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SB-1165 State teachers' retirement. (2017-2018)

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Senate Bill No. 1165

CHAPTER 416

An act to amend Sections 22106.5, 22112.6, 22134, 22134.5, 22138.5, 22138.6, 22169, 22508, 22509, 22515, 22717, 23802, 23852, 24001, 24101, 24213, 24322, 25011, 25011.1, 25012, 25015, 25018, 25018.1, 25019, 25926, 26107, and 26127 of the Education Code, relating to teachers' retirement.

[Approved by Governor September 14, 2018. Filed with Secretary of State September 14, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1165, Pan. State teachers' retirement.

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 administrated by the Teachers' Retirement Board. Existing law creates the Cash Balance Benefit Program, which is administered by the board, to provide a retirement plan for the benefit of participating employees who provide creditable service for less than 50% of full time.

(1) Existing law, applicable to both the Defined Benefit Program and the Cash Balance Benefit Program, defines "school year" as the fiscal year or the academic year. Existing law defines "school term" with reference to a minimum period of time that creditable service is required to be performed by a member employed on a full-time basis, subject to certain exclusions. Under existing law, the "school term" is the same for members employed less than full-time who perform the same duties as members employed on a full-time basis.

This bill would redefine "school year" as the period of time beginning on July 1 of one calendar year and ending on June 30 of the following calendar year. The bill would make a variety of conforming amendments to reference school term instead of school year.

(2) Existing law authorizes concurrent membership, as defined, in STRS and other specified retirement systems and grants certain rights to members with concurrent membership, among them having compensation from the other retirement system included as an element in the final compensation calculation. Existing law prohibits service under another system performed during the same pay period as service under the Defined Benefit Program from being used to determine final compensation for purposes of a concurrent retirement in connection with two different formulations of final compensation. The Defined Benefit Program prescribes, in this regard, different pay periods to be considered periods of service, as specified.

This bill would clarify the prohibition on using service under another retirement system for determination of final compensation when it is performed during the same pay period as Defined Benefit Program service by linking it directly to provisions describing the pay periods.

(3) Existing law authorizes a retired member to cancel a selected pension option upon divorce if specified conditions are met and prescribes a procedure for a subsequent election of a new option.

This bill would authorize a retired member who has elected a new option upon divorce, as described above, who was not married or in a registered domestic partnership at the time of election, and who subsequently marries or registers in a domestic partnership, to elect a new pension option naming his or her new spouse or partner as an option beneficiary. The bill would prescribe a procedure for this purpose.

(4) Existing law authorizes a member of the Defined Benefit Program who becomes employed by different entities subject to membership in the Public Employees' Retirement System to elect to have this new service covered by the Defined Benefit Program and excluded from the other systems, if certain requirements are met. Existing law requires a member's election forms to be received at the STRS headquarters within 30 days of the date of the member's signature, among other things.

This bill would revise the required date of receipt, described above, to instead be 60 days and require that the election be made within 60 calendar days from the date of hire. The bill would specify that the election be on a form that is properly executed.

(5) Existing law authorizes specified people while performing what may be creditable service to elect membership in the Defined Benefit Program while they are employed. Existing law requires a member's election forms to be received at the STRS headquarters within 30 days of the date of the member's signature, among other things, and provides that membership is effective the first day of the pay period following the election.

This bill would revise the required date of receipt, described above, to instead be 60 days. The bill would require that membership not be earlier than the first day of the pay period in which the election is made. The bill would specify that the election be on a form that is properly executed.

(6) Existing law entitles beneficiaries of Defined Benefit Program members, in certain instances, to receive payments or benefits, as applicable, in the event of the member's death.

This bill would specify that a beneficiary may waive the right to these payments and benefits and would prescribe a process for this purpose.

(7) Existing law prescribes requirements pursuant to which a Defined Benefit Program member may apply for a disability allowance or disability retirement. Existing law requires that when a member who was granted a disability allowance attains normal retirement age the disability allowance is terminated and the member becomes eligible for a service retirement.

This bill would clarify these provisions with regard to the filing of a written disability application and the termination of the disability allowance if the member has an eligible dependent child.

(8) Existing law prescribes how an annuity under the Defined Benefit Supplement Program is to be determined and paid. If a joint and survivor annuity is elected, existing law requires the annuity to be calculated using the age of the member and the age of the member's beneficiary on the member's retirement date.

This bill would require, if a joint and survivor annuity is elected, that the calculation use the annuity effective date, rather than the member's retirement date. The bill would also provide for the continuance of certain Defined Benefit Supplement Program annuities upon the termination of a member's disability retirement for subsequent service retirement, as specified, and would make a conforming change.

