SENATE BILL  
No. 993

Introduced by Committee on Labor, Public Employment and Retirement (Senators Hill (Chair), Jackson, Mitchell, Morrell, and Pan)

February 12, 2020

An act to amend Sections 22106.2, 22119.5, 22156.1, 22170.5, 22501, 22509, 22711, 22714, 22717, 22718, 24204, 25025, 26113, 26801, 26803, 26804, 26810, and 27204 of, to add Sections 23011 and 26303.7 to, and to repeal Section 22151 of, the Education Code, relating to public retirement.

LEGISLATIVE COUNSEL’S DIGEST

SB 993, as introduced, Committee on Labor, Public Employment and Retirement. State Teachers’ Retirement System.

(1) Existing law, the Teachers’ Retirement Law, establishes the State Teachers’ Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers’ Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is administered by the Teachers’ Retirement Board. The Defined Benefit Program is funded by employer and employee contributions, as well as investment returns and state appropriations, which are deposited or credited to the Teachers’ Retirement Fund.

Existing law authorizes a member to elect continued defined benefit coverage in STRS when taking a position that provides a defined benefit in another public retirement system, and requires the election to be made in writing and to be filed with STRS and the other public retirement system.
This bill would remove the requirement that the election be filed with the other public retirement system, and would instead require the employer to retain a copy of the election form.

(2) Existing law defines creditable service for purposes of STRS to include, among other things, the work of audiometrists performed for a prekindergarten through grade 12 employer in a position requiring Commission on Teacher Credentialing certification qualifications, for a community college employer by a faculty member, or for a charter school employer, as provided. Existing law grants the board final authority for determining creditable service to cover any activities not specified.

This bill would instead include as creditable service activities performed for an employer by an audiometrist who holds a certificate of registration issued by the State Department of Health Care Services.

(3) Existing law grants a member service credit at retirement for accumulated and unused sick leave days, as specified. Existing law defines sick leave days for these purposes to mean the number of days of accumulated and unused leave of absence for illness or injury, and defines basic sick leave to mean the equivalent of one day’s paid leave of absence per pay period due to illness or injury. Existing law also grants a member service credit during the time the member is serving as an elected officer of an employee organization and is on a compensated leave of absence.

This bill would instead define sick leave to be the number of days of accumulated and unused leave of absence for illness or injury granted by each employer, and would define basic sick leave to mean the days of paid leave of absence due to illness or injury granted by each employer, not to exceed 12 days per school year. The bill would specify that a member is prohibited from receiving service credit for accumulated, unused sick leave that the member receives service credit for in another public retirement system. The bill would grant a member who is an elected officer of an employee organization on a compensated leave of absence STRS benefits that the member would have received had the member not been on a compensated leave of absence.

(4) Existing law authorizes an employer to offer an additional two years of service credit to specified members if the member elects to retire in a defined period. Existing law requires a member to forfeit the additional two years of service credit if the retired member takes any job within the school district, community college district, or county
office of education that granted the member the service credit less than 5 years after receiving the additional credit.

This bill would require a member to forfeit the additional 2 years of service credit if the member takes any job within the school district, community college district, or county office of education as an employee, an independent contractor, or an employee of a third party.

(5) Existing law establishes the Defined Benefit Supplement Program in STRS for the purpose of providing supplemental benefits to members whose earnings are in excess of specified amounts. Existing law establishes the Cash Balance Benefit Program, administered by the board, as a separate benefit program within the State Teachers’ Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service. Existing law requires the Defined Benefit Supplement Program and Cash Balance Benefit Program to apply for a termination benefit that is payable 6 months after the member terminates employment.

This bill would instead require the termination benefit to be payable 180 calendar days after the member terminates employment. The bill would make additional administrative changes to the Cash Balance Benefit Program to conform with the administration of the defined benefit program.

(6) Existing law authorizes the board to assess penalties and interest if an employer fails to make a payment of contributions.

The bill would require penalties and interest overpaid to STRS to be considered additional contributions, to be deposited in the Teachers’ Retirement Fund, and to be treated in the same manner as other contributions paid to STRS.

(7) This bill would make additional conforming changes and remove obsolete provisions.


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

1 SECTION 1. Section 22106.2 of the Education Code is amended to read:
2 22106.2. “Base days” means the number of days of creditable service required the employer requires the member’s class of employees to perform in a school year during the member’s most recent year of creditable service to earn one year of service credit.
Base days shall not include school and legal holidays and shall not be less than the minimum standard specified in Section 22138.5. For those standards identified in Section 22138.5 that are expressed only in terms of hours, the number of hours shall be divided by six to determine the number of base days. The number of base days shall not be less than 175.

SEC. 2. Section 22119.5 of the Education Code is amended to read:

22119.5. (a) "Creditable service" means any of the activities described in subdivision (b) performed for any of the following employers:

1. A prekindergarten through grade 12 employer, including the—

state employer in a position requiring certification qualifications as designated in regulations adopted by the Commission on Teacher Credentialing pursuant to Section 44001.

