum unmodified allowance
Increase, calculation, Ed §24702
Refunded contributions and refunded permanent fund contributions taken, Ed §24751
Refunded contributions for members with permanent fund contributions, Ed §24750
Retirees as of June 30, 1972
Status, Ed §24702
Service retirement
Local system retirees, Ed §24219
Subvention
Payments for subventions required prior to July 1, 1972, Ed §24706
Retirees as of June 30, 1972, Ed §24702
Uncertificated service in local system
No transfer, Ed §24703

SAVINGS AND LOAN ASSOCIATIONS
Financial institutions generally. (*See* **FINANCIAL INSTITUTIONS**)
Public pensions and retirement plans, general regulation
Deposits with associations in exchange for residential construction loans, Ex Gov §7520

SAVINGS CLAUSE, Ed §24217

SCHOOL AND LIEU LANDS
Reservations, lieu lands, Ex PubRes §7401
Sale of school lands
Exchange of land with United States, Ex PubRes §7303, 7303.5
Indemnity scrip, use of lands for, Ex PubRes §7304
Lands authorized for sale, Ex PubRes §7301
Patent, right to, Ex PubRes §7305
School land bank, Ex PubRes §8700 to 8723
Timber, sale separate from land, Ex PubRes §7306
State Teachers' Retirement Lands Act
Citation, Ex PubRes §6475
Reports, Ex PubRes §6477

SCHOOL CURRICULUM AND INSTRUCTIONAL PROGRAMS
Local educational agency intervention
Early warning program, Ex Ed §52055.57, 52055.59

SCHOOL DISTRICTS
All school districts
Defined, Ex Ed §80
Any school district
Defined, Ex Ed §80
Budgets
Approval recommendation accepted, Ex Ed §42127.3
Budget review committee formed, Ex Ed §42127.l
Computation of tax rates, Ex Ed §42127
Contents, Ex Ed §42122
County Office Fiscal Crisis and Management Assistance Team established, Ex Ed §42127.8
Designated fund balance, Ex Ed §42125
District budget changes, appeal of, Ex Ed §42127.9
Form of budget, Ex Ed §42126
Formulation and adoption, Ex Ed §42127
General reserve, Ex Ed §42124
Last adopted budget
Continued operation under, Ex Ed §42127.4
Negative unrestricted fund balance or negative cash balance, Ex Ed §42127.5
Neglect or refusal to make budget, Ex Ed §42128
Notice of fiscal distress, Ex Ed §42127.6
Proposed alternative budget, Ex Ed §42127.3
Public review, Ex Ed §42127
Regional review committee, Ex Ed §42127.l
Reports, Ex Ed §42129
Revenues and expenses itemized, Ex Ed §42123
Review of proposed budget and recommendations, Ex Ed §42127.2
Emergency apportionments from state school fund
Trustee to monitor and review district as condition for acceptance of funds, Ex Ed §41320.1
Employers generally. (*See* **EMPLOYERS/EMPLOYING AGENCIES**)
Health and welfare benefits
Definition of school district, Ex Ed §7004
Interns
Employment of district interns, Ex Ed §44830.3
Local educational agency intervention
Early warning program, Ex Ed §52055.57, 52055.59

SCHOOL LAND BANK
Acceptance of conveyances, Ex PubRes §8707
Acquisitions
Costs, Ex PubRes §8709
Eminent domain, Ex PubRes §8703
Mineral rights, Ex PubRes §8704
Trustee, Ex PubRes §8712
Definitions, Ex PubRes §8702
Deposits of money, Ex PubRes §8708
Fund
Creation, Ex PubRes §8711
Jurisdiction, Ex PubRes §8705
Gifts, Ex PubRes §8716
Legislative findings, Ex PubRes §8701
Management and remediation costs, Ex PubRes §8710
Nonexclusivity of provisions, Ex PubRes §8715
Open meetings, Ex PubRes §8713
Renewable energy-related projects, land exchanges for, PubRes §8720 to 8723
Approval of proposals, PubRes §8723
Consolidation efforts, PubRes §8722
Definitions, PubRes §8721
Legislative findings, PubRes §8720
Memorandum of agreement, PubRes §8722
Submission of proposals, PubRes §8723
Short title, Ex PubRes §8700
Sovereign capacity, Ex PubRes §8706
Trustee
Acquisitions, Ex PubRes §8712
Gifts, Ex PubRes §8716
Powers, Ex PubRes §8711

SCHOOL LANDS INCOME, Ed §24412

SCHOOL MONTH, Ex Ed §37201

SCHOOL YEAR, Ex Ed §37200

SERVICE CREDIT, Ed §22700 to 22826
Additional credit
Incentives to encourage retirement, Ed §22714, 22715; Ex Ed §44929
Permissive and additional service credit generally, Ed §22800 to 22811. (*See* within this heading, "Permissive and additional service credit")
Computation
Applicability of provisions, Ed §22700
Education leave
Accumulated and unused leave, Ed §22717.5
General rule, Ed §22703
July 1, 1972
Effect of date on computation, Ed §22701
Sick leave
Accumulated and unused leave, Ed §22717
Year-round or continuous programs, Ed §22704
Contributions
Refunds
Forfeiture of rights to service credit benefit, Ed §23101
Education leave
Accumulated and unused leave, Ed §22717.5
Employee organizations
Leave to serve as elected officer
Inclusion of service, Ed §22711
Exchange teachers
Inclusion of service, Ed §22712
Exclusions
Other retirement systems, service covered by, Ed §22705
Receiving retirement or disability allowance, Ed §22706
San Francisco systems, Ed §22705.5
Excuse from performance
Inclusion upon payment of contributions, Ed §22710
Furloughs
Mandatory furloughs, effect, Ed §22708
Less than 5 years credited service
Leaving employment, notice of benefits, Ed §22460

SERVICE CREDIT—Cont'd
Military service
Deceased members
Computation, Ed §22853.5
Nonqualifying service
Inclusion of service that does not qualify person for membership, Ed §22712.5
Other retirement systems
Exclusions, Ed §22705
San Francisco systems, Ed §22705.5
Out-of-state service credit, Ed §22820 to 22829
Internal revenue code, conflicts with, Ed §22824
Nonqualified service
Election of credit for nonqualified service, Ed §22826
Operative date of provisions, Ed §22825
Purchase
Contributions, payment, Ed §22823, 22829
Request to purchase, Ed §22821
Right to purchase, Ed §22820, 22827
Time and manner of request for purchase, Ed §22828
Request to purchase, Ed §22821
Nonqualified service, Ed §22826
Time for request, Ed §22822
Time for election, Ed §22822
Use
Limits, Ed §22820
Part-time service
Workload reduction while receiving full-time credit, regulations permitting, Ed §22713
Permissive and additional service credit, Ed §22800 to 22811
Claims
Corroboration, Ed §22800
Coverage under defined benefit program elected, Ed §22801.5
Election to purchase additional service credits, Ed §22801
Eligible service, Ed §22803
Incentives to encourage retirement, Ed §22714, 22715; Ex Ed §44929
Community college employees, Ex Ed §87488
July 1, 1944, service performed before, Ed §22810
Merchant marine service, Ed §22806
Military service, Ed §22805, 22806
Contribution exemption, Ed §22808
Extension of military service, Ed §22807
Previous exclusion from membership
Election to purchase credit, Ed §22802
Red Cross service, Ed §22805
Contribution exemption, Ed §22808
Transfer of funds into teachers' retirement fund to purchase credit, Ed §22811
War relocation center service, Ed §22809
War with foreign power
Conditions when war exists, Ed §22804
Personal leave program
Inclusion, Ed §22708
Prevention from performing service
Inclusion, Ed §22709
Purchase of additional service credit
Community property
Nonmember spouse, Ed §22663
Sick leave
Accumulated and unused leave, Ed §22717
Billing employers, Ed §22718
Chief executive officer, delegation of powers as to program, 5 CCR §23005
Excess days, determination, Ed §22724
Final compensation, effect on, Ed §22720
Payment for accumulated sick leave, effect on service credit, Ed §22721
Reinstated employees
Effect of reinstatement, Ed §22719
Subsequent service
Unpaid basis
Effect on service credit, Ed §22716
Time required for credit, 5 CCR §20521
Year-round or continuous programs
Computation, Ed §22704