(9) Existing law authorizes certain employees participating in the Cash Balance Benefit Program to elect coverage under the federal Social Security Act or an alternative retirement plan. Existing law requires members of the Cash Balance Benefit Program to terminate coverage under that program when they become subject to mandatory membership in the Defined Benefit Program in various instances.

This bill would provide that a person who elected coverage under federal Social Security or an alternative retirement plan who becomes a member of the Defined Benefit Program for another employer may continue that coverage.

(10) The bill would make technical, correctional, and conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22106.5 of the Education Code is amended to read:

22106.5. "Basis of employment" means the standard of time over which the employer expects service to be performed by an employee in the position during the school term.

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

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

SEC. 2. Section 22112.6 of the Education Code is amended to read:

22112.6. Notwithstanding Section 22112.5, any county office of education that, prior to January 1, 1997, operated a special education program for up to 225 days, and changes that program to a regular school term of not less than 180 school days with an extended school term of not more than 45 days effective July 1, 1998, may consider days of service in defining not more than two classes of employees, subject to the following:

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

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

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

(2) The election is nonrevocable.

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

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

SEC. 3. Section 22134 of the Education Code is amended to read:

22134. (a) "Final compensation" means the highest average annual compensation earnable, as defined by Section 22115, by a member during any period of 36 consecutive months of service while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service or by periods in which a member's salary was reduced because of a reduction in school funds as certified by the employer may be aggregated, if the periods of service are consecutive except for the breaks or periods of salary reduction.

(c) The following shall be considered periods of service for the purpose of determining final compensation:

(1) The full pay period if the member earns creditable compensation within that pay period, but not beyond the benefit effective date except as provided in paragraph (3).

(2) The months of the school year preceding the school term if the member earns creditable compensation during the first pay period of that school term.

(3) The months of the school year following the school term if the member earns creditable compensation during the last pay period of that school term.

(4) Any period that is excluded from the school term if a member earns creditable compensation during the pay periods immediately preceding and immediately following the excluded period.

(d) For purposes of determining the final compensation of a member who is eligible for concurrent retirement as defined in Section 22115.5, the compensation a person could earn for services rendered on a full-time basis under a retirement system with which the member has concurrent membership, as defined in Section 22115.2, shall be considered compensation earnable, provided that both of the following exist:

(1) The compensation under the other system was not earned during the periods of service determined pursuant to subdivision (c) under the Defined Benefit Program.

(2) Retirement for service under the Defined Benefit Program is concurrent with the member's retirement for service under the other system pursuant to Section 22115.5.

(e) The creditable compensation for the first school year in which a member earned creditable compensation shall be used when additional months of creditable compensation are required for the purpose of determining final compensation.

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

(g) For purposes of calculating a benefit that does not include service credit, final compensation shall be the highest average annual creditable compensation earned by a member during any period of 36 consecutive months of service, excluding compensation for which contributions are credited to the Defined Benefit Supplement Program. Final compensation determined pursuant to this subdivision shall not exceed the amount determined pursuant to subdivision (a).

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

SEC. 4. Section 22134.5 of the Education Code is amended to read:

22134.5. (a) Notwithstanding Section 22134, "final compensation" means the highest average annual compensation earnable, as defined in Section 22115, by a member during any period of 12 consecutive months of service while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

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

(c) The following shall be considered periods of service for the purpose of determining final compensation:

(1) The full pay period if the member earns creditable compensation within that pay period, but not beyond the benefit effective date except as provided in paragraph (3).

(2) The months of the school year preceding the school term if the member earns creditable compensation during the first pay period of that school term.

(3) The months of the school year following the school term if the member earns creditable compensation during the last pay period of that school term.

(4) Any period that is excluded from the school term if a member earns creditable compensation during the pay periods immediately preceding and immediately following the excluded period.

(d) For purposes of determining the final compensation of a member who is eligible for concurrent retirement as defined in Section 22115.5, the compensation a person could earn for services rendered on a full-time basis under a retirement system with which the member has concurrent membership, as defined in Section 22115.2, shall be considered compensation earnable, provided that both of the following exist:

(1) The compensation under the other system was not earned during the periods of service determined pursuant to subdivision (c) under the Defined Benefit Program.

(2) Retirement for service under the Defined Benefit Program is concurrent with the member's retirement for service under the other system pursuant to Section 22115.5.

