

AMENDED IN SENATE AUGUST 4, 2004

AMENDED IN SENATE JUNE 29, 2004

AMENDED IN SENATE JUNE 1, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3076**

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**Introduced by Assembly Member Mullin**

March 11, 2004

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An act to amend Sections 22502, 22504, 22601.5, 22604, 26400, and 26401 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 3076, as amended, Mullin. State Teachers' Retirement Law: part-time community college faculty.

Existing law requires any person who performs creditable service, as defined, on a part-time basis to become a member of the Defined Benefit Program of the State Teachers' Retirement Plan if the person is not already a member and is employed to perform 50% or more of the full-time equivalent for the position. Existing law provides that persons who teach adult or community college classes for not more than 60% of the full-time assignment are classified as temporary employees.

This bill would, as of July 1, 2005, exclude community college faculty members from mandatory membership in the Defined Benefit Program so long as they are classified as temporary employees. The bill would make related technical and conforming changes *with respect to the Cash Balance Benefit Program*.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 22502 of the Education Code is  
2 amended to read:

3 22502. (a) Any person employed by a school district or  
4 county office of education to perform creditable service on a  
5 part-time basis, who is not already a member of the Defined  
6 Benefit Program, shall become a member as of the first day of the  
7 pay period following his or her employment to perform creditable  
8 service for 50 percent or more of the full-time position, unless  
9 excluded from membership pursuant to Section 22601.

10 (b) Any person employed by a community college district to  
11 perform creditable service on a part-time basis, who is not already  
12 a member of the Defined Benefit Program, shall become a member  
13 as of the first day of the pay period following his or her  
14 employment to perform creditable service that is not subject to  
15 Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded  
16 from membership pursuant to Section 22601.

17 (c) This section shall apply to persons who perform service  
18 subject to coverage under this part and to persons who are  
19 employed by employers who provide benefits for their employees  
20 under Part 14 (commencing with Section 26000).

21 SEC. 2. Section 22504 of the Education Code is amended to  
22 read:

23 22504. (a) Any person employed by a school district or  
24 county office of education to perform creditable service on a  
25 part-time basis, who is not already a member of the Defined  
26 Benefit Program, shall become a member as of the first day of the  
27 pay period following the pay period in which the person performed  
28 at least 60 hours of creditable service, if employed on an hourly  
29 basis, or 10 days of creditable service, if employed on a daily basis,  
30 during the school year, in one school district or county office of  
31 education, unless excluded from membership pursuant to Section  
32 22601.

33 (b) Any person employed by a community college district to  
34 perform creditable service on a part-time basis, who is not already  
35 a member of the Defined Benefit Program, shall become a member



1 as of the first day of the pay period following his or her  
2 employment to perform creditable service that is not subject to  
3 Section 87474, 87480, 87481, 87482, or 87482.5, unless excluded  
4 from membership pursuant to Section 22601.

5 ~~(e) Subdivision (a) does not apply to persons who are employed  
6 by employers who provide benefits for their employees under Part  
7 14 (commencing with Section 26000).~~

8 (c) Subdivision (a) does not apply to persons who perform  
9 service subject to coverage under this part and who are employed  
10 by employers who provide benefits for their employees under Part  
11 14 (commencing with Section 26000).

12 (d) Subdivision (b) shall apply to persons who perform service  
13 subject to coverage under this part and to persons who are  
14 employed by employers who provide benefits for their employees  
15 under Part 14 (commencing with Section 26000).

16 SEC. 3. Section 22601.5 of the Education Code is amended  
17 to read:

18 22601.5. (a) Any person employed by a school district or  
19 county office of education to perform creditable service who is not  
20 already a member in the Defined Benefit Program and whose basis  
21 of employment is less than 50 percent of the time an employer  
22 requires for the full-time position is excluded from mandatory  
23 membership in the Defined Benefit Program.

24 (b) Any person employed by a community college district to  
25 perform creditable service pursuant to Section 87474, 87480,  
26 87481, 87482, or 87482.5 who is not already a member of the  
27 Defined Benefit Program is excluded from mandatory  
28 membership in the Defined Benefit Program.