SERVICE CREDIT AWARDED TO NONMEMBER SPOUSE, Ed §22665

SERVICE CREDIT FOR UNUSED EDUCATIONAL LEAVE
State employees, Ed §22717.5

SERVICE CREDIT PURCHASES, Ed §22803

SERVICE RETIREMENT, Ed §24201 to 24221
Activities of retired members, Ed §24214
California state university
Service by retired teachers, Ed §24215
Exemptions from restrictions, Ed §24216.6
Limitation on postretirement compensation, Ed §24214.5
Allowance pending disability determination of disability
Application for service retirement allowance, Ed §24201.5
Return to employment subject to coverage, Ed §24211
Annuity retirement allowance
Option to take under prior provision, Ed §24217
Application for retirement, Ed §24201
Application for retirement allowance pending disability determination, Ed §24201.5
Benefit maintenance
Applicability of benefit improvement factor, Ed §24402
Checks, payment, Ed §22319
Interest for late payment, Ed §22321
Reporting late payment, Ed §22322
Classified employees
Recipients of retirement allowance
Eligibility for employment, Ex Ed §45134
Community property
Nonmember spouse
Allowance and benefit, right to, Ed §22664
Compensation of retired members, Ed §24214
Exemptions from limits, Ed §24216.6
Class size reduction program, Ed §24216.5

SERVICE RETIREMENT—Cont'd
Compensation of retired members—Cont'd
Exemptions from limits—Cont'd
Emergencies, Ed §24216
Limitation on postretirement compensation, Ed §24214.5
Composition of allowance, Ed §24202
Option to take under prior provision, Ed §24217
Computation
Increase of percentage of final compensation, Ed §24203.5
Service after specified date, Ed §24202.5
Increase in monthly allowance, Ed §24203.6
Contributions
Retired members, Ed §24214
Exemptions, Ed §24216.6
Early retirement, Ed §24203
Credit for additional years to encourage retirement, Ex Ed §44929
Community college employees, Ex Ed §87488
Incentives to encourage retirement, Ed §22714, 22715
Partial allowance with reversion to full allowance for normal retirement age, Ed §24205
Eligibility, Ed §24201
Allowance, Ed §24204
Increases
Monthly allowance, Ed §24203.6
Percentage of final compensation, Ed §24203.5
Local system retirees, Ed §24219
Lump sum payment
Election to take lump sum and reduced monthly allowance, Ed §24221
Minimum allowance
Termination of allowance and subsequent retirement, Ed §24207
Unmodified, Ed §24206
Part-time service credit
Calculation, Ed §24218
Reduction of retirement allowance
Postretirement compensation limitation
Enforcement by reduction, Ed §24214.5
Reinstatement
Retirement for service following, Ed §24209
Creditable service for 2 or more years
Benefits, Ed §24209.3
Return to employment
Allowance to member granted disability allowance who returns subject to coverage, Ed §24211
Service after specified date
Computation, Ed §24202.5
Termination of allowance
Minimum allowance
Termination of allowance and subsequent retirement, Ed §24207
No return to employment
Calculation of service retirement, Ed §24212
Option elections
Reinstatement, effect on options already elected, Ed §24302, 24303
Procedure, Ed §24208
Retirement age reached, Ed §24213
Termination of disability retirement
Retirement for service following prior terminated disability retirement, Ed §24210

SERVICE RETIREMENT PENDING DISABILITY, Ed §24201.5

SETTLEMENTS
Subrogation
Authority to compromise claims, Ed §24503

SICK LEAVE
Service credit
Accumulated and unused leave, Ed §22717
Billing employers, Ed §22718
Chief executive officer, delegation of powers as to program, 5 CCR §23005
Excess days, determination, Ed §22724
Final compensation, effect on, Ed §22720
Payment for accumulated sick leave, effect on service credit, Ed §22721
Reinstated employees
Effect of reinstatement, Ed §22719
Employer's contributions, Ed §22951

SICK LEAVE SERVICE CREDIT, Ed §22951

SIGNATURES
Cash balance benefit program
Spouse, Ed §26703
Action upon refusal of spouse to sign, Ed §26704
Members, applications
Spouses, Ed §22453
Refusal to sign, Ed §22454
Validity, Ed §22011

SIMULTANEOUS DEATH
Payment procedures
Applicable provisions, Ed §24611
Cash balance benefit program, Ed §27102

SMALL AMOUNTS
Dispensing with payments or collections, Ed §22404

SOCIAL SECURITY
Cash balance benefit program
Social security coverage
Election, Ed §26400

SOJOURN TEACHERS
Certificated employees, Ex Ed §44856
Exclusions from membership
Out of state exchange or sojourn teachers, Ed §22601

SPOUSE
Cash balance benefit program
Term "spouse" includes registered domestic partner, Ed §26002.5

STATE CONTRIBUTIONS
Employer and state contributions, Ed §22950 to 22956. (*See* **CONTRIBUTIONS**)

STATE EDUCATIONAL EMPLOYEES: 7/1/91 THROUGH 9/11/00
Elections, Ed §22801.5

STATE SCHOOL FUND
Emergency apportionments
Conditions for acceptance, Ex Ed §41320.1

STATE SPECIAL SCHOOLS
Pupil rights and responsibilities, Ex Ed §48927

STATUS OF MEMBERS AS OF JUNE 30, 1996, Ed §22500

STATUTE OF LIMITATIONS
Application of limitation periods, Ed §22008
Cash balance benefit program
Errors and omissions, adjustment
Limitations period, Ed §26702
Subrogation, Ed §24505

STATUTORY CONSTRUCTION
Cash balance benefit program
Severability of provisions, Ed §26003
Severability of provisions, Ed §22009

STUDY AND TRAVEL LEAVE, Ex Ed §44966
Compensation during leave, Ex Ed §44968, 44968.5
Default in service upon return, reduction in payment, Ex Ed §44970
Payment for leave time, manner, Ex Ed §44969
Service during leave, Ex Ed §44968
Time qualifications, Ex Ed §44967

SUBPOENAS
Witnesses, Ed §22220

SUBROGATION, Ed §24500 to 24505
Contracting to recover, Ed §24501
Limitation of actions, Ed §24505
Permissible activities under provisions, Ed §24502
Recoveries
Allocation, Ed §24504
Settlements
Authority to compromise claims, Ed §24503
Third parties
Recovery from on behalf of plan, Ed §24500

SUBSTANCE ABUSE
Disability allowance
Limitation of allowance, Ed §24004
Disability retirement
Limitation of retirement period, Ed §24104

SUBSTITUTE EMPLOYEES
Classification of substitute employees, Ex Ed §44917
Community college employees
Effect of service as substitute, Ex Ed §87482.5
Election to join plan, Ed §22515
Exclusions from membership, Ed §22602
Service credit
Permissive and additional service credit
Previous exclusion from membership
Election to purchase credit, Ed §22802
Status as members, Ed §22503

SUDAN
Public pensions and retirement plans, general regulation
Investments
Prohibition on investments in Sudan, Ex Gov §7513.6

