
Introduced by Senator Soto

February 22, 2005

An act to amend Section ~~31007 of the Government~~ 22119.2 of the Education Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1094, as amended, Soto. ~~County employees retirement. State Teachers' Retirement Plan: creditable compensation.~~

Members of the Defined Benefit Program of the State Teachers' Retirement Plan receive service retirement benefits calculated, in part, on the members' final compensation. An element in the calculation of final compensation is creditable compensation, as defined, which excludes certain types of remuneration, including fringe benefits.

This bill would specify that housing stipends and car allowances are fringe benefits that are excluded from the definition of creditable compensation.

~~The County Employees Retirement Law of 1937 sets forth a comprehensive system retirement benefits for county and district employees.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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

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

- 1 SECTION 1. ~~Section 31007 of the Government Code is~~
- 2 ~~amended to read:~~

1 ~~31007. This part does not require or authorize the~~
2 ~~employment of any person in a particular county employment~~
3 ~~who has reached the compulsory retirement age prescribed by a~~
4 ~~county employees' retirement system for that particular~~
5 ~~employment whether the person is a member of the county~~
6 ~~employees' retirement system or not.~~

7 *SECTION 1. Section 22119.2 of the Education Code is*
8 *amended to read:*

9 22119.2. (a) "Creditable compensation" means remuneration
10 that is payable in cash by an employer to all persons in the same
11 class of employees and is paid to an employee for performing
12 creditable service. Creditable compensation shall include:

13 (1) Salary paid in accordance with a salary schedule or
14 employment agreement.

15 (2) Remuneration that is paid in addition to salary, providing it
16 is payable to all persons who are in the same class of employees
17 in the same dollar amount, the same percentage of salary, or the
18 same percentage of the amount being distributed.

19 (3) Remuneration that is paid for the use of sick leave,
20 vacation, and other employer-approved leave, except as provided
21 in paragraph (4) of subdivision (c).

22 (4) Member contributions that are picked up by an employer
23 pursuant to Section 22903 or 22904.

24 (5) Amounts that are deducted from a member's
25 compensation, including, but not limited to, salary deductions for
26 participation in a deferred compensation plan; deductions to
27 purchase an annuity contract, tax- deferred retirement plan, or
28 insurance program; and contributions to a plan that meets the
29 requirements of Section 125, 401(k), or 403(b) of Title 26 of the
30 United States Code.

31 (6) Any other payments the board determines to be "creditable
32 compensation."

33 (b) Any salary or other remuneration determined by the board
34 to have been paid for the principal purpose of enhancing a
35 member's benefits under the plan shall not be credited under the
36 Defined Benefit Program. Contributions on that compensation
37 shall be credited to the Defined Benefit Supplement Program. A
38 presumption by the board that salary or other remuneration was
39 paid for the principal purpose of enhancing the member's
40 benefits under the plan may be rebutted by the member or by the

1 employer on behalf of the member. Upon receipt of sufficient
2 evidence to the contrary, a presumption by the board that salary
3 or other remuneration was paid for the principal purpose of
4 enhancing the member's benefits under the plan may be reversed.

5 (c) "Creditable compensation" does not mean and shall not
6 include:

7 (1) Remuneration that is not payable in cash or is not payable
8 to all persons who are in the same class of employees.

9 (2) Remuneration that is paid for service that is not creditable
10 service pursuant to Section 22119.5.

11 (3) Remuneration that is paid in addition to salary if it is not
12 payable to all persons in the same class of employees in the same
13 dollar amount, the same percentage of salary, or the same
14 percentage of the amount being distributed pursuant to paragraph
15 (2) of subdivision (a).

16 (4) Remuneration that is paid for unused accumulated leave.

17 (5) Annuity contracts, tax-deferred retirement plans, or
18 insurance programs and contributions to plans that meet the
19 requirements of Section 125, 401(k), or 403(b) of Title 26 of the
20 United States Code when the cost is covered by an employer and
21 is not deducted from the member's salary.

22 (6) Fringe benefits provided by an employer, *including, but*
23 *not limited to, housing stipends or car allowances.*

24 (7) Job-related expenses paid or reimbursed by an employer.

25 (8) Severance pay or compensatory damages or money paid to
26 a member in excess of salary as a compromise settlement.

27 (9) Any other payments the board determines not to be
28 "creditable compensation."

29 (d) An employer or individual who knowingly or willfully
30 reports compensation in a manner inconsistent with subdivision
31 (a) or (c) shall reimburse the plan for benefit overpayments that
32 occur because of that inconsistent reporting and may be subject
33 to prosecution for fraud, theft, or embezzlement in accordance
34 with the Penal Code. The system may establish procedures to
35 ensure that compensation reported by an employer is in
36 compliance with this section.

37 (e) For purposes of this section, remuneration shall be
38 considered payable if it would be paid to any person who meets
39 the qualifications or requirements specified in a collective

1 bargaining agreement or an employment agreement as a
2 condition of receiving the remuneration.

3 (f) This definition of “creditable compensation” reflects sound
4 principles that support the integrity of the retirement fund. Those
5 principles include, but are not limited to, consistent treatment of
6 compensation throughout a member’s career, consistent
7 treatment of compensation among an entire class of employees,
8 preventing adverse selection, and excluding from compensation
9 earnable remuneration that is paid for the principal purpose of
10 enhancing a member’s benefits under the plan. The board shall
11 determine the appropriate crediting of contributions between the
12 Defined Benefit Program and the Defined Benefit Supplement
13 Program according to these principles, to the extent not otherwise
14 specified pursuant to this part.

15 (g) The section shall become operative on July 1, 2002, if the
16 revenue limit cost-of-living adjustment computed by the
17 Superintendent of Public Instruction for the 2001–02 fiscal year
18 is equal to or greater than 3.5 percent. Otherwise this section
19 shall become operative on July 1, 2003.