

2019 Membership Clean-Up Proposed Language

Section 22501 of the Education Code is amended to read:

22501. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by an employer, excluding a community college district, 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.

Section 22502 of the Education Code is amended to read:

22502. (a) (1) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a part-time basis for 50 percent or more of the time the employer requires for the full-time position, ~~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 for 50 percent or more of the full-time position employment, unless excluded from membership pursuant to Section 22601.

(2) Creditable service in more than one position shall not be aggregated for the purpose of determining mandatory membership under this subdivision.

(b) Any person who is not already a member of the Defined Benefit Program and who is 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 of employment, unless excluded from membership pursuant to Section 22601 or subdivision (b) of Section 22601.5.

(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).

Section 22503 of the Education Code is amended to read:

22503. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service as a substitute employee who is not already a member of the Defined Benefit Program is on a substitute basis shall become 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, performs the employee's 100th complete day of creditable service during a school year for one school district or county office of education, 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~~ **creditable service performed for an employer that provides the Cash Balance Benefit Program** under Part 14 (commencing with Section 26000).

(c) This section is deemed to have become operative on July 1, 1996.

Section 22504 of the Education Code is amended to read:

22504. (a) Any person **who is not already a member of the Defined Benefit Program and who is** employed by a school district or county office of education to perform creditable service on a part-time **hourly** 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~~ **performs 60 or more hours of creditable service for** 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).~~

(b) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a part-time daily basis shall become a member as of the first day of the pay period following the pay period in which the person performs 10 or more days of creditable service for one school district or county office of education, unless excluded from membership pursuant to Section 22601.

(c) This section does not apply to creditable service performed for an employer that provides the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).

Section 22601.5 of the Education Code is amended to read:

22601.5. (a) Any person **who is not already a member of the Defined Benefit Program and who is** employed by a school district or county office of education to perform creditable service **on a part-time basis for less than 50 percent of the time the employer requires for the full-time position** ~~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 **who is not already a member of the Defined Benefit Program and who is** employed by a community college district to perform creditable service **on a temporary basis** pursuant to Section 87474, **87478,** 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.

(e) 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).

(c) Creditable service performed by a person who is excluded from mandatory membership in the Defined Benefit Program pursuant to this section shall be subject to coverage by the Cash Balance Benefit Program pursuant to Section 26400 if the employer provides the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).

Section 22602 of the Education Code is amended to read:

22602. (a) Any person **who is not already a member of the Defined Benefit Program and who is** employed **by a school district or county office of education** to perform creditable service **as a substitute teacher who is not already a member in the Defined Benefit Program and who on a substitute basis and** performs less than 100 complete days of creditable service **in one school district, community college district, or county superintendent's office during the a school year for one school district or county office of education** is excluded from mandatory membership in the Defined Benefit Program. **This subdivision shall only apply to persons who are employed to perform creditable service by an employer that does not provide the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).**

(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).

(b) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a substitute basis is excluded from mandatory membership in the Defined Benefit Program, and creditable service performed shall be subject to coverage by the Cash Balance Benefit Program pursuant to Section 26400 if employed by an employer that provides the Cash Balance Benefit Program 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.

Section 22604 of the Education Code is amended to read:

22604. (a) Any person **who is not already a member of the Defined Benefit Program and who is** employed **by a school district or county office of education** to perform creditable service on a part-time **hourly** 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 for** one school district or county office of education, is excluded from mandatory membership in the Defined Benefit Program. **This subdivision shall only apply to persons who are employed to perform creditable service by an employer that does not provide the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).**

(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).

(b) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a part-time daily basis and who performs less than 10 days of creditable service in a pay period for one school district or county office of education is excluded from mandatory membership in the Defined Benefit Program. This subdivision shall only apply to persons who are employed to perform creditable service by an employer that does not provide the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).

(c) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a part-time hourly or part-time daily basis is excluded from mandatory membership in the Defined Benefit Program, and any creditable service performed shall be subject to coverage by the Cash Balance Benefit Program pursuant to Section 26400 if employed by an employer that provides the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).