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

(f) For purposes of calculating a benefit that does not include service credit, final compensation shall be the highest average annual creditable compensation earned by a member during any period of 12 consecutive months of service, excluding compensation for which contributions are credited to the Defined Benefit Supplement Program. Final compensation determined pursuant to this subdivision shall not exceed the amount determined pursuant to subdivision (a).

(g) This section shall apply to the following:

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

(A) Section 22714.

(B) Section 22715.

(C) Section 22717, except as provided in subdivision (c) of Section 22121.

(D) Section 22826.

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

(3) This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 5. Section 22138.5 of the Education Code is amended to read:

22138.5. (a) (1) "Full time" means the days or hours of creditable service the employer requires to be performed by a class of employees in a school term in order to earn the compensation earnable as defined in Section 22115 and specified under the terms of a collective bargaining agreement or employment agreement. For the purpose of crediting service under this part, "full time" may not be less than the minimum standard specified in this section. Each collective bargaining agreement or employment agreement that applies to a member subject to the minimum standard specified in either paragraph (5) or (6) of subdivision (c) shall specify the number of hours of creditable service that equals "full time" pursuant to this section for each class of employee subject to either paragraph and make specific reference to this section, and the district shall submit a copy of the agreement to the system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6. Section 22138.6 of the Education Code is amended to read:

22138.6. "Full-time equivalent" means the days or hours of creditable service that a person who is employed on a part-time basis would be required to perform in a school term if he or she were employed full time in that part-time position.

SEC. 7. Section 22169 of the Education Code is amended to read:

22169. “School year” means the period of time beginning on July 1 of one calendar year and ending on June 30 of the following calendar year.

SEC. 8. Section 22508 of the Education Code is amended to read:

22508. (a) A member who becomes employed by the same or a different school district or community college district, or a county superintendent, or who becomes employed by the state in a position described in subdivision (b), to perform service that requires membership in a different public retirement system, and who is not excluded from membership in that public retirement system, may elect to have that service subject to coverage by the Defined Benefit Program of this plan and excluded from coverage by the other public retirement system. If that election is made, the service performed for the employer in that position as of the date of hire shall be considered creditable service for purposes of this part.

(b) Subdivision (a) shall apply to a member who becomes employed by the state only if the member is also one of the following:

- (1) Represented by a state bargaining unit that represents educational consultants, professional educators, or librarians employed by the state.
- (2) Excluded from the definition of “state employee” in subdivision (c) of Section 3513 of the Government Code, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).
- (3) In a position not covered by civil service and in the executive branch of government, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).

(c) A member of the Public Employees’ Retirement System who is subsequently employed to perform creditable service requiring coverage by the Defined Benefit Program of this plan may elect to have that subsequent service subject to coverage by the Public Employees’ Retirement System and excluded from coverage by the Defined Benefit Program pursuant to Section 20309 of the Government Code.

(d) An election made by a member pursuant to this section shall be irrevocable.

SEC. 9. 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.

(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. 10. Section 22515 of the Education Code is amended to read:

22515. (a) Persons excluded from membership pursuant to Sections 22601.5, 22602, and 22604 may elect membership in the Defined Benefit Program at any time while employed to perform creditable service subject to coverage under that program.

(b) The election shall be in writing on a properly executed form prescribed by this system and shall be received at the system’s headquarters office within 60 calendar days after the date of the employee’s signature and prior to submission of contributions. Membership in the Defined Benefit Program shall become effective no earlier than the first day of the pay period in which the election is made. The election is irrevocable and shall remain in effect until the member terminates employment and receives a refund of accumulated retirement contributions.

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

SEC. 11. Section 22717 of the Education Code is amended to read:

22717. (a) A member shall be granted credit at service retirement for each day of accumulated and unused sick leave days for which full salary is allowed to which the member was entitled on the member's final day of employment with the employer or employers subject to coverage by the Defined Benefit Program during the last school 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.

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

SEC. 12. Section 23802 of the Education Code is amended to read:

23802. (a) Upon receipt of proof of death of a member who has no preretirement option in effect, and who either does not meet the eligibility requirements set forth in Section 23804, or meets the eligibility requirements set forth in Section 23804 but has no eligible survivors for a family allowance as specified in Section 23805 or 23806, there shall be paid to the beneficiary both of the following:

(1) The accumulated retirement contributions after July 1, 1935.

(2) The accumulated annuity deposit contributions.

(b) Accumulated contributions include credited interest through the date of payment.