SUPPLEMENTAL BENEFIT MAINTENANCE ACCOUNT
Board's authority upon certain findings, Ed §24416
Continuous appropriation, Ed §22954
Increase in contribution rate, Ed §22951.5
Quadrennial evaluation and report as to system's ability to protect purchasing power, Ed §22954.1

SUPPLEMENTAL BENEFITS FOR DEFINED BENEFIT PROGRAM
Defined benefit supplement program generally, Ed §25000 to 25025. (*See* **DEFINED BENEFIT SUPPLEMENT PROGRAM**)

SURVIVOR BENEFITS
Continuation of certain survivor benefits, Ed §23403
Death benefits, active, Ed §23850 to 23859. (*See* **DEATH BENEFITS, ACTIVE**)
Federal old age and survivors insurance, Ex 42 USC §402

T

TAXATION OF INCOME
California. (*See* **INCOME TAX, CALIFORNIA**)
Federal. (*See* **INCOME TAX, FEDERAL**)

TAX EXEMPTIONS
Right to receive pension, allowance, benefit, etc, Ed §22005

TAX SHELTERED ANNUITY CONTRIBUTIONS
Discontinuation of former program, 5 CCR §20554.1
Establishment of program, 5 CCR §20554
Teachers tax-sheltered annuity fund
Disbursements from fund, Ed §22335

TEACHERS' HEALTH BENEFITS FUND, Ed §25930

TEACHERS' RETIREMENT DEVELOPMENT FUND, Ed §22307.5

TEACHERS' RETIREMENT FUND
Cash balance benefit program
Definition of fund, Ed §26128
Transfer of funds to plan, Ed §22403
Composition of fund, Ed §22400
Deposits to fund, Ed §22400
Returns on investment, Ed §22401
Disbursements from fund, Ed §22400
Establishment and control of funds, Ed §22400 to 22404
Interest
Uncredited interest
Use, Ed §22402
Returns on investment
Deposits, Ed §22401
Small amounts
Dispensing with payments or collections, Ed §22404
State lands, revenues
Crediting fund, Ex PubRes §6217.5

TEACHERS TAX-SHELTERED ANNUITY FUND
Disbursements from fund, Ed §22335

TERMINABLE INTEREST DOCTRINE
Community property
Legislative intent to abolish, Ed §22666
Cash balance benefit program, Ed §27413

TERMINABLE INTEREST DOCTRINE ABOLISHMENT, Ed §22666

THEFT AND LARCENY
Public officers and employees
Forfeiture of rights under retirement system, Ex Gov §7522.70

THIRD PARTIES, RECOVERIES FROM
Subrogation generally, Ed §24500 to 24505. (*See* **SUBROGATION**)

30 AND OUT, Ed §24203

THREE-YEAR FINAL COMPENSATION, Ed §22134

THRESHOLD FOR PAYMENTS AND COLLECTIONS, Ed §22404

TOLL-FREE TELEPHONE ASSISTANCE, Ed §22329

TRUST COMPANIES
Financial institutions generally. (*See* **FINANCIAL INSTITUTIONS**)

TRUSTS
Income tax, federal
Qualified pension, etc, plans
Beneficiaries of employees' trust, taxability, Ex 26 USC §402

TWO PERCENT AT AGE 60, Ed §24202

TWO PERCENT INCREASE
Improvement factor, Ed §22140

U

UNCLAIMED PAYMENTS, Ed §24606

UNCLAIMED REFUND OR BENEFIT, Ed §22310

UNIVERSITY AND POSTSECONDARY EDUCATION
Audits, Ex Ed §84040.5
California state university. (*See* **CALIFORNIA STATE UNIVERSITY**)
Community college employees. (*See* **COMMUNITY COLLEGE EMPLOYEES**)
University of California retirement system
Public pensions and retirement plans, general regulation
Notice to legislature of proposed changes, Ex Gov §7507.5

UNIVERSITY OF CALIFORNIA RETIREMENT SYSTEM
Public pensions and retirement plans, general regulation
Notice to legislature of proposed changes, Ex Gov §7507.5

USERRA (UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT)
Income tax, federal
Special rules relating to reemployment rights, Ex 26 USC §414
Reemployed members, benefits for
Cash balance benefit program, Ed §28000 to 28006. (*See* **CASH BALANCE BENEFIT PROGRAM**)
Generally, Ed §22850 to 22856. (*See* **MILITARY SERVICE**)

V

VENDOR REGISTRATION AND INFORMATION BANK, Ed §25100 to 25115
Administration fees for investment products offered, Ed §25108
Annual registration, Ed §25102
Applicability of provisions, Ed §25115
Awareness of employees of system
Development of process to ensure awareness, Ed §25111
Consideration from vendor for promoting products
Prohibition, Ed §25112
Costs of establishing and maintaining, Ed §25108
Date for completion of initial registration, Ed §25110
Definitions, Ed §25100
Disclosures, Ed §25101
Fees
Undisclosed fees not chargeable by vendor, Ed §25107
Established, Ed §25100
Fees
Undisclosed fees not chargeable by vendor, Ed §25107
Impartial investment information bank web site
Board to maintain on web site, Ed §25104
Contents, Ed §25106
Costs of establishing and maintaining, Ed §25108
Design of web site, Ed §25106
Liability of board and system for information provided
Immunity, Ed §25109
Notice to members, Ed §25105
Unregistered 403(b) products
Restrictions, Ed §25113
Liability of board and system for information provided
Immunity, Ed §25109
Logo of system
Prohibition on vendor use, Ed §25109
Promoting products of vendor
Consideration from vendor for promoting products
Prohibition, Ed §25112
Purpose, Ed §25100
Removal from registry
Grounds, Ed §25103
Renewal of registration, Ed §25102
Requirement to register, Ed §25101
Unregistered 403(b) products
Contributions, continuation, Ed §25114
Restrictions, Ed §25113

VIOLENCE IN SCHOOLS
Health and welfare benefits
Victims of violent act while in performance of job
Disabling injury
Continuing coverage under provisions while receiving other benefits, Ex Ed §7008

W

WAR
Service credit
Permissive and additional service credit
Conditions when war with foreign power exists, Ed §22804
War relocation center service, Ed §22809

WELFARE OF EMPLOYEES
Health and welfare benefits generally, Ex Ed §7000 to 7008. (*See* **HEALTH AND WELFARE BENEFITS**)

WITNESSES
Subpoenas, Ed §22220

WORKERS' COMPENSATION
Disability retirement
Reduction of allowance, Ed §24109
Temporary disability benefits
Limits, Ex Ed §44043
Retention by employee of check
Adjustment by employer in salary payment, Ex Ed §44044

WRITE-OFF, Ed §24618

CROSS-REFERENCE OF LEGISLATION

STATUTES OF 2012

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
38	SB 1016	Committee on Budget and Fiscal Review
135	AB 178	Gorell
162	SB 1171	Harman
296	AB 340	Furutani
429	AB 2279	Swanson
496	AB 481	Gordon
506	SB 1001	Yee, Blakeslee
572	SB 298	De León
576	SB 1290	Alquist
589	AB 2662	Committee on Education
665	SB 1308	PE&R
697	AB 2221	Block
728	SB 71	Leno
760	SB 955	Pavley, Rubio
829	SB 114	Yee
864	AB 2663	PER&SS

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 178	135	Gorell
AB 340	296	Furutani
AB 481	496	Gordon
AB 2221	697	Block
AB 2279	429	Swanson
AB 2662	589	Committee on Education
AB 2663	864	PER&SS
SB 71	728	Leno
SB 114	829	Yee
SB 298	572	De León
SB 955	760	Pavley, Rubio
SB 1001	506	Yee, Blakeslee
SB 1016	38	Committee on Budget and Fiscal Review
SB 1171	162	Harman
SB 1290	576	Alquist
SB 1308	665	PE&R

