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AB-1452 State teachers' retirement. (2019-2020)

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Assembly Bill No. 1452

CHAPTER 318

An act to amend Sections 22501, 22502, 22503, 22504, 22601.5, 22602, 22604, 26401, and 26403 of, and to repeal and add Section 26400 of, the Education Code, relating to teachers' retirement.

[Approved by Governor September 20, 2019. Filed with Secretary of State September 20, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1452, O'Donnell. State teachers' retirement.

(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. Existing law also 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.

Existing law requires a person who is hired by a STRS employer to perform creditable service on a full-time basis to become a member of the Defined Benefit Program on the first day of employment, except as specified. Existing law prohibits aggregating creditable service in more than one position for the purpose of determining mandatory membership as a full-time employee in this context.

This bill would prohibit aggregating creditable service in more than one position for the purpose of determining mandatory membership on a part-time basis for 50% or more of the time the employer requires for a full-time position, as specified.

(2) Existing law prescribes the employment characteristics of people for whom membership in the Defined Benefit Program or the Cash Balance Benefit Program may be required, excluded, or elective. In this regard, existing law mandates membership in the Defined Benefit Program for a person employed by a school district or county office of education to perform creditable service for 50% or more of a full-time position on the first day of the pay period following employment to provide creditable service, as specified. Existing law establishes similar requirements for a person employed by a community college district for creditable service on a part-time basis whose employment is not subject to specified provisions relating to temporary positions. Existing law mandates membership in the Defined Benefit Program for a person employed to perform creditable service as a substitute employee by a school district or county office of education on the first day of the pay period following the pay period in which the person performed 100 or more complete days of creditable service, as specified. Existing law also mandates membership in the Defined Benefit Program for a person employed by a school district or county office of education to perform creditable service on a part-time basis as of the first day of the pay period following the pay period in which the person performed at least 60 hours of creditable service, if employed on an hourly basis, or 10 days of creditable service, if employed on a daily basis, as specified.

This bill would recast these provisions to provide for membership start dates as of the first day of employment or the date of the employer's governing board's action to provide the program or the effective date of the employer's governing board's action to

provide the program, whichever occurs later. The bill would also prescribe requirements for those serving on a part-time daily basis for a school district or county. The bill would make other clarifying, clean-up, and conforming changes.

(3) Under existing law, a person employed by a school district or county office of education to perform part-time service of less than 50%, as specified, is excluded from the Defined Benefit Program, as is a person employed by a community college district pursuant to specified provisions relating to temporary employment. Existing law also excludes a person employed by a school district, community college district, or county superintendent's office as a substitute teacher who performs less than 100 complete days of creditable service, as specified. Existing law provides a similar exclusion for people who are employed to provide creditable service on a part-time hourly basis of less than 60 hours in a pay period, as specified. The Cash Balance Benefit Program generally provides for membership for people with these employment characteristics.

This bill would recast and clarify these provisions, including to provide more specificity with regard to how the Cash Balance Benefit Program applies to employees. The bill would make similar, conforming changes in provisions of the Cash Balance Benefit Program.

(4) 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 specify that an employee's election for coverage under the federal Social Security Act or an alternative retirement plan does not preclude that employee from electing to participate in the Cash Balance Benefit Program for creditable service performed for that employer at a later date, if the program is still offered and the employee is still eligible.

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

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

SECTION 1. Section 22501 of the Education Code is amended to read:

22501. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by an employer, excluding a community college district, to perform creditable service on a full-time basis 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. 2. Section 22502 of the Education Code is amended to read:

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

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

(b) Any person who is not already a member of the Defined Benefit Program and who is employed by a community college district to perform creditable service shall become a member as of the first day of employment, unless excluded from membership pursuant to Section 22601 or subdivision (b) of Section 22601.5.

SEC. 3. Section 22503 of the Education Code is amended to read:

22503. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a substitute basis shall become a member as of the first day of the pay period following the pay period in which the person performs the person's 100th complete day of creditable service during a school year for one school district or county office of education, unless excluded from membership pursuant to Section 22601.