(c) A beneficiary may waive the right to the lump-sum payment pursuant to this section in accordance with the requirements established by the system. The waiver shall be submitted on a properly executed form prescribed by the system. The filing of a waiver by a beneficiary constitutes a complete and immediate discharge of all obligations of the board, the system, or the plan to, or on behalf of, the beneficiary.

SEC. 13. Section 23852 of the Education Code is amended to read:

23852. Upon receipt of proof of death of a member who has no preretirement option in effect:

(a) The surviving spouse may elect to receive either of the following:

(1) The member's accumulated retirement contributions in a lump sum.

(2) If the member meets the provisions set forth in Section 23854, the survivor benefit allowance pursuant to Sections 23854 and 23855.

(b) If there is no surviving spouse, and the member meets the provisions set forth in Section 23854, then each dependent child shall receive the child's portion of the survivor benefit allowance pursuant to Sections 23854, 23855, and 23856. The child's portion of the survivor benefit allowance shall be paid in lieu of the return of the member's accumulated retirement contributions.

(c) If there is no surviving spouse or dependent child to receive a benefit under subdivision (a) or (b), the member's accumulated retirement contributions shall be paid to the member's beneficiary in a lump sum.

(d) The member's accumulated annuity deposit contributions shall be paid to the member's beneficiary in a lump sum.

(e) The payment of accumulated contributions in a lump sum shall include credited interest through the date of payment.

(f) A beneficiary may waive the right to the lump-sum payment or survivor benefit allowance in accordance with the requirements established by the system. The waiver shall be submitted on a properly executed form prescribed by the system. All waiver forms for an ongoing benefit shall include an acknowledgment on the part of the waiving beneficiary that the benefit being waived is an ongoing benefit, which may exceed the total amount of contributions and interest payable from the member's account as a result of the waiver. The filing of a waiver by a beneficiary constitutes a complete and immediate discharge of all obligations of the board, the system, or the plan to, or on behalf of, the beneficiary.

SEC. 14. Section 24001 of the Education Code is amended to read:

24001. A member may apply for a disability allowance under the Defined Benefit Program upon written application for disability allowance to the board on a properly executed form provided by the system and subject to the following:

(a) (1) The member has five or more years of credited service and all of the following requirements are met:

(A) At least four years were credited for actual performance of service subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be counted toward the four-year requirement in accordance with Section 22710.

(B) The last five years of credited service were performed in this state.

(C) Except as described in subdivision (d) of Section 24201.5, the member is not currently receiving a service retirement allowance and at least one year was credited for service performed subsequent to the date on which the member terminated a service retirement allowance under Section 24208.

(D) At least one year was credited for service performed subsequent to the most recent refund of accumulated retirement contributions.

(E) The member has neither attained normal retirement age, nor possesses sufficient unused sick leave days to receive creditable compensation on account of sick leave to normal retirement age.

(F) The member is not applying for a disability allowance because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and remains substantially unchanged at the time of application.

(2) A member who becomes disabled prior to normal retirement age, who has sick leave which will extend beyond normal retirement age, and who has a dependent child, may be awarded a disability allowance with an effective date after normal retirement age if the application is filed prior to attaining normal retirement age.

(b) Nothing in subdivision (a) shall affect the right of a member to a disability allowance under this part if the reason that the member is credited with less than four years of actual service performed subject to coverage under the Defined Benefit Program is due to an on-the-job injury or a disease that occurred while the member was employed and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5 (commencing with Section 22850) in addition to any credit received from workers' compensation payments.

(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability allowance if the following conditions are met:

(1) The member has at least one year of credited service performed in this state.

(2) The disability is the direct result of an unlawful act of bodily injury that was perpetrated on his or her person by another human being while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.

(3) The member provides documentation of the unlawful act in the form of an official police report or official employer incident report.

(d) A member who is eligible to apply for a disability allowance pursuant to this section may also apply for a service retirement pending a determination of his or her application for disability as described in Section 24201.5.

SEC. 15. Section 24101 of the Education Code is amended to read:

24101. A member may apply for a disability retirement under this part upon written application for disability retirement to the board on a properly executed form provided by the system and subject to the following:

(a) The member has five or more years of credited service and all of the following requirements are met:

(1) At least four years were credited for actual service performed subject to coverage under the Defined Benefit Program. Credit received because of workers' compensation payments shall be counted toward the four-year requirement in accordance with Section 22710.

(2) The last five years of credited service were performed in this state.

(3) Except as described in subdivision (d) of Section 24201.5, the member is not currently receiving a service retirement allowance and at least one year of credited service was earned subsequent to the date on which the member terminated a service retirement allowance under Section 24208.

