

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JULY 1, 2015

AMENDED IN SENATE MAY 27, 2015

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 963

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Sections 22115, 22119.2, 22119.3, 22119.5, 22146, 22164.5, 26113, and 26135.7 of, and to add Sections 22119.6, ~~22458.3~~, 22458.5, and 22508.7 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 963, as amended, Bonilla. Teachers' Retirement Law.

Existing law, the Teachers' Retirement Law, establishes the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program. The defined benefit is based on final compensation, credited service, and age at retirement, subject to certain variations. The State Teachers' Retirement System (STRS) is administered by the Teachers' Retirement Board. Existing law establishes the Cash Balance Benefit Program, also administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

This bill would revise and recast the definition of creditable service for purposes of the Defined Benefit Program and the Cash Balance Benefit Program, as specified. The bill would, among other things, include as creditable service for the purposes of the Defined Benefit Program any activities that do not meet the definition of creditable service but were performed for an employer, as defined, on or before December 31, 2015, and were reported as creditable service to STRS. The bill would revise the definition of “member” to include any person who has performed those activities. The bill would allow members and specified retired members who have performed those activities to irrevocably elect to have that service subject to coverage under a different public retirement system and excluded from coverage by the Defined Benefit Program, as specified. The bill would also allow a person who had service for those activities removed from STRS and reported to a different public retirement system, as directed by STRS, to make an irrevocable election to have all of that service and subsequent service in the same position be subject to coverage by the Defined Benefit Program and excluded from that other system.

Among other things, the bill would provide that payment for certain part-time creditable service performed by a STRS member as an outgrowth of a school instructional and guidance program be calculated based upon the average compensation earnable for all active members in a prior fiscal year, as specified. The bill would also require employers, upon request of the system, to provide the system with information relating to ~~time creditable service activities and certification qualifications, minimum standards, or provisions of approved school charters to perform creditable service, as specified.~~ The bill would include within the definition of creditable service specified activities performed by consulting teachers in the California Peer Assistance and Review Program.

The bill would make other conforming, nonsubstantive changes.

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 22115 of the Education Code is amended
- 2 to read:
- 3 22115. (a) “Compensation earnable” means the creditable
- 4 compensation a person could earn in a school year for creditable

1 service performed on a full-time basis, excluding service for which
2 contributions are credited by the system to the Defined Benefit
3 Supplement Program.

4 (b) The board may determine compensation earnable for persons
5 employed on a part-time basis.

6 (c) If service credit for a school year is less than 1.000,
7 compensation earnable shall be the quotient obtained when
8 creditable compensation paid in that year is divided by the service
9 credit for that year, except as provided in subdivision (d).

10 (d) If a member earns creditable compensation at multiple pay
11 rates during a school year and service credit at the highest pay rate
12 is at least 0.900 of a year, compensation earnable shall be
13 determined as if all service credit for that year had been earned at
14 the highest pay rate. This subdivision shall be applicable only for
15 purposes of determining final compensation. If a member earns
16 creditable compensation at multiple pay rates during a school year
17 and service credit at the highest pay rate is less than 0.900 of a
18 year, compensation earnable shall be determined pursuant to
19 subdivision (c).

20 (e) If creditable service is not performed on a full-time basis
21 because a member is performing those activities pursuant to
22 subdivision (d) of Section 22119.5, compensation earnable for
23 those activities shall, in any one school year, be an amount
24 determined by the system on or before each July 1 equal to the
25 average compensation earnable of all active members during the
26 fiscal year ending in the previous calendar year.

27 (f) (1) Except as provided in subdivision (g), for purposes of
28 determining compensation earnable for a member employed by a
29 community college prior to July 1, 1996, full time shall be defined
30 pursuant to Section 22138.5 and pursuant to Section 20521 of Title
31 5 of the California Code of Regulations, as those provisions read
32 on June 30, 1996, if application of that definition will increase the
33 compensation earnable or otherwise enhance the benefits of the
34 member.

35 (2) For purposes of administering this subdivision, the board
36 shall have the authority to do both of the following:

37 (A) Establish and implement factors and assumptions necessary
38 to calculate and compare the benefits payable under the definition
39 of compensation earnable described in this subdivision. Those

1 factors and assumptions may be based on information reported by
2 the employer, including, but not limited to, all of the following:

- 3 (i) Base hours.
- 4 (ii) Actual earnings.
- 5 (iii) Compensation earnable.