29 (c) This section shall apply to persons who perform service  
30 subject to coverage under this part and to persons who are  
31 employed by employers who provide benefits for their employees  
32 under Part 14 (commencing with Section 26000).

33 SEC. 4. Section 22604 of the Education Code is amended to  
34 read:

35 22604. (a) Any person employed to perform creditable  
36 service on a part-time basis, who is not already a member of the  
37 Defined Benefit Program and who performs less than 60 hours of  
38 creditable service in a pay period if employed on an hourly basis,  
39 or less than 10 days of creditable service in a pay period if  
40 employed on a daily basis, during the school year in one school



1 district or county office of education, is excluded from mandatory  
 2 membership in the Defined Benefit Program.

3 (b) Any person employed by a community college district to  
 4 perform creditable service pursuant to Section 87474, 87480,  
 5 87481, 87482, or 87482.5, who is not already a member of the  
 6 Defined Benefit Program, is excluded from mandatory  
 7 membership in the Defined Benefit Program.

8 ~~(c) Subdivision (a) does not apply to persons who are employed~~  
 9 ~~by employers who provide benefits for their employees under Part~~  
 10 ~~14 (commencing with Section 26000).~~

11 (c) *Subdivision (a) does not apply to persons who perform*  
 12 *service subject to coverage under this part and who are employed*  
 13 *by employers who provide benefits for their employees under Part*  
 14 *14 (commencing with Section 26000).*

15 (d) *Subdivision (b) shall apply to persons who perform service*  
 16 *subject to coverage under this part and to persons who are*  
 17 *employed by employers who provide benefits for their employees*  
 18 *under Part 14 (commencing with Section 26000).*

19 SEC. 5. Section 26400 of the Education Code is amended to  
 20 read:

21 26400. (a) A person employed on a part-time basis by a  
 22 school district or county office of education to perform creditable  
 23 service for less than 50 percent of each full-time position shall  
 24 become a participant on the later of the first day on which  
 25 creditable service is performed for an employer that provides the  
 26 Cash Balance Benefit Program or the effective date of the  
 27 employer's governing board's action to provide the Cash Balance  
 28 Benefit Program, provided *that creditable service is not performed*  
 29 *for the same employer with whom the person is not* subject to  
 30 mandatory membership in the Defined Benefit Program.

31 (b) A person employed on a temporary basis by a community  
 32 college district, who is not subject to mandatory membership in the  
 33 Defined Benefit Program pursuant to Section 22502 or 22504 *for*  
 34 *each position with the same employer*, shall become a participant  
 35 on the later of the first day on which creditable service is  
 36 performed for an employer that provides the Cash Balance Benefit  
 37 Program or the effective date of the employer's governing board's  
 38 action to provide the Cash Balance Benefit Program.

39 (c) If the employer's governing board's action to provide the  
 40 Cash Balance Benefit Program gives employees the right to elect



1 coverage under social security or an alternative retirement plan  
2 offered by the employer in addition to the Cash Balance Benefit  
3 Program, the employee may elect within 60 calendar days of the  
4 latest of the first day on which creditable service is performed, the  
5 date of the employer's governing board's action to provide the  
6 Cash Balance Benefit Program, or the effective date of the  
7 employer's governing board's action to provide the Cash Balance  
8 Benefit Program to be covered by social security or to participate  
9 in the alternative retirement plan in lieu of participating in the Cash  
10 Balance Benefit Program. Any election may not preclude an  
11 employee from participating in the Cash Balance Benefit Program  
12 at a later date so long as the Cash Balance Benefit Program is  
13 provided by the employer and the employee is eligible to  
14 participate in the Cash Balance Benefit Program.

15 (d) If subdivision (c) is applicable, the employer shall inform  
16 employees pursuant to subdivision (c) of Section 26300 of their  
17 right to make an election and the election shall be made on a form  
18 prescribed by the system and filed with the employer. The election  
19 shall become effective on the later of the first day on which  
20 creditable service is performed or the effective date of the  
21 employer's governing board's action to provide the Cash Balance  
22 Benefit Program.