(4) At least one year of credited service was earned subsequent to the date on which the member's disability retirement was terminated.

(5) At least one year of credited service was earned subsequent to the most recent refund of accumulated retirement contributions.

(6) The member is not applying for a disability retirement because of a physical or mental condition known to exist at the time the most recent membership in the Defined Benefit Program commenced and that remains substantially unchanged at the time of application.

(b) Nothing in subdivision (a) shall affect the right of a member to a disability retirement if the reason that the member has performed less than four years of actual service is due to an on-the-job injury or a disease while in employment subject to coverage by the Defined Benefit Program and the four-year requirement can be satisfied by credit obtained under Chapter 14 (commencing with Section 22800) or Chapter 14.5 (commencing with Section 22850) in addition to any credit received from workers' compensation payments.

(c) Nothing in subdivision (a) shall affect the right of a member under this part who has less than five years of credited service to a disability retirement allowance if the following conditions are met:

(1) The member has at least one year of credited service performed in this state.

(2) The disability is a direct result of an unlawful act of bodily injury that was perpetrated on his or her person by another human being while the member was performing his or her official duties in a position subject to coverage under the Defined Benefit Program.

(3) The member provides documentation of the unlawful act in the form of an official police report or official employer incident report.

(d) A member who is eligible to apply for a disability retirement pursuant to this section may also apply for a service retirement pending a determination of his or her application for disability as described in Section 24201.5.

SEC. 16. Section 24213 of the Education Code is amended to read:

24213. (a) On the date a member who has been granted a disability allowance under this part after June 30, 1972, attains normal retirement age, or if the member has an eligible dependent child, on the date the last dependent child becomes ineligible, whichever is later, the disability allowance shall be terminated and the member shall be eligible for service retirement. The service retirement allowance shall be calculated on the projected final compensation and projected service to normal retirement age, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), and the member's age on the last day of the month in which the service retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the disability allowance the member was eligible to receive immediately prior to normal retirement age, excluding children's portions.

(b) The allowance shall be increased by an amount based on any credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation to normal retirement age.

(c) If the total amount of credited service accrued, other than projected service or credited service that accrued or was granted pursuant to Sections 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, the amounts identified in subdivisions (a) and (b) shall be calculated pursuant to Sections 24203.5 and 24203.6.

(d) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

SEC. 17. Section 24322 of the Education Code is amended to read:

24322. (a) An option elected under Section 24300, 24300.1, or 24307 may be canceled by a retired member if the option beneficiary is the retired member's spouse or former spouse and a final decree of dissolution of marriage or a judgment of nullity has been entered or an order of separate maintenance has been made on or after January 1, 1978, by a court of competent jurisdiction. A retired member may cancel the option before or after issuance of the first retirement allowance payment.

(b) The retired member shall notify the board, in writing on a properly executed form provided by the system, of cancellation of the option. Notification shall not be earlier than the effective date of the decree, judgment, or order and shall include a certified copy of the final decree of dissolution, or judgment of nullity, or an order of separate maintenance, and any property settlement agreement.

(c) Upon notification to the board, the retired member may elect: (1) to receive the unmodified retirement allowance from the date of receipt of the notification; or (2) a new joint and survivor option under Section 24300.1 and may designate one or multiple new option beneficiaries. Modification of the retirement allowance because of the newly elected option or newly designated beneficiary or beneficiaries shall be based on the ages of the retired member and the new option beneficiary or beneficiaries as of the effective date of the new option. The election of a new joint and survivor option or the designation of a new option beneficiary or beneficiaries shall be consistent with the final decree of dissolution, judgment of nullity, order of separate maintenance, or property settlement agreement, and shall not result in any additional liability to the Teachers' Retirement Fund. The effective date of the change shall be the date notification is received by the board.

(d) (1) A retired member electing to receive an unmodified or modified retirement allowance pursuant to subdivision (c), who is not married or in a registered domestic partnership at the time of the election and who thereafter marries or registers in a domestic partnership, may later elect an option described in paragraph (1), (2), or (3) of subdivision (a) of Section 24300.1, naming his or her new spouse or registered domestic partner as the option beneficiary, subject to all of the following:

(A) The retired member shall notify the board, in writing on a properly executed form provided by the system, of the election of the option and the designation of the member's new spouse or registered domestic partner as the option beneficiary. That notice shall include a certified copy of the marriage certificate or the certificate of registration of domestic partnership.