STATUTES OF 2011

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
117	AB 1305	Huber
285	AB 1402	Committee on Public Safety
296	AB 1023	Wagner
304	SB 428	Strickland
357	AB 813	Fletcher
441	AB 1151	Feuer, Blumenfield
485	AB 982	Skinner
551	AB 873	Furutani
674	AB 501	Campos
688	AB 1042	Allen
701	SB 294	Price
703	SB 349	Negrete Mcleod
704	SB 398	Hernandez

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 501	674	Campos
AB 813	357	Fletcher
AB 873	551	Furutani
AB 982	485	Skinner
AB 1023	296	Wagner
AB 1042	688	Allen
AB 1151	441	Feuer, Blumenfield
AB 1305	117	Huber
AB 1402	285	Committee on Public Safety
SB 294	701	Price
SB 349	703	Negrete Mcleod
SB 398	704	Hernandez
SB 428	304	Strickland

STATUTES OF 2010

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
1 X8	ABX8 5	Committee on Budget
32	AB 1887	Villines
178	SB 1115	Committee on Public Safety
207	AB 2260	PER&SS
328	SB 1330	Committee on Judiciary
573	AB 1650	Feuer, Blumenfield, and Huffman
618	AB 2791	Committee on Governmental Organization
633	SB 1007	Hancock
668	AB 1743	Hernandez
697	SB 189	Lowenthal
702	SB 1271	Romero
709	SB 1062	Strickland
713	AB 1624	Committee on Budget

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 1624	713	Committee on Budget
AB 1650	573	Feuer, Blumenfield, and Huffman
AB 1743	668	Hernandez
AB 1887	32	Villines
AB 2260	207	PER&SS
AB 2791	618	Committee on Governmental Organization
ABX8 5	1 X8	Committee on Budget
SB 1007	633	Hancock
SB 1062	709	Strickland
SB 1115	178	Committee on Public Safety
SB 1271	702	Romero
SB 1330	328	Committee on Judiciary
SB 189	697	Lowenthal

STATUTES OF 2009

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
53	SB 512	Committee on Education
90	AB 232	Hill and Fletcher
240	AB 399	Brownley
249	AB 654	Mendoza
301	AB 1584	Hernandez
303	SB 509	Committee on Education
304	SB 634	PE&R
306	AB 506	Furutani
316	AB 239	Brownley

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 232	90	Hill and Fletcher
AB 239	316	Brownley
AB 399	240	Brownley
AB 506	306	Furutani
AB 654	249	Mendoza
AB 1584	301	Hernandez
SB 509	303	Committee on Education
SB 512	53	Committee on Education
SB 634	304	PE&R

STATUTES OF 2008

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
6	ABX 3 8	Committee on Budget
84	AB 591	Dymally
179	SB 1498	Committee on Judiciary
230	AB 2191	Mullin
234	AB 2249	Niello
344	SB 1145	Machado
358	AB 2810	Brownley
369	AB 1844	Hernandez
370	AB 2023	Houston
371	SB 1123	Wiggins
372	AB 38	Nava
432	AB 1480	Mendoza
494	AB 2390	Karnette
518	SB 1186	Scott
751	AB 1389	Committee on Budget

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 38	372	Nava
AB 591	84	Dymally
AB 1389	751	Committee on Budget
AB 1480	432	Mendoza
AB 1844	369	Hernandez
AB 2023	370	Houston
AB 2191	230	Mullin
AB 2249	234	Niello
AB 2390	494	Karnette
AB 2810	358	Brownley
ABX 3 8	6	Committee on Budget
SB 1123	371	Wiggins
SB 1145	344	Machado
SB 1186	518	Scott
SB 1498	179	Committee on Judiciary

STATUTES OF 2007

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
141	AB 861	Tran
318	AB 554	Hernandez
321	AB 754	PER&SS
323	AB 757	PER&SS
332	AB 1316	Bass
333	AB 1317	Mullin
353	SB 901	Padilla
513	AB 1432	Soto
671	AB 221	Anderson

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 221	671	Anderson
AB 554	318	Hernandez
AB 754	321	PER&SS
AB 757	323	PER&SS
AB 861	141	Tran
AB 1316	332	Bass
AB 1317	333	Mullin
AB 1432	513	Soto
SB 901	353	Padilla

STATUTES OF 2006

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
442	AB 2941	Koretz
538	SB 1852	Judiciary
654	SB 1465	Soto
655	SB 1466	PE&R
780	AB 2462	Mullin

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 2462	780	Mullin
AB 2941	442	Koretz
SB 1465	654	Soto
SB 1466	655	PE&R
SB 1852	538	Judiciary

STATUTES OF 2005

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
22	SB 1108	Committee on Judiciary
140	SB 1018	Simitian
258	SB 439	Simitian
322	AB 1044	Aghazarian
328	AB 1166	Canciamilla
351	AB 224	Negrete McLeod
418	SB 973	Kuehl
661	SB 525	Torlakson
708	AB 256	De La Torre

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 224	351	Negrete McLeod
AB 256	708	De La Torre
AB 1044	322	Aghazarian
AB 1166	328	Canciamilla
SB 439	258	Simitian
SB 525	661	Torlakson
SB 973	418	Kuehl
SB 1018	140	Simitian
SB 1108	22	Committee on Judiciary

STATUTES OF 2004

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
8	AB 1209	Nakano
11	AB 419	PER&SS
183	AB 3082	Judiciary
215	SB 1106	Budget & Fiscal Review
378	AB 2680	Negrete McLeod
442	AB 1586	PER&SS
474	AB 3076	Mullin
506	AB 3094	PER&SS
629	AB 1776	Banking & Finance
911	SB 102	Burton
912	AB 2233	PER&SS
934	AB 2554	Pavley
935	AB 1852	Mullin

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 419	11	PER&SS
AB 1209	8	Nakano
AB 1586	442	PER&SS
AB 1776	629	Banking & Finance
AB 1852	935	Mullin
AB 2233	912	PER&SS
AB 2554	934	Pavley
AB 2680	378	Negrete McLeod
AB 3076	474	Mullin
AB 3082	183	Judiciary
AB 3094	506	PER&SS
SB 102	911	Burton
SB 1106	215	Budget & Fiscal Review

STATUTES OF 2003

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
6	SBX1 20	Budget
11	SBX1 29	Budget
25	SB 955	Burton
62	SB 600	Judiciary
107	AB 569	Cohn
313	AB 1207	Corbett
548	AB 106	Corbett
856	SB 269	Soto
859	SB 627	PE&R

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 106	548	Corbett
SB 269	856	Soto
AB 569	107	Cohn
SB 600	62	Judiciary
SB 627	859	PE&R
SB 955	25	Burton
AB 1207	313	Corbett
SBX1 20	6	Budget
SBX1 29	11	Budget

STATUTES OF 2002

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
14	SB 728	Machado
34	SB 657	Scott
30	AB 131	Corbett
35	AB 1122	Corbett
115	SB 1318	Karnette
232	AB 2970	Wayne
289	SB 1746	Polanco
375	AB 2982	PER&SS
483	SB 1315	Sher
903	SB 1983	Soto
1049	SB 1580	Burton
1095	AB 2506	Steinberg

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 131	30	Corbett
SB 657	34	Scott
SB 728	14	Machado
AB 1122	35	Corbett
SB 1315	483	Sher
SB 1318	115	Karnette
SB 1580	1049	Burton
SB 1746	289	Polanco
SB 1983	903	Soto
AB 2506	1095	Steinberg
AB 2970	232	Wayne
AB 2982	375	PER&SS