2. A community college employer by a faculty member, as defined in Section 87003, in an academic position, as defined in subdivision (b) of Section 87001, or by an educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356, or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training.

3. A charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment.

(b) The types of activities are any of the following:

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 employees 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
California public school curriculum.
(5) The examination, selection, in-service training, mentoring,
or assignment of teachers, principals, or other similar personnel
involved in the instructional program.
(6) The work of nurses, physicians, speech therapists,
psychologists, audiometrists, audiologists, and other California
public school health professionals.
(7) Services as a California public school librarian.
(8) Activities connected with the enforcement of the laws
relating to compulsory education, coordination of child welfare
activities involving the school and the home, and the school
adjustment of pupils.
(9) The work of employees who are responsible for the
supervision of persons or administration of the duties described
in this subdivision.
(c) “Creditable service” also means any of the activities
described in subdivision (b) when they are performed for an
employer by:
(1) Superintendents of California public schools, and presidents
and chancellors of community college employers.
(2) Consulting teachers employed by an employer to participate
in the California Peer Assistance and Review Program for Teachers
pursuant to Article 4.5 (commencing with Section 44500) of
Chapter 3 of Part 25 of Division 3 of Title 2.
(3) Audiometrists who hold a certificate of registration issued
by the State Department of Health Care Services.
(d) “Creditable service” also means the performance of
California public school activities related to, and an outgrowth of,
the instructional and guidance program of the California public
school when performed for the same employer for which the
member is performing any of the activities described in subdivision
(b) or (c).
(e) The board shall have final authority for determining
creditable service to cover any activities not already specified.
SEC. 3. Section 22151 of the Education Code is repealed.
22151. “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.
SEC. 4. Section 22156.1 of the Education Code is amended to read:

Section 22156.1. “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, as defined in Section 22106.2, multiplied by the prior year’s compensation earnable multiplied by the present value factor.

SEC. 5. Section 22170.5 of the Education Code is amended to read:

Section 22170.5. (a) “Sick leave days” means the number of days of accumulated and unused leave of absence for illness or injury granted by each employer.

(b) “Basic sick leave day” means the equivalent of one day’s paid leave of absence per pay period due to illness or injury granted by each employer that are not excess sick leave days.

(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.

(d) For those standards identified in Section 22138.5 that are expressed only in terms of hours, the number of hours shall be divided by six to determine the number of days pursuant to this section.

SEC. 6. Section 22501 of the Education Code is amended to read:

Section 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, a school district or county office of education to perform creditable service on a full-time basis 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.

SEC. 7. Section 22509 of the Education Code is amended to read:

22509. (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 made in writing on a properly executed form prescribed by the system within 60 calendar days from the date of hire in the position requiring membership in the other public retirement system and shall be received at the system’s headquarters office within 60 calendar days after the date of the employee’s signature. A copy of the election shall be filed with the other public retirement system. The employer shall retain a copy of the employee’s signed election form and submit the original signed election form to the system’s headquarters office.

(c) Any election made pursuant to subdivision (c) 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.

(d) 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.

SEC. 8. Section 22711 of the Education Code is amended to read:

22711. (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 that is on a compensated leave of absence pursuant to Section 44987 or 87768.5, 87768.5 shall be entitled to the service credit, compensation earnable, interest, and additional earnings credits under this part that they
otherwise would have been due had the member not been on the compensated leave of absence, 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 service credit a member may receive pursuant to this section shall not exceed 12 years.

SEC. 9. Section 22714 of the Education Code is amended to read:

22714. (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) The documentation required by this section is received by the system no later than 30 calendar days after the last day of the window period established in paragraph (1).

(3) (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.

(4) 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.

(5) 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 as an employee, independent contractor, or as an employee of a third party 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 would otherwise have been entitled to receive under the Defined Benefit Program as a result of the service credit granted under this section.
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.

SEC. 10. Section 22717 of the Education Code is amended to read:

22717. (a) **Upon certification by the employer or employers,** 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 and 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 term in which he or she earned creditable compensation pursuant to Section 22119.2 or 22119.3. 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: base days, as defined in Section 22106.2.

(c) For members who are last employed with the state in a position in which there are no contracted base service days, the amount of service credit to be granted shall be 0.004 years of
service for each day of unused sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment subject to coverage by the Defined Benefit Program.

(d) 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 or the date the application for retirement is received by the system’s headquarters office, whichever is later, 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.

(e) The member shall not receive credit for accumulated unused sick leave days if the member receives service credit in another public retirement system for the same unused sick leave days.

(f) This section shall be applicable to any person who retires on or after January 1, 1999.

SEC. 11. Section 22718 of the Education Code is amended to read:

22718. (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 unused basic 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, returned, 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 calendar 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 calendar days after the date of the billing. If payment is not received for the additional amount within 30 calendar 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.

