

Senate Bill No. 1376

Passed the Senate August 19, 2008

Secretary of the Senate

Passed the Assembly August 14, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22713, 22954, 22955, 23859, 24201.5, 24216, 24216.5, 24216.6, 25007, 25010, 25017, and 25020 of, and to add Section 25008.5 to, the Education Code, relating to teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1376, Wiggins. State Teachers' Retirement System.

(1) The Teachers' Retirement Law provides for a continuous appropriation to be made annually from the General Fund for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund to fund purchase power protection payments to retired members of the Defined Benefit Program of the State Teachers' Retirement System. The law provides that the total amount of the appropriation for each year shall be equal to 2.5% 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, as specified. The law also provides for a continuous appropriation annually from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of that appropriation for each year is equal to 2.017% of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, to be calculated annually on October 1, as specified. In addition, the law provides for a continuous appropriation annually from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of that appropriation for each year is equal to 0.524% of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, to be calculated annually on October 1, as specified.

This bill would require these appropriations to be estimated and reported annually to the Department of Finance and the Legislature no later than October 25.

(2) The law authorizes the governing board of a school district or a community college district or a county superintendent of schools to establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload and receive the service credit for full-time work. Among other things, the regulations must include a requirement that the member have at least 10 years of credited service, including 5 years of credited service for full-time employment immediately preceding the reduction in workload.

This bill would revise the regulation to require the member to have at least 10 years of credited service prior to the reduction in workload and to have, in addition, 5 years of credited service for full-time employment immediately preceding the reduction in workload.

(3) Existing law provides that upon termination of a survivor benefit allowance, 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.

This bill would provide that if there is no spouse, and if there is a designated beneficiary, as specified, then upon termination of the survivor benefit allowance payable to all eligible dependent children, 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, as specified.

(4) The State Teachers' Retirement Law limits the amount of postretirement compensation that may be earned in specified types of employment by a retired member of the Defined Benefit Program without a reduction in the retirement benefits of the member. That law, operative until January 30, 2009, provides exemptions from this limit, as specified. The law requires the employing school district to submit documentation to substantiate the eligibility of the temporary employment of a member retired from service for the exemption. Existing law also provides that the period of exemption for members who retired for service and are appointed or assigned to specified positions ends no more than 2 calendar years from the date of appointment or assignment.

This bill would require the documentation to be received by the system no later than June 30 of the school year for which the exemption is to apply. The bill would also provide that the exemption would end no more than 24 consecutive months, rather than 2 calendar years, from the date the exemption commenced.

(5) (A) The law also permits a member of the Defined Benefit Program who is eligible and applies for a disability allowance or disability retirement to apply for and receive a service retirement pending a determination of his or her application for disability, and subject to specified requirements and restrictions. 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 State Teachers' Retirement System, as specified. A member may cancel his or her service retirement application or terminate his or her service retirement allowance pursuant to existing provisions of the State Teachers' Retirement Law.

The law also permits the State Teachers' Retirement System to make appropriate adjustments to the applicable service retirement, disability allowance, or disability retirement of a member if the member cancels his or her service retirement application or terminates his or her service retirement allowance. Existing law authorizes the State Teachers' Retirement System to recover a service retirement allowance overpayment made to a member subject to these provisions by deducting that overpayment from any subsequent disability benefit payable to the member. The law limits, however, the amount that a corrected monthly allowance may be reduced in order to recover an overpaid amount.

This bill would additionally authorize the system to make appropriate adjustments to the applicable service retirement, disability allowance, or disability retirement of a member if the member changes his or her service retirement application. The bill would also provide that the provision limiting the amount that a corrected monthly allowance may be reduced in order to recover an overpaid amount would not apply to the provisions authorizing the State Teachers' Retirement System to make appropriate adjustments to the applicable service retirement, disability allowance, or disability retirement of a member.

(B) These provisions further provide that if a member who applies for a service retirement pending a determination of his or her application for disability dies prior to a determination of the

application for disability, any subsequent benefits payable to the member's surviving spouse or beneficiary must be based on the service retirement allowance, as specified. If a member who is granted a disability allowance or a disability retirement dies prior to receiving notification of the approval of his or her application for disability, the disability allowance or disability retirement is payable to the member's surviving spouse or beneficiary, as specified.

The bill would instead provide that if a member who applies for a service retirement pending a determination of his or her application for disability dies prior to a determination of 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. If a member who is granted a disability allowance or a disability retirement dies prior to receiving notification of the approval of his or her 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.

(6) Existing law requires the board to establish and maintain a segregated account within the retirement fund to be known as the Annuitant Reserve, for the payment of annuities under the Defined Benefit Supplement Program. Existing law provides that when the board declares an additional earnings credit for a plan year, the board may also declare by plan amendment an additional annuity credit, for members and annuity beneficiaries who are receiving an annuity as of a specified date, based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve.

This bill would instead provide that the credit shall be based on the annuity of the member and annuity beneficiaries for the plan year and paid to the members and annuity beneficiaries on the date specified by the board.

(7) Existing law establishes eligibility criteria for a member to receive a retirement or a disability benefit under the Defined Benefit Supplement Program, including that a member submit an application for the benefit or allowance on a form prescribed by the system. Existing law also provides that a final benefit under this program becomes payable when the system receives proof of the member's death.

This bill would expand the eligibility criteria to provide that no member retiring for service, as specified, on or after January 1, 2009, or whose disability allowance or disability retirement allowance is effective on or after January 1, 2009, shall receive an allowance unless the member has submitted a completed application on a form prescribed by the system. The bill would also provide that no benefit shall be paid to a beneficiary until the final benefit is paid.