(B) The election shall be effective six months after the date the notification is received by the board, provided that both the retired member and the retired member's designated spouse or registered domestic partner are then living. If, before the new election becomes effective, the member terminates his or her benefit pursuant to Section 24208 or the retired member or the new option beneficiary dies, the new election is void and the election pursuant to subdivision (c) remains in effect.

(2) The election of the option and designation of the option beneficiary under this section shall result in an actuarial modification of the member's retirement allowance that shall be payable through the life of the member and the member's new spouse or registered domestic partner. Modification of the member's retirement allowance pursuant to this subdivision shall be based on the ages of the retired member and the retired member's new spouse or registered domestic partner as of the effective date of the election and shall not be in conflict with the final decree of dissolution, judgment of nullity, order of separate maintenance, or property settlement agreement.

SEC. 18. Section 25011 of the Education Code is amended to read:

25011. (a) A member or nonmember spouse may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the balance of credits in the member's or nonmember spouse's respective Defined Benefit Supplement account on the date the retirement benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payments have been made from the account.

(b) If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance, if any, of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) A 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24323, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the single life annuity with a cash refund feature and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(4) A 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24323, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the single life annuity with a cash refund feature and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years subject to life expectancy tables promulgated pursuant to Section 401(a)(9) of the Internal Revenue Code. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's beneficiary pursuant to Section 25022.

(c) If a nonmember spouse elects to receive the retirement benefit as an annuity, the nonmember spouse shall elect the form of payment specified in paragraph (1), (2), or (5) of subdivision (b) and, in those paragraphs, references to a "member" shall apply to the nonmember spouse.

(d) On or after January 1, 2007, a member may not make a new election of a joint and survivor annuity described in subdivision (b), except as provided by subdivision (e) of Section 25011.1.

(e) Any member with a retirement effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 25011.1.

SEC. 19. Section 25011.1 of the Education Code is amended to read:

25011.1. (a) A member may elect to receive the retirement benefit as an annuity payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payments have been made from the account. If the member elects to receive the retirement benefit as an annuity, the member shall elect one of the following forms of payments:

(1) Member only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the retired member if the member elected to receive the retirement benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the annuitant reserve shall be returned in a lump-sum payment to the beneficiary of the member.

(2) One hundred percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 100 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(3) Seventy-five percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not elect this annuity if a beneficiary is more than exactly 19 years younger than the member, unless the beneficiary is the member's spouse or former spouse and the election is pursuant to a determination of community property rights. Upon the death of the member, 75 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(4) Fifty percent beneficiary annuity. This is a joint and survivor annuity that is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 50 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the retirement benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years subject to life expectancy tables promulgated pursuant to Section 401(a)(9) of the Internal Revenue Code. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's beneficiary pursuant to Section 25022.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member as the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24323, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(c) If a nonmember spouse elects to receive the retirement benefit as an annuity, the nonmember spouse shall elect the form of payment specified in paragraph (1) or (5) of subdivision (a) and, in those paragraphs, references to a "member" shall apply to the nonmember spouse.

(d) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) or (5) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(e) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the member to change the annuity to the detriment of the community property interest of the nonmember spouse.

SEC. 20. Section 25012 of the Education Code is amended to read:

25012. (a) Except as provided in subdivision (b), an annuity payable under the Defined Benefit Supplement Program shall be determined as a value actuarially equivalent to the balance of credits in the member's Defined Benefit Supplement Program account on the member's retirement date and after any lump-sum payment. If a single life annuity is elected, the annuity shall be calculated using the age of the member on the member's retirement date. A member may elect a single life annuity only if the member did not elect to receive a modified allowance pursuant to Section 24300 or 24300.1. If a joint and survivor annuity is elected, the annuity shall be calculated using the age of the member and the age of the member's beneficiary on the member's annuity effective date. A member may elect a joint and survivor annuity only if the member elected to receive a modified allowance pursuant to Section 24300 or 24300.1.

(b) If a member elected to receive an annuity pursuant to Section 25018 or 25018.1, and if the member is still receiving the annuity at the time the member's disability allowance is terminated pursuant to Section 24213, the annuity already in effect shall continue upon the member's service retirement provided the member's service retirement benefit effective date is the day after the disability allowance termination date.

(c) The beneficiary designation made pursuant to Section 24307 is not applicable to benefits payable under this chapter.