SEC. 12. Section 23011 is added to the Education Code, to read:

23011. Penalties and interest due to the system pursuant to Section 23003, 23006, or 23008 are additional required contributions that, when received, shall be deposited to the
Teachers’ Retirement Fund and treated in the same manner as other contributions.

SEC. 13. Section 24204 of the Education Code is amended to read:

24204. (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 the member earned creditable compensation pursuant to Section 22119.2 or 22119.3.

(3) The effective date is no earlier than one day after 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 one day after 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.

(b) A member who files an application for service retirement may change or cancel his or her the member’s retirement application, as long as the form provided by the system is received in the system’s headquarters office 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. If a member cancels his or her their retirement application, the member shall return the total gross distribution amount of all payments for the canceled retirement benefit to the system’s headquarters office no later than 45 days from the date of the member’s initial benefit payment and shall be liable for any adverse tax consequences that may result from these actions.
(c) The retirement date of a member who files an application for retirement pursuant to Section 24201 on or after January 1, 2012, shall be no earlier than January 1, 2012.

(d) Nothing in this section shall be construed to allow a member to receive more than one type of retirement or disability allowance for the same period of time by virtue of his or her own membership.

SEC. 14. Section 25025 of the Education Code is amended to read:

25025. (a) A termination benefit under the Defined Benefit Supplement Program shall be payable after 180 calendar days 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.

SEC. 15. Section 26113 of the Education Code is amended to read:

26113. (a) “Creditable service” means any of the activities described in subdivision (b) performed for any of the following employers:

(1) A prekindergarten through grade 12—employer, including the state, employer in a position requiring certification qualifications as designated in regulations adopted by the Commission on Teacher Credentialing pursuant to Section 44001.

(2) A community college employer by a faculty member, as defined in Section 87003, in an academic position, as defined in subdivision (b) of Section 87001, or by an educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356, or pursuant to a contract between a community
college district and the United States Department of Defense to provide vocational training.

(3) A charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment.

(b) The types of activities are any of the following:

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 employees 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 California public school curriculum.

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

6. The work of nurses, physicians, speech therapists, psychologists, audiometrists, audiologists, and other California public school health professionals.

7. Services as a California public school librarian.

8. Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.

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

10. Trustee service as described in Section 26403.

(c) “Creditable service” also means any of the activities described in subdivision (b) when they are performed for an employer by:
(1) Superintendents of California public schools, and presidents and chancellors of community college employers.

(2) Consulting teachers employed by an employer to participate in the California Peer Assistance and Review Program for Teachers pursuant to Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25 of Division 3 of Title 2.

(3) Audiometrists who hold a certificate of registration issued by the State Department of Health Care Services.

(d) “Creditable service” also means the performance of California public school activities related to, and an outgrowth of, the instructional and guidance program of the California public school when performed for the same employer for which the member is performing any of the activities described in subdivision (b) or (c).

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

SEC. 16. Section 26303.7 is added to the Education Code, to read:

26303.7. Penalties and interest due to the system pursuant to Section 26301 or 26303 are additional required contributions that, when received, shall be deposited to the Teachers’ Retirement Fund and treated in the same manner as other contributions.

SEC. 17. Section 26801 of the Education Code is amended to read:

26801. A—Except as provided under Section 26802, a participant’s retirement date shall be no earlier than either the date on which the participant attains the age of 55 years, 55 years of age or the first day of the month in which an application is received at the system’s headquarters office, whichever is later.

SEC. 18. Section 26803 of the Education Code is amended to read:

26803. (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 unless the
employment was terminated 12 months or more prior to the member’s participant’s retirement date.

SEC. 19. Section 26804 of the Education Code is amended to read:

26804. Application for a retirement benefit under this part shall be made on a form prescribed by the system. A participant who files an application for a retirement benefit may change or cancel the retirement application, if the form provided by the system is received in the system’s headquarters office no later than 30 days from the date of the participant’s initial benefit payment. If a participant cancels the retirement application, the participant shall return the total gross distribution amount of all payments for the canceled retirement benefit to the system’s headquarters office no later than 45 days from the date of the participant’s initial benefit payment and shall be liable for any adverse tax consequences that may result from these actions.

SEC. 20. Section 26810 of the Education Code is amended to read:

26810. (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 terminate the annuity upon written request to the system, effective upon a date designated by the participant, and make contributions to the program based on salary paid by the employer for the employment, subject to the following conditions:

1. The request for termination of the annuity is filed on a form prescribed by the system, and the form is executed no earlier than six months before the effective date of the termination.

2. Termination of the participant’s annuity shall become effective on the first day of the month designated by the participant.

3. The effective date of the termination of the annuity shall be no earlier than the first day of the month in which the request for termination is received in the system’s headquarters office.

(b) Upon 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.
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.

(d) Upon election of a subsequent annuity, the credits in the participant’s employee account and employer account shall be transferred to the Annuitant Reserve.

SEC. 21. Section 27204 of the Education Code is amended to read:

27204. (a) The termination benefit under this part shall not be payable before six calendar months 180 calendar days 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 180 calendar days 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.