23 (e) If the participant's basis of employment with a school  
24 district or county office of education that provides the Cash  
25 Balance Benefit Program changes to employment to perform  
26 creditable service for 50 percent or more of the full-time  
27 ~~position~~*position during* one school year with the same  
28 employer, creditable service performed for that employer shall no  
29 longer be covered under the Cash Balance Benefit Program.  
30 Creditable service performed for that employer shall be subject to  
31 coverage by the Defined Benefit Program as of the first day of the  
32 pay period following the change in the participant's basis of  
33 employment.

34 (f) If the participant's basis of employment with a community  
35 college district changes to employment that is subject to  
36 mandatory membership in the Defined Benefit Program pursuant  
37 to Section 22501, 22502, or 22504 during one school year with the  
38 same employer, creditable service performed for that employer  
39 shall no longer be covered under the Cash Balance Benefit  
40 Program. Creditable service performed for that employer shall be



1 subject to coverage by the Defined Benefit Program as of the first  
2 day of the pay period following the change in the participant's  
3 basis of employment.

4 SEC. 6. Section 26401 of the Education Code is amended to  
5 read:

6 26401. (a) A member of the Defined Benefit Program who is  
7 employed to perform creditable service on a part-time basis for  
8 less than 50 percent of each full-time position by a school district  
9 or county office of education that provides the Cash Balance  
10 Benefit Program may elect to become a participant for creditable  
11 service subject to coverage under the Cash Balance Benefit  
12 Program for that employer, provided that the creditable service is  
13 not performed for the same employer with whom the member is  
14 also subject to mandatory membership in the Defined Benefit  
15 Program.

16 (b) A member of the Defined Benefit Program who is  
17 employed pursuant to Section 87474, 87480, 87481, 87482, or  
18 87482.5 by a community college district that provides the Cash  
19 Balance Benefit Program may elect to become a participant for  
20 creditable service subject to coverage under the Cash Balance  
21 Benefit Program for that employer, provided that the creditable  
22 service is not performed for the same employer with whom the  
23 member is also subject to mandatory membership in the Defined  
24 Benefit Program.

25 (c) The election shall be made on a form prescribed by the  
26 system and shall be filed with the employer within 60 calendar  
27 days of the later of the first day of employment with an employer  
28 that provides the Cash Balance Benefit Program, the date of the  
29 employer's governing board's action to provide the Cash Balance  
30 Benefit Program, or the effective date of the employer's governing  
31 board's action to provide the Cash Balance Benefit Program.

32 (d) Employers shall make available to employees specified in  
33 subdivisions (a) and (b) information and forms provided by the  
34 system for making an election regarding participation, and shall  
35 maintain the written election by the employee in employer files.  
36 The election shall become effective on the first day of the pay  
37 period following the pay period in which the election is made.

38 (e) If an election is made pursuant to subdivision (a) and the  
39 participant's basis of employment with that employer changes to  
40 employment to perform creditable service for 50 percent or more



1 of the full-time position during one school year with the same  
2 employer, creditable service performed for that employer shall no  
3 longer be covered under the Cash Balance Benefit Program.  
4 Creditable service performed for that employer shall be subject to  
5 coverage under the Defined Benefit Program as of the first day of  
6 the pay period following the change in the participant's basis of  
7 employment.

8 (f) If an election is made pursuant to subdivision (b) and the  
9 participant's basis of employment with the community college  
10 district changes to employment that is subject to mandatory  
11 membership in the Defined Benefit Program pursuant to Section  
12 22501, 22502, or 22504 during one school year with the same  
13 employer, creditable service performed for that employer shall no  
14 longer be covered under the Cash Balance Benefit Program.  
15 Creditable service performed for that employer shall be subject to  
16 coverage under the Defined Benefit Program as of the first day of  
17 the pay period following the change in the participant's basis of  
18 employment.

19 SEC. 7. This act shall be operative on July 1, 2005.