6 (B) Review member benefit calculations that were performed
7 using the factors and assumptions described in subparagraph (A).
8 If the board determines that an employer failed to identify part-time
9 service performed, the board shall consider that part-time service
10 to be performed in a part-time lecture assignment as defined by
11 the employer. If the board determines by the review of the member
12 benefit calculations that the required information reported by the
13 employer is inaccurate, incomplete, or the factors and assumptions
14 were applied incorrectly, the board may recalculate member
15 benefits using additional factors and assumptions that may include,
16 but are not limited to, all of the following:

- 17 (i) Base hours.
- 18 (ii) Actual earnings.
- 19 (iii) Compensation earnable.

20 (3) This subdivision shall apply to a member employed by a
21 community college prior to July 1, 1996, if the community college
22 subsequently acts to reduce the minimum standard for full time as
23 described in subdivision (c) of Section 22138.5 for the class of
24 employees, and that community college provides written notice
25 to the system of the act of the community college to reduce that
26 minimum standard.

27 (4) This subdivision shall not apply to a member employed by
28 a community college that has not reduced the minimum standard
29 as described in subdivision (c) of Section 22138.5.

30 (g) Subdivision (f) shall not apply to a member subject to the
31 California Public Employees' Pension Reform Act of 2013.

32 SEC. 2. Section 22119.2 of the Education Code is amended to
33 read:

34 22119.2. (a) "Creditable compensation" means remuneration
35 that is paid in cash by an employer to all persons in the same class
36 of employees for performing creditable service in that position.
37 Creditable compensation shall include:

38 (1) Salary or wages paid in accordance with a publicly available
39 written contractual agreement, including, but not limited to, a
40 salary schedule or employment agreement.

1 (2) Remuneration that is paid in addition to salary or wages,
2 provided it is paid to all persons who are in the same class of
3 employees in the same dollar amount, the same percentage of
4 salary or wages, or the same percentage of the amount being
5 distributed.

6 (3) Remuneration that is paid for the use of sick leave, vacation
7 leave, or an employer-approved compensated leave of absence,
8 except as provided in paragraph (4) of subdivision (c).

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

11 (5) Amounts that are deducted from a member's remuneration,
12 including, but not limited to, deductions for participation in a
13 deferred compensation plan; deductions to purchase an annuity
14 contract, tax-deferred retirement plan, or insurance program; and
15 contributions to a plan that meets the requirements of Section 125,
16 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United
17 States Code.

18 (6) Any other payments the board determines to be "creditable
19 compensation."

20 (b) Any creditable compensation determined by the system to
21 have been paid to enhance a member's benefits shall not be credited
22 under the Defined Benefit Program. Contributions on that
23 compensation shall be credited to the Defined Benefit Supplement
24 Program. A presumption by the system that creditable
25 compensation was paid to enhance a member's benefits may be
26 rebutted by the member or by the employer on behalf of the
27 member. Upon receipt of sufficient evidence to the contrary, a
28 presumption by the system that creditable compensation was paid
29 to enhance the member's benefits may be reversed.

30 (c) "Creditable compensation" does not mean and shall not
31 include:

32 (1) Remuneration that is not paid in cash or is not paid to all
33 persons who are in the same class of employees.

34 (2) Remuneration that is paid for service that is not creditable
35 service pursuant to Section 22119.5 or 22119.6.

36 (3) Remuneration that is paid in addition to salary or wages if
37 it is not paid to all persons in the same class of employees in the
38 same dollar amount, the same percentage of salary or wages, or
39 the same percentage of the amount being distributed pursuant to
40 paragraph (2) of subdivision (a).

- 1 (4) Remuneration that is paid in exchange for the relinquishment
2 of unused accumulated leave.
- 3 (5) Payments, including, but not limited to, those for
4 participation in a deferred compensation plan; to purchase an
5 annuity contract, tax-deferred retirement plan, or insurance
6 program; and for contributions to a plan that meets the requirements
7 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
8 26 of the United States Code when the cost is covered by an
9 employer and is not deducted from the member’s salary.
- 10 (6) Fringe benefits provided by an employer.
- 11 (7) Expenses paid or reimbursed by an employer.
- 12 (8) Severance pay, including lump-sum and installment
13 payments, or money paid in excess of salary or wages to a member
14 as compensatory damages or as a compromise settlement.
- 15 (9) Any other payments the board determines not to be
16 “creditable compensation.”
- 17 (d) An employer or individual who knowingly or willfully
18 reports compensation in a manner inconsistent with subdivision
19 (a) or (c) may be subject to prosecution for fraud, theft, or
20 embezzlement in accordance with the Penal Code. The system
21 may establish procedures to ensure that compensation reported by
22 an employer is in compliance with this section.
- 23 (e) For purposes of this section, remuneration shall be considered
24 paid if distributed to any person in the same class of employees
25 who meets the qualifications or requirements specified in a publicly
26 available written contractual agreement, including, but not limited
27 to, a collective bargaining agreement or an employment agreement,
28 as a condition of receiving the remuneration.
- 29 (f) This definition of “creditable compensation” reflects sound
30 principles that support the integrity of the retirement fund. Those
31 principles include, but are not limited to, consistent treatment of
32 compensation throughout a member’s career, consistent treatment
33 of compensation among an entire class of employees, consistent
34 treatment of compensation for the position, preventing adverse
35 selection, and excluding from compensation earnable remuneration
36 that is paid to enhance a member’s benefits. The system shall
37 determine the appropriate crediting of contributions between the
38 Defined Benefit Program and the Defined Benefit Supplement
39 Program according to these principles, to the extent not otherwise
40 specified pursuant to this part.