STATUTES OF 2001

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
77	SB 165	O'Connell
365	AB 906	Salinas
734	AB 804	Education
800	SB 334	Ortiz
802	SB 499	Soto
803	SB 501	PE&R
840	AB 135	Havice

BY BILL NUMBER

Bill No.	Chapter No.	Author
AB 135	840	Havice
SB 165	77	O'Connell
SB 334	800	Ortiz
SB 499	802	Soto
SB 501	803	PE&R
AB 804	734	Education
AB 906	365	Salinas

STATUTES OF 2000

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
22	AB 141	Knox
70	SB 1666	Alarcon
74	AB 1509	Machado
320	SB 2122	Ortiz
351	AB 1736	Ducheny
402	AB 649	Machado
466	SB 2105	Lewis
874	AB 2383	Keeley
880	SB 1694	Ortiz
896	AB 1733	Wildman
897	AB 2456	Wright
1020	AB 820	PER&SS
1021	AB 2700	Lempert
1025	AB 816	PER&SS
1026	SB 1505	Burton
1027	AB 429	Correa
1028	AB 821	PER&SS
1029	AB 1933	Strom-Martin
1032	SB 1435	Johnston

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 141	22	Knox
AB 429	1027	Correa
AB 649	402	Machado
AB 816	1025	PER&SS
AB 820	1020	PER&SS
AB 821	1028	PER&SS
SB 1435	1032	Johnston
SB 1505	1026	Burton
AB 1509	74	Machado
SB 1666	70	Alarcon
SB 1694	880	Ortiz
AB 1733	896	Wildman
AB 1736	351	Ducheny
AB 1933	1029	Strom-Martin
SB 2105	466	Lewis
SB 2122	320	Ortiz
AB 2383	874	Keeley
AB 2456	897	Wright
AB 2700	1021	Lempert

STATUTES OF 1999

BY CHAPTER NUMBER:

Chapter No.	Bill No	Author
40	AB 335	Mazzoni
216	SB 1245	Hayden
341	SB 105	Burton
432	SB 437	Rainey
465	AB 819	PER&SS
632	SB 713	Burton
740	SB 159	Johnston
784	AB 724	Dutra
834	AB 596	Honda
939	SB 1074	PE&R

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 105	341	Burton
SB 159	740	Johnston
AB 335	40	Mazzoni
SB 437	432	Rainey
AB 596	834	Honda
SB 713	632	Burton
AB 724	784	Dutra
AB 819	465	PER&SS
SB 1074	939	PE&R
SB 1245	216	Hayden

STATUTES OF 1998

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
262	SB 1486	Rainey
349	SB 2047	Lewis
419	SB 1945	Karnette
678	AB 1166	House
832	SB 2224	Alpert
923	SB 1753	Schiff
965	AB 2765	PER&SS
966	AB 1150	Prenter
967	AB 2804	PER&SS
968	SB 1528	Schiff
1006	AB 1102	Knox
1048	SB 2085	Burton
1074	SB 1021	IR
1076	SB 2126	PE&R
1077	SB 610	O'Connell

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 610	1077	O'Connell
SB 1021	1074	IR
AB 1102	1006	Knox
AB 1150	966	Prenter
AB 1166	678	House
SB 1486	262	Rainey
SB 1528	968	Schiff
SB 1753	923	Schiff
SB 1945	419	Karnette
SB 2047	349	Lewis
SB 2085	1048	Burton
SB 2126	1076	PE&R
SB 2224	832	Alpert
AB 2765	965	PER&SS
AB 2804	967	PER&SS

STATUTES OF 1997

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
1	AB 18	Mazzoni
386	SB 629	Karnette
416	AB 206	Hertzberg
482	SB 471	Burton
569	SB 1027	Schiff
572	AB 686	Baugh
838	SB 227	Solis
939	SB 1026	Schiff

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 18	1	Mazzoni
AB 206	416	Hertzberg
SB 227	838	Solis
SB 471	482	Burton
SB 629	386	Karnette
AB 686	572	Baugh
SB 1026	939	Schiff
SB 1027	569	Schiff

STATUTES OF 1996

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
318	AB 166	Cannella
383	AB 3221	Gallegos
506	AB 850	Morrissey
608	AB 2673	Ducheny
634	SB 2041	Hughes
680	SB 1877	Rogers
948	AB 1068	Mazzoni
1165	AB 3032	Burton

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 166	318	Cannella
AB 850	506	Morrissey
AB 1068	948	Mazzoni
SB 1877	680	Rogers
SB 2041	634	Hughes
AB 2673	608	Ducheny
AB 3032	1165	Burton
AB 3221	383	Gallegos

STATUTES OF 1995

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
390	AB 1122	Cannella
394	AB 948	Gallegos
524	AB 1441	Davis
592	AB 1298	Ducheny
829	SB 791	Hughes

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 791	829	Hughes
AB 948	394	Gallegos
AB 1122	390	Cannella
AB 1298	592	Ducheny
AB 1441	524	Davis

STATUTES OF 1994

BY CHAPTER NUMBER:

Chapter No.	Bill No	Author
20	SB 858	PE&R
30	SB 1285	Watson
31	AB 2448	Brown, W.
46	AB 2237	McDonald
193	AB 3832	PER&SS
291	AB 3064	Morrow
489	AB 3705	PER&SS
507	SB 2647	Aguiar
603	AB 2554	Solis
656	AB 3407	PER&SS
858	SB 586	Hughes
932	AB 2550	Karnette
933	AB 3171	Napolitano
1002	AB 3627	Campbell
1084	SB 1459	Watson
1281	SB 1972	Campbell

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 586	858	Hughes
SB 858	20	PE&R
SB 1285	30	Watson
SB 1459	1084	Watson
SB 1972	1281	Campbell
AB 2237	46	McDonald
AB 2448	31	Brown, W.
AB 2550	932	Karnette
AB 2554	603	Solis
SB 2647	507	Aguiar
AB 3064	291	Morrow
AB 3171	933	Napolitano
AB 3407	656	PER&SS
AB 3627	1002	Campbell
AB 3705	489	PER&SS
AB 3832	193	PER&SS

STATUTES OF 1993

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
439	AB 40	Margolin
440	AB 216	Margolin
468	AB 631	Cannella
699	SB 77	Appropriations
860	SB 698	Torres
861	AB 447	Seastrand
893	AB 1796	Napolitano
911	SB 754	Hughes
920	AB 1631	Karnette
1082	AB 2278	Tucker
1083	AB 798	Sher
1144	SB 857	PE&R
1187	SB 70	Greene, L.

