

Assembly Bill No. 1432

CHAPTER 513

An act to amend Sections 22661, 22820, 26002.5, 26004, and 27406 of the Education Code, relating to state teachers' retirement, and making an appropriation therefor.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1432, Soto. State teachers' retirement.

The State Teachers' Retirement Law prescribes a comprehensive system of rights and benefits for its members and specifically permits a court, upon legal separation or dissolution of marriage, to award to a nonmember spouse, as defined, a separate account under the Defined Benefit Program pursuant to that person's community property interest. The law permits an employer to offer benefits under the Cash Balance Benefit Program to certain employees who are employed less than 50% of full time, and addresses community property interests in this regard. The law provides certain exceptions for nonparticipant domestic partners in connection with federal tax law limitations.

Existing law permits a member of the Defined Benefit Plan of the State Teachers' Retirement System to elect to purchase service credit for out-of-state service performed in a position while employed by a public educational institution located in another state or territory of the United States or for educational service performed as an employee of the United States, as specified. Existing law provides that contributions for the purchase of service credit are deposited in the State Teachers' Retirement Fund, a continuously appropriated fund.

This bill would remove exceptions regarding certain transfers of accumulated contributions and rollover distributions for nonparticipant domestic partners in connection with federal tax law limitations. The bill would also make technical changes.

The bill would also permit a member of the Defined Benefit Plan of the State Teachers' Retirement System to elect to purchase service credit for service as an employee of an educational institution located outside of the United States and its territories that receives a portion of its funding from any foreign or domestic public sources, as specified, among others. By providing for increased contributions to a continuously appropriated fund, this bill would make an appropriation.

Appropriation: yes.

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

SECTION 1. Section 22661 of the Education Code is amended to read:

22661. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to a refund of the accumulated retirement contributions in the account under the Defined Benefit Program, and a return of the Defined Benefit Supplement account balance, of the nonmember spouse under this part.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain a refund or lump-sum payment.

(c) The refund of accumulated retirement contributions in the account under the Defined Benefit Program and the return of the accumulated Defined Benefit Supplement account balance under this part are effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file with the system.

(d) If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated retirement contributions or accumulated Defined Benefit Supplement account balance that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a refund of the nonmember spouse's accumulated retirement contributions as defined in Section 22161.5 or the return of the accumulated Defined Benefit Supplement account balance.

(e) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit, accumulated retirement contributions, and accumulated Defined Benefit Supplement account balance under this part when the refund and lump-sum payment become effective.

(f) The nonmember spouse may not cancel a refund or lump-sum payment under this part after it is effective.

(g) The nonmember spouse shall not have a right to elect to redeposit the refunded accumulated retirement contributions under this part after the refund is effective, to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective, or to redeposit the accumulated Defined Benefit Supplement account balance after the lump-sum payment becomes effective.

(h) If the total service credit in the separate account of the nonmember spouse under the Defined Benefit Program, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the accumulated retirement contributions in the account.

SEC. 2. Section 22820 of the Education Code is amended to read:

22820. (a) A member, other than a retired member, may elect to purchase credit for out-of-state service for any of the following:

(1) Service performed in a position while employed by a public educational institution located in another state or territory of the United States.

(2) Educational service performed as an employee of the United States.

(3) Service performed as an employee of an educational institution located outside of the United States and its territories that receives a portion of its funding from any foreign or domestic public sources and provides a level of education comparable to kindergarten and grades 1 to 12, inclusive, as determined by the applicable law of the jurisdiction in which the educational institution is located.

(4) As an employee of an educational institution that receives funds under Section 2701 of Title 22 of the United States Code.

(b) The member may not receive credit for this service if the member retains or is eligible to receive credit for the same service in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or another public retirement system, excluding social security.

(c) The amount of out-of-state service for which a member may purchase credit may not exceed the number of years of service performed by the member in a position described in subdivision (a).

(d) Out-of-state service credit may be purchased under this section by means of any of the following actions:

(1) Paying an amount equal to the amount refunded from the other public retirement system and receiving service credit under the Defined Benefit Program pursuant to subdivision (a) of Section 22823.