Section 26400 of the Education Code is amended to read:

26400. (a) (1) A person employed on a part-time basis by an employer, excluding community college districts, 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, and that the person has not made an election pursuant to subdivision (d).

(2) If the participant's basis of employment with an employer, excluding community college districts, 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 as of the last day of the pay period in which the change in the participant's basis of employment occurred. 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.

(b) (1) A person employed on a temporary basis pursuant to Section 87474, 87478, 87480, 87481, 87482, or 87482.5 by a community college district, who is not subject to mandatory membership in the Defined Benefit Program pursuant to Section 22501, 22502, 22503, 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, provided that the person has not made an election pursuant to subdivision (d).

(2) 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, 22503, 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 as of the last day of the pay period in which the change in the participant's basis of employment occurred. 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.

(c) (1) Any person employed to perform creditable service as a substitute employee for an 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, 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, and that the person has not made an election pursuant to subdivision (d).

(2) If the participant's basis of employment as a substitute employee for an employer changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Section 22501, 22502, 22503, 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 as of the last day of the pay period in which the change in the participant's basis of employment occurred. 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.

(d) If the employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect coverage under the federal Social Security Act 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 the federal Social Security Act or to participate in the alternative retirement plan in lieu of participating in the Cash Balance Benefit Program. An election shall 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.

(e) If subdivision (d) 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 system's headquarters office. 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.

(f) If the governing board of an employer subsequently provides, in addition to the Cash Balance Benefit Program, federal Social Security Act coverage, a participant covered by the Cash Balance Benefit Program who is performing creditable service for that employer may elect

to be covered by the federal Social Security Act 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 the federal Social Security Act or the effective date of the governing board's action to provide federal Social Security Act 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.

(g) If the governing board of an employer provided federal Social Security Act 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 federal Social Security Act coverage, a participant who was performing creditable service for that employer may elect to be covered by the federal Social Security Act 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 the federal Social Security Act 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.

(h) An election by an employee to terminate his or her participation in the Cash Balance Benefit Program as described in subdivision (f) or (g) 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 system's headquarters office.

(a) (1) Any person who is not already a member of the Defined Benefit Program and who is employed to perform creditable service by an employer that provides the Cash Balance Benefit Program shall become a participant of the Cash Balance Benefit Program for creditable service performed for that employer if the person is not excluded from participation pursuant to Section 22601 and all employment to perform creditable service for that employer meets either of the following conditions:

(A) The person is employed by an employer, excluding a community college district, to perform creditable service on a part-time basis for less than 50 percent of the time the employer requires for the full-time position, or on a substitute, part-time hourly or part-time daily basis.

(B) The person is employed by a community college district to perform creditable service on a temporary basis pursuant to Section 87474, 87478, 87480, 87481, 87482, or 87482.5.

(2) Participation shall begin as of the first day of employment or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.

(b) If the employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect coverage by the federal Social Security Act or an alternative retirement plan offered by the employer in addition to the Cash Balance Benefit Program, the employee may elect coverage by the federal Social Security Act or the alternative retirement plan in lieu of participating in the Cash Balance Benefit Program.

(1) The election shall be made in writing on a properly executed form prescribed by the system and filed with the employer within 60 calendar days after the first day of employment,

or the date or effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.

(2) The election form shall be received at the system's headquarters office within 60 calendar days after the date of the employee's signature. The employer shall retain a copy of the signed election form.

(3) The election shall become effective as of the first day of employment or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.

(c) If the employer's governing board subsequently provides coverage by the federal Social Security Act, a person who becomes a participant of the Cash Balance Benefit Program pursuant to subdivision (a) may elect coverage by the federal Social Security Act in lieu of participating in the Cash Balance Benefit Program.

(1) The election shall be made in writing on a properly executed form prescribed by the system and filed with the employer within 60 calendar days after the date or effective date of the employer's governing board's action to provide coverage by the federal Social Security Act, whichever is later.

(2) The election form shall be received by the system's headquarters office within 60 calendar days after the date of the employee's signature. The employer shall retain a copy of the signed election form.