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 40	439	Margolin
SB 70	1187	Greene, L.
SB 77	699	Appropriations
AB 216	440	Margolin
AB 2278	1082	Tucker
AB 447	861	Seastrand
AB 631	468	Cannella
SB 698	860	Torres
SB 754	911	Hughes
AB 798	1083	Sher
SB 857	1144	PE&R
AB 1796	893	Napolitano
AB 1631	920	Karnette

STATUTES OF 1992

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
51	AB 1719	Horcher
431	SB 2018	Calderon
450	AB 1522	Campbell
540	SB 1957	Thompson
781	SB 1448	Hart
1047	AB 2721	Elder
1158	SB 1687	Greene, L.
1165	SB 1184	Green
1166	SB 1885	Green
1167	SB 1886	Green
1238	AB 2391	Moore
1272	AB 2538	Moore
1329	AB 486	Polanco
1351	AB 2251	Margolin
1372	SB 1887	Green

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 486	1329	Polanco
SB 1184	1165	Green
SB 1448	781	Hart
AB 1522	450	Campbell
SB 1687	1158	Greene, L.
AB 1719	51	Horcher
SB 1885	1166	Green
SB 1886	1167	Green
SB 1887	1372	Green
SB 1957	540	Thompson
SB 2018	431	Calderon
AB 2251	1351	Margolin
AB 2391	1238	Moore
AB 2538	1272	Moore
AB 2721	1047	Elder

STATUTES OF 1991

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
83	AB 702	Frizzelle
118	AB 222	Vasconcellos
543	SB 1171	Green

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 222	118	Vasconcellos
AB 702	83	Frizzelle
SB 1171	543	Green

STATUTES OF 1990

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
11	AB 1972	Elder
35	ABX 53	Elder
83	AB 54	Elder
97	SB 682	Green
460	SB 1370	Green
560	AB 4129	Hughes
709	SB 1131	McCorquodale
831	AB 2552	Quackenbush
876	SB 2473	Green
903	AB 4048	Elder
996	AB 2609	Hughes
1172	SB 2469	Green
1201	AB 4284	Elder
1302	SB 2298	Davis
1372	SB 1854	Morgan
1390	AB 3042	Elder
1521	SB 95	Robbins

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 54	83	Elder
SB 95	1521	Robbins
SB 682	97	Green
SB 1131	709	McCorquodale
SB 1370	460	Green
SB 1854	1372	Morgan
AB 1972	11	Elder
SB 2298	1302	Davis
SB 2469	1172	Green
SB 2473	876	Green
AB 2552	831	Quackenbush
AB 2609	996	Hughes
AB 3042	1390	Elder
AB 4048	903	Elder
AB 4129	560	Hughes
AB 4284	1201	Elder
ABX 53	35	Elder

STATUTES OF 1989

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
115	SB 1407	Green
116	SB 1513	Campbell
118	SB 751	Royce
177	AB 1284	Quackenbush
227	SB 1039	Green
270	SB 683	Green
327	SB 686	Green
542	AB 59	Elder
876	AB 1929	Epple
1004	AB 50	Elder
1006	AB 265	Elder
1184	AB 123	Elder
1338	SB 1093	Presley

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 50	1004	Elder
AB 59	542	Elder
AB 123	1184	Elder
AB 265	1006	Elder
SB 683	270	Green
SB 686	327	Green
SB 751	118	Royce
SB 1039	227	Green
SB 1093	1338	Presley
AB 1284	177	Quackenbush
SB 1407	115	Green
SB 1513	116	Campbell
AB 1929	876	Epple

STATUTES OF 1988

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
241	AB 4095	Elder
265	SB 2552	Keene
370	AB 3195	Elder
380	AB 3409	Frizzelle
382	AB 3887	Grisham
408	AB 2890	Elder
462	SB 2080	Royce
497	SB 2082	Royce
542	SB 1190	Lockyer
688	AB 2885	Elder
716	SB 451	Beverly
739	SB 2682	Green
743	AB 147	Elder
792	AB 3172	Elder
902	AB 2874	Elder
985	AB 59	Elder
1089	SB 2648	Kopp
1339	SB 2578	Robbins
1360	SB 1600	Garamendi

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 59	985	Elder
AB 147	743	Elder
SB 451	716	Beverly
SB 1190	542	Lockyer
SB 1600	1360	Garamendi
SB 2080	462	Royce
SB 2082	497	Royce
SB 2552	265	Keene
SB 2578	1339	Robbins
SB 2648	1089	Kopp
SB 2682	739	Green
AB 2874	902	Elder
AB 2885	688	Elder
AB 2890	408	Elder
AB 3172	792	Elder
AB 3195	370	Elder
AB 3409	380	Frizzelle
AB 3887	382	Grisham
AB 4095	241	Elder

STATUTES OF 1987

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
76	AB 763	Frizzelle
123	AB 165	Stirling
327	AB 2042	Hughes
330	AB 2192	Grisham
373	SB 748	Royce
376	SB 1130	McCorquodale
408	SB 1194	Robbins
416	AB 1102	Elder
601	AB 960	Hughes
627	SB 1464	Keene
1312	SB 990	McCorquodale
1395	SB 1131	McCorquodale
1419	AB 1424	Calderon
1452	SB 998	Hart

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 165	123	Stirling
SB 748	373	Royce
AB 763	76	Frizzelle
AB 960	601	Hughes
SB 990	1312	McCorquodale
SB 998	1452	Hart
AB 1102	416	Elder
SB 1130	376	McCorquodale
SB 1131	1395	McCorquodale
SB 1194	408	Robbins
AB 1424	1419	Calderon
SB 1464	627	Keene
AB 2042	327	Hughes
AB 2192	330	Grisham

STATUTES OF 1986

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
56	SB 189	Deddeh
69	AB 1949	Elder
203	AB 2983	Bradley
208	AB 4098	Hannigan
230	AB 3185	Papan
235	AB 1991	Elder
369	AB 2225	Elder
420	SB 2315	Deddeh
575	AB 3261	Bradley
717	SB 2179	Royce
900	AB 2793	Papan
1006	AB 62	Elder
1254	AB 134	Waters, M.

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 62	1006	Elder
AB 134	1254	Waters, M.
SB 189	56	Deddeh
AB 1949	69	Elder
AB 1991	235	Elder
SB 2179	717	Royce
AB 2225	369	Elder
SB 2315	420	Deddeh
AB 2793	900	Papan
AB 2983	203	Bradley
AB 3185	230	Papan
AB 3261	575	Bradley
AB 4098	208	Hannigan

STATUTES OF 1985

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
54	AB 553	Papan
236	SB 578	Dills
261	SB 68	Deddeh
293	SB 835	Marks
298	SB 810	Deddeh
347	AB 2540	Condit
543	AB 1118	La Follette
655	AB 389	Elder
936	AB 214	Connelly
975	SB 1320	Marks
1497	SB 843	Royce
1597	AB 75	Hughes

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 68	261	Deddeh
AB 75	1597	Hughes
AB 214	936	Connelly
AB 389	655	Elder
AB 553	54	Papan
SB 578	236	Dills
SB 810	298	Deddeh
SB 835	293	Marks
SB 843	1497	Royce
AB 1118	543	La Follette
SB 1320	975	Marks
AB 2540	347	Condit

STATUTES OF 1984

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
53	AB 1511	Elder
88	AB 1453	Elder
279	AB 2386	Frizzelle
308	AB 1714	Johnston
361	AB 2223	Hughes
392	AB 1872	Elder
683	AB 3092	Elder
762	AB 3103	Condit
879	AB 3105	Stirling
1070	AB 2867	Hauser
1105	AB 2873	Papan
1308	AB 3659	Isenberg
1502	AB 2874	Papan
1503	AB 2870	Papan
1504	AB 3510	McAlister
1755	AB 2872	Papan

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 1453	88	Elder
AB 1511	53	Elder
AB 1714	308	Johnston
AB 1872	392	Elder
AB 2223	361	Hughes
AB 2386	279	Frizzelle
AB 2867	1070	Hauser
AB 2870	1503	Papan
AB 2872	1755	Papan
AB 2873	1105	Papan
AB 2874	1502	Papan
AB 3092	683	Elder
AB 3103	762	Condit
AB 3105	879	Stirling
AB 3510	1504	McAlister
AB 3659	1308	Isenberg

STATUTES OF 1983

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
5	SBX 13	Dills
10	ABX 28	Robinson
283	AB 325	Stirling
285	AB 61	Costa
426	AB 296	McAlister
588	AB 743	Elder
603	AB 1821	Seastrand
780	SB 714	Russell
833	AB 269	Waters, M
1043	AB 652	Papan
1213	SB 638	Deddeh