(2) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(3) Paying an amount equal to the amount refunded from the other public retirement system and an additional amount in accordance with subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(4) Paying the contributions required under the Defined Benefit Program pursuant to subdivision (a) of Section 22823 for the service not credited to a public retirement system.

(e) Compensation for out-of-state service may not be used in determining the highest average annual compensation earnable when calculating final compensation.

(f) The service credit purchased under this section may not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 3. Section 26002.5 of the Education Code is amended to read:

26002.5. Except as excluded in subdivision (d) of Section 26807.5 or subdivision (d) of Section 26906.5, a person who is the registered domestic partner of a member, as established pursuant to Section 297 or 299.2 of the Family Code, shall be treated in the same manner as a "spouse," as defined in Section 26140.

SEC. 4. Section 26004 of the Education Code is amended to read:

26004. Notwithstanding any other provision of law:

(a) The benefits payable to any participant or beneficiary under this part shall be subject to the limitations imposed by Section 415 of Title 26 of the United States Code.

(b) The amount of compensation that is taken into account in computing benefits under this part for a plan year shall not exceed the annual compensation limit applicable to that plan year in accordance with Section 401(a)(17) of Title 26 of the United States Code as that section read on the effective date of this section and as that section may be amended after that date. The determination of compensation for a 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the respective annual compensation limit applicable to that period.

(c) Distributions from the plan under this part shall be made in accordance with Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder. The required beginning date of benefit payments that represent the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution of a retirement benefit, disability benefit, or termination benefit, the lump-sum payment shall be made not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates all employment subject to coverage by the plan.

(2) In the case of a retirement benefit or disability benefit that is to be paid in the form of an annuity, payment of the annuity shall begin not later than April 1 of the calendar year following the later of (A) the calendar year in which the participant attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the participant terminates employment in all positions subject to coverage by the plan, with the annuity to continue over the life of the participant or the life of the participant and the participant's option beneficiary, or over a period not to exceed the life expectancy of the participant or the life expectancy of the participant and the participant's option beneficiary.

(3) In the case of a death benefit, distributions shall commence no later than the date provided in Section 27001.

(d) If a person becomes entitled to a distribution from the plan under this part that constitutes an eligible rollover distribution within the meaning of Section 401(a)(31) of Title 26 of the United States Code, the person may elect under terms and conditions established by the board to have the distribution or a portion thereof paid directly to a plan that constitutes an eligible retirement plan within the meaning of Section 401(a)(31), as specified by that person. Upon the exercise of the election by a person with respect to a distribution or a portion thereof, the distribution from the plan

of the amount so designated, once distributable under the terms of the plan, shall be made in the form of a direct rollover to the eligible retirement plan so specified.

(e) The amount of any benefit from the plan under this part that is determined on the basis of actuarial assumptions shall be based on actuarial assumptions adopted by the board pursuant to Section 26213 as a plan amendment with respect to the Cash Balance Benefit Program and those assumptions shall preclude employer discretion and comply with Section 401(a)(25) of Title 26 of the United States Code.

SEC. 5. Section 27406 of the Education Code is amended to read:

27406. The nonparticipant spouse who is awarded separate nominal accounts with respect to the Cash Balance Benefit Program shall have the right to a lump-sum distribution of amounts credited to the account.

(a) The nonparticipant spouse shall file an application on a form provided by the system to obtain the distribution.

(b) The distribution is effective when the system deposits in the United States mail a warrant drawn in favor of the nonparticipant spouse and addressed to the latest address for the nonparticipant spouse on file with the system.

(c) If the nonparticipant spouse has elected on a form provided by the system to transfer all or a specified portion of the accounts that are eligible for direct trustee-to-trustee transfer under Section 401(a)(31) of Title 26 of the United States Code to the trustee of a qualified plan under Section 402 of Title 26 of the United States Code, deposit in the United States mail of a notice that the requested transfer has been made constitutes a distribution of the nonparticipant spouse's credit balance from the separate nominal accounts.

(d) The nonparticipant spouse is deemed to have permanently waived all rights to an annuity when the distribution becomes effective.

(e) The nonparticipant spouse may not cancel a distribution after the distribution is effective.

(f) The nonparticipant spouse shall have no right to elect to redeposit the distribution after the distribution is effective.