(8) The bill would provide that any section of any act enacted by the Legislature during the 2008 calendar year that takes effect on or before January 1, 2009, and that affects a provision of this act would prevail over this act.

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

SECTION 1. Section 22713 of the Education Code is amended to read:

22713. (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.

(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 credited service for 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 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.

SEC. 2. Section 22954 of the Education Code, as amended by Chapter 6 of the Statutes of 2008, is amended to read:

22954. (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) 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 to be estimated and reported annually to the Department of Finance and the Legislature no later than October 25.

(c) Transfers made to the Supplemental Benefit Maintenance Account, pursuant to subdivision (a), for the 2008–09 fiscal year, shall be made on November 1, 2008.

(d) The board may deduct from the annual appropriation made pursuant to this section an amount necessary for the administrative expenses of Section 24415.

(e) 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.

SEC. 3. Section 22955 of the Education Code is amended to read:

22955. (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, to be estimated and reported annually to the Department of Finance and the Legislature no later than October 25, and shall be divided into four equal quarterly payments.

(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, to be estimated and reported annually to the Department of Finance and the Legislature no later than October 25, 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.

SEC. 4. Section 23859 of the Education Code is amended to read:

23859. (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.

SEC. 5. Section 24201.5 of the Education Code is amended to read:

24201.5. (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 six months before the effective date of the retirement allowance and 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.

(B) The effective date is later than the last day of creditable service for which compensation is payable to the member.

(C) 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 of the Education Code 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.

SEC. 6. Section 24216 of the Education Code is amended to read:

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent pursuant to Section 41320.1, or who is appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28) or the High Priority Schools Grant Program (Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28), or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of two years.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system providing that the Superintendent or the county superintendent of schools submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) (1) A member retired for service under this part who is employed by an employer to perform creditable service in an

emergency situation to fill a vacant administrative position requiring highly specialized skills shall be exempt from the provisions of subdivisions (d) and (f) of Section 24214 for creditable service performed up to one-half of the full-time position, if the vacancy occurred due to circumstances beyond the control of the employer.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned and shall end no more than two calendar years from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system subject to the following conditions:

(A) The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.

(B) The employment is reported in a public meeting of the governing body of the employer.

(C) The employer submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision.

(c) This section does not apply to any person who has received additional service credit pursuant to Section 22715 or 22716.

(d) A person who has received additional service credit pursuant to Section 22714 or 22714.5 shall be ineligible for one year from the effective date of retirement for the exemption provided in this section for service performed in any school district, community college district, or county office of education in the state.

(e) This section shall remain in effect only until June 30, 2009, and shall be repealed on January 1, 2010, unless a later enacted statute deletes or extends that date.

SEC. 7. Section 24216.5 of the Education Code is amended to read:

24216.5. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2006.

(2) The member retired for service is employed by a school district to provide any of the following:

(A) Direct classroom instruction to pupils enrolled in kindergarten or any of grades 1 to 12, inclusive.

(B) Support and assessment for new teachers through the Beginning Teacher Support and Assessment program authorized by Section 44279.1.

(C) Support to individuals completing student teaching assignments.

(D) Support to individuals participating in the following programs:

(i) Pre-Internship Teaching Program authorized pursuant to Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25.

(ii) Alternative certification programs authorized pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25.

(iii) School Paraprofessional Teacher Training Program established pursuant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25.

(E) Instruction and pupil services provided to pupils enrolled in special education programs authorized pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2.

(F) Instruction to pupils enrolled in English language learner programs authorized pursuant to Chapter 3 (commencing with Section 300), Chapter 4 (commencing with Section 400), and Chapter 6 (commencing with Section 430) of Part 1 of Division 1.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a community college district.

(d) This section shall remain in effect only until June 30, 2009, and shall be repealed as of January 1, 2010, unless a later enacted statute deletes or extends that date.

SEC. 8. Section 24216.6 of the Education Code is amended to read:

24216.6. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2006.

(2) The member retired for service is employed by a school district to provide direct remedial instruction to pupils in grades 2 to 12, inclusive. "Remedial instruction" means the programs specified in Sections 37252 and 37252.2.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive

representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision. That documentation shall be on a properly executed form provided by the system and shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a county office of education or a community college district.

(d) This section shall remain in effect only until June 30, 2009, and shall be repealed as of January 1, 2010, unless a later enacted statute deletes or extends that date.

SEC. 9. Section 25007 of the Education Code is amended to read:

25007. 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.

SEC. 10. Section 25008.5 is added to the Education Code, to read:

25008.5. Notwithstanding any other provision of 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, 2009, (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, 2009, 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, 2009.

SEC. 11. Section 25010 of the Education Code is amended to read:

25010. (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) No member retiring for service pursuant to Chapter 27 (commencing with Section 24201) on or after January 1, 2009, shall receive an allowance pursuant to Chapter 27 (commencing with Section 24201) unless the member has submitted a completed application pursuant to subdivision (b).

SEC. 12. Section 25017 of the Education Code is amended to read:

25017. (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) No member whose disability allowance or disability retirement allowance is effective on or after January 1, 2009, shall 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).

SEC. 13. Section 25020 of the Education Code is amended to read:

25020. (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, 2009, 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.

SEC. 14. Any section of any act enacted by the Legislature during the 2008 calendar year that takes effect on or before January 1, 2009, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2008 calendar year and takes effect on or before January 1, 2009, amends, amends

and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

Approved _____, 2008

Governor