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 61	285	Costa
AB 269	833	Waters, M
AB 296	426	McAlister
AB 325	283	Stirling
SB 638	1213	Deddeh
AB 652	1043	Papan
SB 714	780	Russell
AB 743	588	Elder
AB 1821	603	Seastrand
SBX 13	5	Dills
ABX 28	10	Robinson

STATUTES OF 1982

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
5	AB 1542	Stirling
24	AB 662	Stirling
72	AB 787	Imbrecht
194	AB 860	Elder
279	AB 1239	Elder
295	AB 1930	Brown, D.
497	AB 798	McAlister
557	AB 2811	Deddeh
592	AB 2527	Hughes
630	AB 2395	Konnyu
680	SB 307	Dills
696	AB 2626	Alatorre
701	SB 1314	Foran
782	SB 1543	Russell
801	SB 1839	Roberti
821	SB 1787	Foran
918	AB 3038	Farr
1092	SB 1651	Russell
1125	AB 1363	Elder
1155	AB 3161	Papan
1200	SB 211	Keene
1208	SB 1398	Presley
1298	SB 968	Sieroty
1314	AB 3749	Stirling
1389	AB 2940	Tucker
1428	AB 3377	Elder
1429	AB 3166	Papan
1432	AB 3165	Papan
1433	AB 3164	Papan
1434	AB 3163	Papan
1444	AB 3593	Bosco
1450	SB 1862	Keene
1606	SB 1562	Russell
1632	AB 2960	Moorhead
1637	SB 2051	Marks

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 211	1200	Keene
SB 307	680	Dills
AB 662	24	Stirling
AB 787	72	Imbrecht
AB 798	497	McAlister
AB 860	194	Elder
SB 968	1298	Sieroty
AB 1239	279	Elder
SB 1314	701	Foran
AB 1363	1125	Elder
SB 1398	1208	Presley
AB 1542	5	Stirling
SB 1543	782	Russell
SB 1562	1606	Russell
SB 1651	1092	Russell
SB 1787	821	Foran
SB 1839	801	Roberti
SB 1862	1450	Keene
AB 1930	295	Brown, D.
SB 2051	1637	Marks
AB 2395	630	Konnyu
AB 2527	592	Hughes
AB 2626	696	Alatorre
AB 2811	557	Deddeh
AB 2940	1389	Tucker
AB 2960	1632	Moorhead
AB 3038	918	Farr
AB 3161	1155	Papan
AB 3163	1434	Papan
AB 3164	1433	Papan
AB 3165	1432	Papan
AB 3166	1429	Papan
AB 3377	1428	Elder
AB 3593	1444	Bosco
AB 3749	1314	Stirling

STATUTES OF 1981

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
124	SB 1058	Speraw
152	AB 306	Vasconcellos
438	AB 645	Hughes
592	SB 726	Beverly
714	SB 1192	Rains
800	AB 2093	Kapiloff
805	AB 787	Ingalls
827	SB 991	Marks
865	AB 1014	McCarthy
868	AB 1818	Costa
965	AB 1125	Waters, M.
983	SB 498	Presley
986	SB 879	Keene
1023	AB 1162	Moore
1089	SB 744	Sieroty
1091	SB 216	Boatwright
1143	AB 2167	Costa
1157	AB 2225	Hughes
1168	AB 773	Ingalls

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 216	1091	Boatwright
AB 306	152	Vasconcellos
SB 498	983	Presley
AB 645	438	Hughes
SB 726	592	Beverly
SB 744	1089	Sieroty
AB 773	1168	Ingalls
AB 787	805	Ingalls
SB 879	986	Keene
SB 991	827	Marks
AB 1014	865	McCarthy
SB 1058	124	Speraw
AB 1125	965	Waters, M.
AB 1162	1023	Moore
SB 1192	714	Rains
AB 1818	868	Costa
AB 2093	800	Kapiloff
AB 2167	1143	Costa
AB 2225	1157	Hughes

STATUTES OF 1980

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
151	AB 1861	Egeland
173	AB 145	McAlister
184	AB 574	Bannai
204	AB 943	Lehman
244	AB 3362	Bannai
548	AB 2753	Nolan
757	SB 1744	Russell
1102	SB 1647	Garcia, M.
1121	SB 1810	Watson
1168	AB 2837	Lancaster
1185	AB 2113	Cline
1269	AB 2578	Johnson
1272	AB 2658	Mangers
1284	SB 1850	Keene
1286	SB 1557	Sieroty
1337	SB 1695	Holmdahl
1354	AB 2196	Greene, L.
2720	AB 2720	Tucker

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 145	173	McAlister
AB 574	184	Bannai
AB 943	204	Lehman
SB 1557	1286	Sieroty
SB 1647	1102	Garcia, M.
SB 1695	1337	Holmdahl
SB 1744	757	Russell
SB 1810	1121	Watson
SB 1850	1284	Keene
AB 1861	151	Egeland
AB 2113	1185	Cline
AB 2196	1354	Greene, L.
AB 2578	1269	Johnson
AB 2658	1272	Mangers
AB 2720	2720	Tucker
AB 2753	548	Nolan
AB 2837	1168	Lancaster
AB 3362	244	Bannai

STATUTES OF 1979

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
218	SB 381	Rodda
219	SB 1021	Sieroty
248	SB 962	Sieroty
282	AB 8	Greene, L.
284	AB 215	Vicencia
287	AB 712	Moore
327	AB 319	Deddeh
430	SB 1063	Garcia, M.
454	AB 238	Papan
471	AB 924	Alatorre
486	AB 473	Imbrecht
503	SB 14	Smith
520	SB 921	Russell
567	AB 1111	McCarthy
627	AB 995	McVittie
630	AB 1213	Cline
656	AB 876	Hughes
773	SB 480	Smith
787	SB 586	Garcia, M.
796	AB 1302	Bannai
802	AB 604	Thurman
820	AB 219	Greene, L.
1036	SB 629	Sieroty
1201	SB 797	Russell
1203	AB 939	Lehman

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 8	282	Greene, L.
SB 14	503	Smith
AB 215	284	Vicencia
AB 219	820	Greene, L.
AB 238	454	Papan
AB 319	327	Deddeh
SB 381	218	Rodda
AB 473	486	Imbrecht
SB 480	773	Smith
SB 586	787	Garcia, M.
AB 604	802	Thurman
SB 629	1036	Sieroty
AB 712	287	Moore
SB 797	1201	Russell
AB 876	656	Hughes
SB 921	520	Russell
AB 924	471	Alatorre
AB 939	1203	Lehman
SB 962	248	Sieroty
AB 995	627	McVittie
SB 1021	219	Sieroty
SB 1063	430	Garcia, M.
AB 1111	567	McCarthy
AB 1213	630	Cline
AB 1302	796	Bannai

STATUTES OF 1978

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
131	AB 1026	Vicencia
277	AB 3722	Waters
314	AB 3191	Bannai
385	SB 130	Deukmejian
388	SB 1619	Johnson
441	SB 1317	Petris
478	AB 2153	Brown
486	AB 2159	Duffy
502	AB 3140	Bannai
558	SB 2135	Rodda
687	AB 2566	Egeland
870	AB 3402	Perino
900	AB 2511	Hayden
902	AB 2468	Deddeh
931	AB 2360	Deddeh
1024	SB 1956	Russell
1169	AB 1256	Mangers
1176	AB 3076	Fenton
1206	SB 1954	Russell