1 (g) The section shall become operative on July 1, 2002.

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

4 SEC. 3. Section 22119.3 of the Education Code is amended to
5 read:

6 22119.3. (a) "Creditable compensation" for members who are
7 subject to the California Public Employees' Pension Reform Act
8 of 2013 means remuneration that is paid each pay period in which
9 creditable service is performed for that position. Creditable
10 compensation shall be paid in cash by an employer to all persons
11 in the same class of employees in accordance with a publicly
12 available written contractual agreement, including, but not limited
13 to, a salary schedule or employment agreement. Creditable
14 compensation shall include:

15 (1) Remuneration that is paid for the use of sick leave, vacation
16 leave, or an employer-approved compensated leave of absence,
17 except as provided in paragraph (4) of subdivision (b).

18 (2) Member contributions that are picked up by an employer
19 pursuant to Section 22903 or 22904.

20 (3) Amounts that are deducted from a member's remuneration,
21 including, but not limited to, deductions for participation in a
22 deferred compensation plan; deductions to purchase an annuity
23 contract, tax-deferred retirement plan, or insurance program; and
24 contributions to a plan that meets the requirements of Section 125,
25 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United
26 States Code.

27 (4) Notwithstanding paragraphs (6) and (8) of subdivision (c)
28 of Section 7522.34 of the Government Code, remuneration that is
29 paid for creditable service that exceeds one year in a school year.

30 (b) "Creditable compensation" does not mean and shall not
31 include:

32 (1) Remuneration that is not paid in cash or is not paid to all
33 persons who are in the same class of employees.

34 (2) Remuneration that is paid for service that is not creditable
35 service pursuant to Section 22119.5 or 22119.6.

36 (3) Remuneration that is not paid each pay period in which
37 creditable service is performed for that position.

38 (4) Remuneration that is paid in exchange for the relinquishment
39 of unused accumulated leave.

- 1 (5) Payments, including, but not limited to, those for
2 participation in a deferred compensation plan; to purchase an
3 annuity contract, tax-deferred retirement plan, or insurance
4 program; and for contributions to a plan that meets the requirements
5 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
6 26 of the United States Code when the cost is covered by an
7 employer.
- 8 (6) Fringe benefits provided by an employer.
- 9 (7) Expenses paid or reimbursed by an employer.
- 10 (8) Severance pay, including lump sum and installment
11 payments, or money paid in excess of salary or wages to a member
12 as compensatory damages or as a compromise settlement.
- 13 (9) Creditable compensation determined by the system to have
14 been paid to enhance a member's benefit.
- 15 (10) Compensation paid to the member in lieu of benefits
16 provided to the member by the employer or paid directly by the
17 employer to a third party other than the system for the benefit of
18 the member.
- 19 (11) Any one-time or ad hoc payments made to a member.
- 20 (12) Any employer-provided allowance, reimbursement, or
21 payment, including, but not limited to, one made for housing,
22 vehicle, or uniform.
- 23 (13) Any bonus paid in addition to compensation described in
24 subdivision (a).
- 25 (14) Any other payments the board determines not to be
26 "creditable compensation."
- 27 (c) (1) Except for purposes of calculating credited service in
28 the Defined Benefit Program and for reporting compensation
29 earnable on or after January 1, 2013, creditable compensation in
30 any fiscal year shall not exceed:
- 31 (A) One hundred twenty percent of the "contribution and benefit
32 base," as determined under Section 430(b) of the Social Security
33 Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member
34 whose service is not included in the federal system.
- 35 (B) One hundred percent of the "contribution and benefit base,"
36 as determined under Section 430(b) of the Social Security Act (42
37 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose
38 service is included in the federal system pursuant to any changes
39 in state or federal law enacted on or after January 1, 2013.