SEC. 21. Section 25015 of the Education Code is amended to read:

25015. (a) If a member elects to receive a benefit payable under the Defined Benefit Supplement Program as a joint and survivor annuity, the designation of the beneficiary made pursuant to Section 24300 or 24300.1 shall apply to the benefit payable under this chapter. The annuity beneficiary designation shall not be changed after the date the benefit becomes payable to the member, except as provided in Section 24320, 24321, 24322, 24323, 24324, 25011, 25011.1, 25018, or 25018.1, or Chapter 12 (commencing with Section 22650).

(b) If the member designates one or multiple option beneficiaries within Option 8 pursuant to Section 24300 or the compound option pursuant to Section 24300.1, the percentage of the unmodified allowance attributable to each option beneficiary specified in that designation shall apply to the joint and survivor annuity payable under this chapter. The member shall elect one joint and survivor annuity type and this annuity type shall be applied the same for each beneficiary and each designated percentage of the member only annuity. If any percentage of the allowance was designated to remain unmodified, the member only annuity shall apply for the corresponding percentage of the annuity provided under this chapter. The annuity amount payable to the member during his or her lifetime shall be modified to be payable over the combined lives of the member and the annuity beneficiary or beneficiaries.

(1) Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not designate the 100 percent beneficiary annuity type under this subdivision if any annuity beneficiary is more than exactly 10 years younger than the member, unless that annuity beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part.

(2) Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not designate the 75 percent beneficiary annuity type under this subdivision if any annuity beneficiary is more than exactly 19 years younger than the member, unless that annuity beneficiary is the member's spouse or former spouse who has been awarded a community property interest in the member's benefits under this part.

(c) (1) If the member predeceases an annuity beneficiary, the annuity beneficiary may designate, on a properly executed form provided by the system, a payee to receive an amount that may be payable in a lump sum pursuant to Section 25023 upon the death of the annuity beneficiary.

(2) Unless otherwise specified in the trust instrument, the trustee or beneficiary of the trust that is an annuity beneficiary is entitled to name a subsequent beneficiary if the trust is valid. If the trust is determined to be invalid or terminates, any election by the trustee pursuant to this paragraph shall be void and the beneficiary shall be entitled to exercise all rights provided to annuity beneficiaries under this part.

SEC. 22. Section 25018 of the Education Code is amended to read:

25018. (a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payment has been made from this account.

(b) If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

(1) A single life annuity without a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, no other benefit shall be payable to the member's beneficiary under the Defined Benefit Supplement Program.

(2) A single life annuity with a cash refund feature. This form of payment is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve shall be returned in a lump-sum payment to the member's beneficiary.

(3) For a member receiving an allowance pursuant to Chapter 26 (commencing with Section 24100), a 100-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, the same monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon

receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24323, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(4) For a member receiving an allowance pursuant to Chapter 26 (commencing with Section 24100), a 50-percent joint and survivor annuity with a "pop-up" feature. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary. However, if the annuity beneficiary predeceases the member, the annuity payable to the member shall be the single life annuity with a cash refund feature that would have been payable had the member elected that form of payment at the commencement of the benefit. That single life annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24323, the new option beneficiary shall be the new annuity beneficiary. The effective date shall be six months following the date notification, on a properly executed form, is received by the board, provided both the member and the new annuity beneficiary are then living. The new annuity beneficiary under this paragraph shall be subject to an actuarial modification of the single life annuity with a cash refund feature and shall not result in any additional liability to the fund. The new annuity beneficiary shall not be an existing annuity beneficiary.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years subject to life expectancy tables promulgated pursuant to Section 401(a)(9) of the Internal Revenue Code. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's beneficiary pursuant to Section 25022.

(c) Except as described in subdivision (d) of Section 25018.1, on or after January 1, 2007, a member may not make a new election for an annuity described in subdivision (b).

(d) On or after January 1, 2007, a member may not make a new election of a joint and survivor annuity described in subdivision (b), except as provided by subdivision (e) of Section 25018.1.

(e) Any member with a disability benefit effective on or after January 1, 2007, shall elect an annuity from the annuities described in Section 25018.1.

SEC. 23. Section 25018.1 of the Education Code is amended to read:

25018.1. (a) A member may elect to receive the disability benefit as an annuity, payable in monthly installments, provided the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable equals at least three thousand five hundred dollars (\$3,500) after any lump-sum payment has been made from this account. If the member elects to receive the disability benefit as an annuity, the member shall elect one of the following forms of payment:

(1) Member only annuity. This is a single life annuity with a cash refund feature that is the actuarial equivalent of the amount that would be payable to the member if the member elected to receive the disability benefit in a lump-sum payment. Upon the death of the member, an amount equal to the remaining balance of credits, if any, transferred from the member's Defined Benefit Supplement account to the annuitant reserve shall be returned in a lump-sum payment to the member's beneficiary.