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 130	385	Deukmejian
AB 1026	131	Vicencia
AB 1256	1169	Mangers
SB 1317	441	Petris
SB 1619	388	Johnson
SB 1954	1206	Russell
SB 1956	1024	Russell
SB 2135	558	Rodda
AB 2153	478	Brown
AB 2159	486	Duffy
AB 2360	931	Deddeh
AB 2468	902	Deddeh
AB 2511	900	Hayden
AB 2566	687	Egeland
AB 3076	1176	Fenton
AB 3140	502	Bannai
AB 3191	314	Bannai
AB 3402	870	Perino
AB 3722	277	Waters

STATUTES OF 1977

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
26	AB 170	Dixon
130	AB 244	Thomas
143	AB 588	Thomas, Wm.
199	AB 609	Hallett
213	SB 41	Rodda
355	AB 1002	Hallett
474	AB 747	Mori
538	AB 1505	Hart
611	SB 804	Dunlap
619	AB 829	Chel
654	AB 1230	Perino
659	AB 1481	Bannai
670	AB 674	Papan
705	SB 713	Marks
709	SB 170	Roberti
852	AB 568	Alatorre
894	AB 65	Greene, L.
928	AB 727	McAlister
941	SB 439	Russell
1261	SB 699	Petris

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 41	213	Rodda
AB 65	894	Greene, L.
AB 170	26	Dixon
SB 170	709	Roberti
AB 244	130	Thomas
SB 439	941	Russell
AB 568	852	Alatorre
AB 588	143	Thomas, Wm.
AB 609	199	Hallett
AB 674	670	Papan
SB 699	1261	Petris
SB 713	705	Marks
AB 727	928	McAlister
AB 747	474	Mori
SB 804	611	Dunlap
AB 829	619	Chel
AB 1002	355	Hallett
AB 1230	654	Perino
AB 1481	659	Bannai
AB 1505	538	Hart

STATUTES OF 1976

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
105	SB 2265	Mori
323	SB 1641	Rodda
560	AB 4311	Craven
605	SB 2738	Egeland
688	SB 3882	Fazio
697	AB 3326	Thomas, Wm.
818	SB 2020	Schrade
827	AB 3340	Craven
926	SB 2121	Behr
991	AB 2790	Montoya
1308	AB 2397	Hart
1316	AB 3056	Gualco
1322	AB 3513	Suitt
1412	AB 3918	Deddeh
1418	SB 80	Berryhill

BY BILL NUMBER:

Bill No.	Chapter No.	Author
SB 80	1418	Berryhill
SB 1641	323	Rodda
SB 2020	818	Schrade
SB 2121	926	Behr
SB 2265	105	Mori
AB 2397	1308	Hart
SB 2738	605	Egeland
AB 2790	991	Montoya
AB 3056	1316	Gualco
AB 3326	697	Thomas, Wm.
AB 3340	827	Craven
AB 3513	1322	Suitt
SB 3882	688	Fazio
AB 3918	1412	Deddeh
AB 4311	560	Craven

STATUTES OF 1975

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
416	AB 152	Knox
561	SB 348	Robbins
604	AB 2092	Hart
658	AB 2053	Craven
729	AB 863	Egeland
806	AB 2011	Craven
809	AB 2365	Lancaster
954	AB 1105	Deddeh

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 152	416	Knox
SB 348	561	Robbins
AB 863	729	Egeland
AB 1105	954	Deddeh
AB 2011	806	Craven
AB 2053	658	Craven
AB 2092	604	Hart
AB 2365	809	Lancaster

STATUTES OF 1974

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
89	SB 647	Harmer
110	AB 2790	Dixon
142	AB 2643	Cullen
298	AB 723	Dunlap
342	SB 1595	Deukmejian
795	SB 2247	Robbins
873	AB 4274	Lewis
1074	AB 3578	Lewis
1293	AB 3579	Lewis
1120	AB 3799	Bee
1153	AB 4083	Bannai
1367	AB 3339	Brown
1382	AB 4118	Dixon
1433	AB 85	Bee

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 85	1433	Bee
SB 647	89	Harmer
AB 723	298	Dunlap
SB 1595	342	Deukmejian
SB 2247	795	Robbins
AB 2643	142	Cullen
AB 2790	110	Dixon
AB 3339	1367	Brown
AB 3578	1074	Lewis
AB 3579	1293	Lewis
AB 3799	1120	Bee
AB 4083	1153	Bannai
AB 4118	1382	Dixon
AB 4274	873	Lewis

STATUTES OF 1973

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
62	AB 238	MacDonald
259	AB 644	MacDonald
644	AB 149	Bagley
721	SB 189	Grunsky
742	SB 854	Marler
789	AB 865	Ingalls
866	SB 999	Wedworth
976	AB 1553	Lewis
1029	AB 852	Boatwright
1099	SB 173	Dills
1126	SB 1173	Beilenson

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 149	644	Bagley
SB 173	1099	Dills
SB 189	721	Grunsky
AB 238	62	MacDonald
AB 644	259	MacDonald
AB 852	1029	Boatwright
SB 854	742	Marler
AB 865	789	Ingalls
SB 999	866	Wedworth
SB 1173	1126	Beilenson
AB 1553	976	Lewis

STATUTES OF 1972

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
239	AB 961	McCarthy
277	AB 460	Fong
317	AB 444	McAlister
313	AB 1426	Dunlap
361	AB 123	Dent
787	SB 1503	Teale
878	AB 960	Bee
960	SB 946	Moscone
1010	AB 962	Barnes
1089	AB 2189	Barnes
1341	SB 1390	Grunsky
1344	AB 637	Knox
1401	AB 2278	Fong
1436	AB 1490	Thomas

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 123	361	Dent
AB 444	317	McAlister
AB 460	277	Fong
AB 637	1344	Knox
SB 946	960	Moscone
AB 960	878	Bee
AB 961	239	McCarthy
AB 962	1010	Barnes
SB 1390	1341	Grunsky
AB 1426	313	Dunlap
AB 1490	1436	Thomas
SB 1503	787	Teale
AB 2189	1089	Barnes
AB 2278	1401	Fong

STATUTES OF 1971

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
4	AB 169	Barnes
222	SB 446	Alquist
407	AB 168	Barnes
493	SB 477	Zenovich
722	AB 1273	Dent
855	AB 167	Barnes
870	AB 166	Barnes
906	AB 2508	Barnes
931	AB 2509	Barnes
1032	AB 2011	Barnes
1289	AB 1421	La Costa
1305	AB 543	Barnes
1323	AB 2392	McCarthy

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 166	870	Barnes
AB 167	855	Barnes
AB 168	407	Barnes
AB 169	4	Barnes
SB 446	222	Alquist
SB 477	493	Zenovich
AB 543	1305	Barnes
AB 1273	722	Dent
AB 1421	1289	La Costa
AB 2011	1032	Barnes
AB 2392	1323	McCarthy
AB 2508	906	Barnes
AB 2509	931	Barnes

STATUTES OF 1970

BY CHAPTER NUMBER:

Chapter No.	Bill No.	Author
272	AB 173	Bagley
280	AB 658	Stacy
382	AB 1223	Barnes
466	AB 1222	Barnes
557	AB 122	Ryan
744	AB 1220	Barnes
999	AB 1221	Barnes
1013	AB 1646	Barnes
1070	SB 762	Danielson
1263	AB 1584	Beverly
1401	SB 1013	Marks
1485	AB 1668	Sieroty
1523	AB 2240	Hayes

BY BILL NUMBER:

Bill No.	Chapter No.	Author
AB 122	557	Ryan
AB 173	272	Bagley
AB 658	280	Stacy
SB 762	1070	Danielson
SB 1013	1401	Marks
AB 1220	744	Barnes
AB 1221	999	Barnes
AB 1222	466	Barnes
AB 1223	382	Barnes
AB 1584	1263	Beverly
AB 1646	1013	Barnes
AB 1668	1485	Sieroty
AB 2240	1523	Hayes

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