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

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

SEC. 4. Section 22504 of the Education Code is amended to read:

22504. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a part-time hourly basis shall become a member as of the first day of the pay period following the pay period in which the person performs 60 or more hours of creditable service for one school district or county office of education, unless excluded from membership pursuant to Section 22601.

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

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

SEC. 5. Section 22601.5 of the Education Code is amended to read:

22601.5. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a part-time basis for less than 50 percent of the time the employer requires for the full-time position is excluded from mandatory membership in the Defined Benefit Program.

(b) Any person who is not already a member of the Defined Benefit Program and who is employed by a community college district to perform creditable service on a temporary basis pursuant to Section 87474, 87478, 87480, 87481, 87482, or 87482.5 is excluded from mandatory membership in the Defined Benefit Program.

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

SEC. 6. Section 22602 of the Education Code is amended to read:

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

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

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

SEC. 7. Section 22604 of the Education Code is amended to read:

22604. (a) Any person who is not already a member of the Defined Benefit Program and who is employed by a school district or county office of education to perform creditable service on a part-time hourly basis and who performs less than 60 hours of creditable service in a pay period for one school district or county office of education is excluded from mandatory membership in the Defined Benefit Program. This subdivision shall only apply to persons who are employed to perform creditable service by an employer that does not provide the Cash Balance Benefit Program under Part 14 (commencing with Section 26000).

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

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

SEC. 8. Section 26400 of the Education Code is repealed.

SEC. 9. Section 26400 is added to the Education Code, to read:

26400. (a) (1) Any person who is not already a member of the Defined Benefit Program and who is employed to perform creditable service by an employer that provides the Cash Balance Benefit Program shall become a participant in the Cash Balance Benefit Program for creditable service performed for that employer if the person is not excluded from participation pursuant to Section 22601 and all employment to perform creditable service for that employer meets either of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

(d) If the governing board of an employer provided federal Social Security Act coverage with an effective date prior to January 1, 2007, and the employer offered the Cash Balance Benefit Program as of the effective date of the governing board's action to provide federal Social Security Act coverage, a participant who was performing creditable service for that employer may elect to be covered by the federal Social Security Act in lieu of the Cash Balance Benefit Program. The participant's election shall be made on or after March 1, 2008, and on or before May 1, 2008. The election to participate in the federal Social Security Act shall be effective on July 1, 2008.

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

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

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

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

SEC. 10. Section 26401 of the Education Code is amended to read:

26401. (a) (1) A member of the Defined Benefit Program who is employed by an employer that provides the Cash Balance Benefit Program may elect to become a participant of the Cash Balance Benefit Program for creditable service performed for that employer if all employment to perform creditable service for that employer meets either of the following conditions:

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

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

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

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

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

(b) (1) If an employee was excluded from participation in the Cash Balance Benefit Program pursuant to Section 26401.5, as that section read on December 31, 2000, for the same service, the employee may elect to become a participant for creditable service subject to coverage under the Cash Balance Benefit Program for that employer, provided all of the following conditions are met:

(A) The employment is pursuant to Section 87474, 87478, 87480, 87481, 87482, or 87482.5.

(B) The employer offers the Cash Balance Benefit Program.

(C) The creditable service is not also subject to mandatory membership in the Defined Benefit Program.

(2) Employers shall, on or before May 1, 2007, make available to employees described in this subdivision, information and forms provided by the system for making an election regarding participation. The employee shall submit the form to the employer within a 60-day election period designated by the employer. The employer shall retain a copy of the employee's signed election form and mail the original signed election form to the system's headquarters office. The election shall become effective on the first day of the pay period following the pay period in which the election is made.

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

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

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

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

SEC. 11. Section 26403 of the Education Code is amended to read:

26403. (a) A person who performs trustee service for an employer who has elected to provide benefits pursuant to this part to its employees may elect to participate in the Cash Balance Benefit Program for that service.

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

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

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

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