(3) The election shall become effective as of the effective date of the employer's governing board's action to provide coverage by the federal Social Security Act.

(d) If the governing board of an employer provided federal Social Security Act 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 federal Social Security Act coverage, a participant who was performing creditable service for that employer may elect to be covered by the federal Social Security Act 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 the federal Social Security Act shall be effective on July 1, 2008.

(e) An election made pursuant to subdivision (b), (c), or (d) shall not preclude an employee from electing to participate in the Cash Balance Benefit Program for creditable service performed for that employer at a later date if the employer still provides the Cash Balance Benefit Program and the employee is eligible for participation as described in paragraph (1) of subdivision (a).

(1) The election shall be made in writing on a properly executed form prescribed by the system and filed with the employer.

(2) The election form shall be received by the system's headquarters' office within 60 calendar days after the date of the employee's signature and prior to the submission of contributions. The employer shall retain a copy of the signed election form.

(3) The election shall be effective no earlier than the first day of the pay period in which the election is made and may not be cancelled.

Section 26401 of the Education Code is amended to read:

26401. (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 an employer,

excluding 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.

(b) A member of the Defined Benefit Program who is employed pursuant to Section 87474, 87478, 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) A member of the Defined Benefit Program who is employed to perform creditable service as a substitute employee by an employer 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.

(d) 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.

(e) 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 system's headquarters office. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

(f) 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 as of the last day of the pay period in which the change in the participant's basis of employment occurred. 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) 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, 22503, 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 as of the last day of the pay period in which the change in the participant's basis of employment occurred. 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.

(h) If an election is made pursuant to subdivision (c) and the participant's basis of employment with that employer changes to employment that is subject to mandatory

membership in the Defined Benefit Program pursuant to Section 22501, 22502, 22503, 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 as of the last day of the pay period in which the change in the participant's basis of employment occurred. 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.

(a)(1) A member of the Defined Benefit Program who is employed by an employer that provides the Cash Balance Benefit Program may elect to become a participant of the Cash Balance Benefit Program for creditable service performed for that employer if all employment to perform creditable service for that employer meets either of the following conditions:

(A) The member is employed by an employer, excluding a community college district, to perform creditable service on a part-time basis for less than 50 percent of the time the employer requires for the full-time position or on a substitute, part-time hourly, or part-time daily basis.

(B) The member is employed by a community college district to perform creditable service on a temporary basis pursuant to Section 87474, 87478, 87480, 87481, 87482, or 87482.5.

(2) The election shall be made in writing on a properly executed form prescribed by the system and filed with the employer within 60 calendar days after the first day of employment, or the date or effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.

(3) The election form shall be received at the system's headquarters office within 60 calendar days after the date of the employee's signature and prior to the submission of contributions. The employer shall retain a copy of the signed election form.

(4) The election shall become effective as of the first day of employment or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.

(b) (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, 87478, 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 system's headquarters office. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

(c) A member who elects to participate in the Cash Balance Benefit Program pursuant to this section may subsequently elect that creditable service performed for the employer be subject to coverage by the Defined Benefit Program in lieu of the Cash Balance Benefit Program.

(1) The election shall be made in writing on a properly executed form prescribed by the system and filed with the employer at any time while employed to perform creditable service.

(2) The election form shall be received at the system's headquarters office within 60 calendar days after the date of the employee's signature and prior to the submission of contributions. The employer shall retain a copy of the signed election form.

(3) The election shall become effective no earlier than the first day of the pay period in which the election is made and is irrevocable.

Section 26403 of the Education Code is amended to read:

26403. (a) 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.

(1) The election shall be made in writing on a properly executed form prescribed by the system and filed with the employer at any time while performing trustee service.

(2) The election form shall be received at the system's headquarters office within 60 calendar days after the date of the trustee's signature and prior to the submission of contributions. The employer shall retain a copy of the election form.

(3) The election shall become effective no earlier than the first day of the pay period in which the election is made.

(b) An election made pursuant to this section is irrevocable.