1 (2) The system shall adjust the limit based on the annual changes
2 to the Consumer Price Index for All Urban Consumers: U.S. City
3 Average, calculated by dividing the Consumer Price Index for All
4 Urban Consumers: U.S. City Average for the month of February
5 in the fiscal year preceding the adjustment by the Consumer Price
6 Index for All Urban Consumers: U.S. City Average for the month
7 of February of the previous year rounded to the nearest thousandth.
8 Notwithstanding paragraph (1) of subdivision (d) of Section
9 7522.10 of the Government Code, the adjustment shall be effective
10 annually on July 1, beginning July 1, 2014.

11 (3) The Legislature reserves the right to modify the requirements
12 of this subdivision with regard to all members subject to this
13 subdivision, except that the Legislature may not modify these
14 provisions in a manner that would result in a decrease in benefits
15 accrued prior to the effective date of the modification.

16 (4) This subdivision shall apply to compensation paid during
17 the 2013–14 fiscal year and each fiscal year thereafter.

18 (d) An employer or individual who knowingly or willfully
19 reports compensation in a manner inconsistent with subdivision
20 (a) or (b) may be subject to prosecution for fraud, theft, or
21 embezzlement in accordance with the Penal Code. The system
22 may establish procedures to ensure that compensation reported by
23 an employer is in compliance with this section.

24 (e) For purposes of this section, remuneration shall be considered
25 paid if distributed to any person in the same class of employees
26 who meets the qualifications or requirements specified in a publicly
27 available written contractual agreement, including, but not limited
28 to, a collective bargaining agreement or an employment agreement,
29 as a condition of receiving the remuneration.

30 (f) This definition of “creditable compensation” reflects sound
31 principles that support the integrity of the retirement fund. Those
32 principles include, but are not limited to, consistent treatment of
33 compensation throughout a member’s career, consistent treatment
34 of compensation among an entire class of employees, consistent
35 treatment of compensation for the position, preventing adverse
36 selection, and excluding from creditable compensation
37 remuneration that is paid to enhance a member’s benefits. The
38 system shall determine the appropriate crediting of contributions
39 according to these principles, to the extent not otherwise specified
40 pursuant to this part. A presumption by the system that creditable

1 compensation was paid to enhance the member’s benefits may be
2 rebutted by the member or by the employer on behalf of the
3 member. Upon receipt of sufficient evidence to the contrary, a
4 presumption by the system that creditable compensation was paid
5 to enhance the member’s benefits may be reversed.

6 SEC. 4. Section 22119.5 of the Education Code is amended to
7 read:

8 22119.5. (a) “Creditable service” means any of the activities
9 described in subdivision (b) performed for any of the following
10 employers:

11 (1) A prekindergarten through grade 12 employer, including
12 the state, in a position requiring certification qualifications as
13 designated in regulations adopted by the Commission on Teacher
14 Credentialing pursuant to Section 44001.

15 (2) A community college employer by a faculty member, as
16 defined in Section 87003, in an academic position, as defined in
17 subdivision (b) of Section 87001, or by an educational
18 administrator, as defined in subdivision (b) of Section 87002,
19 subject to the appropriate minimum standards adopted by the Board
20 of Governors of the California Community Colleges pursuant to
21 Section 87356, or pursuant to a contract between a community
22 college district and the United States Department of Defense to
23 provide vocational training.

24 (3) A charter school employer under the provisions of an
25 approved charter for the operation of a charter school for which
26 the charter school is eligible to receive state apportionment.

27 (b) The types of activities are any of the following:

28 (1) The work of teachers, instructors, district interns, and
29 academic employees employed in the instructional program for
30 pupils, including special programs such as adult education, regional
31 occupation programs, child care centers, and prekindergarten
32 programs pursuant to Section 22161.

33 (2) Education or vocational counseling, guidance, and placement
34 services.

35 (3) The work of employees who plan courses of study to be
36 used in California public schools, or research connected with the
37 evaluation or efficiency of the instructional program.

38 (4) The selection, collection, preparation, classification,
39 demonstration, or evaluation of instructional materials of any
40 course of study for use in the development of the instructional

1 program in California public schools, or other services related to
2 California public school curriculum.

3 (5) The examination, selection, in-service training, mentoring,
4 or assignment of teachers, principals, or other similar personnel
5 involved in the instructional program.

6 (6) The work of nurses, physicians, speech therapists,
7 psychologists, audiometrists, audiologists, and other California
8 public school health professionals.

9 (7) Services as a California public school librarian.