(2) One hundred percent beneficiary annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, 100 percent of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary or beneficiaries.

(3) Seventy-five percent beneficiary annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Pursuant to Section 401(a)(9) of the Internal Revenue Code, the member shall not elect this annuity if a beneficiary is more than exactly 19 years younger than the member unless the beneficiary is the member's spouse or former spouse and the election is pursuant to a determination of community property rights. Upon the death of the member, 75 percent of the monthly amount that was payable to the member shall be paid monthly to the surviving annuity beneficiary or beneficiaries of the member.

(4) Fifty percent beneficiary annuity. This form of payment is the actuarial equivalent of the lump-sum payment modified to be payable over the combined lives of the member and the member's annuity beneficiary or beneficiaries. Upon the death of the member, one-half of the monthly amount that was payable to the member shall be paid monthly to the member's surviving annuity beneficiary or beneficiaries.

(5) A period certain annuity. This form of payment is an annuity equal to the actuarial equivalent of the balance of credits in the member's Defined Benefit Supplement account on the date the disability benefit becomes payable. The annuity shall be payable in whole year increments over a period of years specified by the member, from a minimum of three years to a maximum of 10 years subject to life expectancy tables promulgated pursuant to Section 401(a)(9) of the Internal Revenue Code. If the member's death occurs prior to the end of the period certain, the remaining balance of payments shall be paid to the member's beneficiary pursuant to Section 25022.

(b) If an annuity beneficiary designated pursuant to paragraph (2), (3), or (4) of subdivision (a) predeceases the member, the annuity shall be paid to the member as the member only annuity that would have been payable had the member elected that form of payment at the commencement of the benefit. That member only annuity shall be payable as of the day following the date of the annuity beneficiary's death upon receipt by the system of proof of the annuity beneficiary's death. If the annuity beneficiary predeceases the member and the member designates a new option beneficiary pursuant to Section 24323, the new option beneficiary shall be a new annuity beneficiary. The effective date shall be six months following the date notification is received by the board, provided both the member and the new annuity beneficiary are then living. Notice to the board of the death of the annuity beneficiary shall be on a properly executed form provided by the system. The new annuity beneficiary under this paragraph is subject to an actuarial modification of the member only annuity and may not result in any additional liability to the fund. The new annuity beneficiary may not be an existing annuity beneficiary.

(c) Notwithstanding Section 297 or 299.2 of the Family Code, a spouse as described in paragraph (3) or (5) of subdivision (a) does not include the domestic partner of the member, pursuant to Section 7 of Title 1 of the United States Code.

(d) If there is a determination of community property rights as described in Chapter 12 (commencing with Section 22650) of this part on or before December 31, 2006, the member may elect the annuity that is required by the judgment or court order. Nothing in this part shall permit the member to change the annuity to the detriment of the community property interest of the nonmember spouse.

SEC. 24. Section 25019 of the Education Code is amended to read:

25019. (a) If a member's disability allowance or disability retirement allowance under this part is terminated, payment of a disability annuity based on the balance of credits transferred from the member's Defined Benefit Supplement account to the Annuitant Reserve also shall terminate. The member's Defined Benefit Supplement account shall be credited with the actuarial equivalent of the member's annuity as of the date the annuity is terminated and the Annuitant Reserve shall be reduced by the amount credited to the member's account.

(b) If a disability allowance or a service or disability retirement allowance subsequently becomes payable again, an annuity or lump-sum payment based on the remaining balance of credits in the member's Defined Benefit Supplement account at the time of the subsequent disability or service or disability retirement becomes payable and the balance of credits in the member's Defined Benefit Supplement account shall be transferred to the Annuitant Reserve or paid to the member in the form of a lump-sum payment.

(c) This section shall not apply to a member whose annuity continues pursuant to subdivision (b) of Section 25012.

SEC. 25. Section 25926 of the Education Code is amended to read:

25926. "School year" means the period of time beginning on July 1 of one calendar year and ending on June 30 of the following calendar year.

SEC. 26. Section 26107 of the Education Code is amended to read:

26107. "Basis of employment" means the standard of time over which the employer expects service to be performed by an employee in the position during the school term.

SEC. 27. Section 26127 of the Education Code is amended to read:

26127. "Full time equivalent" means the days or hours of creditable service that a person who is employed on a part-time basis would be required to perform in a school term if he or she were employed full time, as defined by Section 22138.5, in that position.