10 (8) Activities connected with the enforcement of the laws
11 relating to compulsory education, coordination of child welfare
12 activities involving the school and the home, and the school
13 adjustment of pupils.

14 (9) The work of employees who are responsible for the
15 supervision of persons or administration of the duties described
16 in this subdivision.

17 (c) "Creditable service" also means any of the activities
18 described in subdivision (b) when they are performed for an
19 employer by:

20 (1) Superintendents of California public schools, and presidents
21 and chancellors of community college employers.

22 (2) Consulting teachers employed by an employer to participate
23 in the California Peer Assistance and Review Program for Teachers
24 pursuant to Article 4.5 (commencing with Section 44500) of
25 Chapter 3 of Part 25 of Division 3 of Title 2.

26 (d) "Creditable service" also means the performance of
27 California public school activities related to, and an outgrowth of,
28 the instructional and guidance program of the California public
29 school when performed for the same employer for which the
30 member is performing any of the activities described in subdivision
31 (b) or (c).

32 ~~(e) (1) All of the activities performed in a position shall be
33 deemed "creditable service" if the employer requires one or more
34 of the activities described in subdivision (b) or (c) to be performed
35 in that position for more than 50 percent of full time, as established
36 pursuant to Section 22138.5, for a class of employees performing
37 just those activities described in subdivision (b).~~

38 ~~(2) Paragraph (1) shall not apply to a position established for
39 fewer days or hours than the employer requires for full time
40 pursuant to Section 22138.5.~~

1 ~~(3) All of the activities performed in a position with service that~~
 2 ~~has been deemed creditable pursuant to paragraph (1) shall be~~
 3 ~~subject to coverage under the Defined Benefit Program until the~~
 4 ~~member performing the activities becomes employed by the same~~
 5 ~~or a different employer in a different position at which time an~~
 6 ~~election may be made under Section 22508.~~

7 ~~(f)~~

8 (e) The board shall have final authority for determining
 9 creditable service to cover any activities not already specified.

10 SEC. 5. Section 22119.6 is added to the Education Code, to
 11 read:

12 22119.6. (a) Creditable service shall also include any activities
 13 that do not meet the definition of creditable service under Section
 14 22119.5, but were performed for any employer, as defined in
 15 Section 22131, on or before December 31, 2015, and were reported
 16 as creditable service to the system.

17 (b) The type of activities described in subdivision (a) performed
 18 by a member who becomes employed by the same or a different
 19 employer in a new position on or after January 1, 2016, shall be
 20 subject to Section 22119.5.

21 SEC. 6. Section 22146 of the Education Code is amended to
 22 read:

23 22146. “Member” means any person, unless excluded under
 24 other provisions of this part, who has performed creditable service
 25 as defined in Section 22119.5 or 22119.6 and has earned creditable
 26 compensation for that service and has not received a refund for
 27 that service and, as a result, is subject to the Defined Benefit
 28 Program. A member’s rights and obligations under this part with
 29 respect to the Defined Benefit Program shall be determined by the
 30 applicability of subdivision (a), (b), (c), or (d), and subject to any
 31 applicable exceptions under other provisions of this part.

32 (a) An active member is a member who is not retired or disabled
 33 and who earns creditable compensation during the school year.

34 (b) An inactive member is a member who is not retired or
 35 disabled and who has not earned creditable compensation during
 36 the current or preceding school year.

37 (c) A disabled member is a member to whom a disability
 38 allowance is payable under Chapter 25 (commencing with Section
 39 24001).

1 (d) A retired member is a member who has terminated
2 employment and has retired for service under the provisions of
3 Chapter 27 (commencing with Section 24201), or has retired for
4 disability under the provisions of Chapter 26 (commencing with
5 Section 24100) or retired for service or disability under the
6 provisions of Chapter 21 (commencing with Section 23400), and
7 to whom a retirement allowance is therefore payable.

8 SEC. 7. Section 22164.5 of the Education Code is amended to
9 read:

10 22164.5. (a) “Retired member activities” means one or more
11 activities identified in subdivision (b), (c), or (d) of Section 22119.5
12 or subdivision (b), (c), or (d) of Section 26113 within the California
13 public school system and performed by a member retired for
14 service under this part as one of the following:

- 15 (1) An employee of an employer.
- 16 (2) An employee of a third party, except as specified in
17 subdivision (b).
- 18 (3) An independent contractor.

19 (b) The activities of an employee of a third party shall not be
20 included in the definition of “retired member activities” if all of
21 the following conditions apply:

- 22 (1) The employee performs an assignment of 24 months or less.
- 23 (2) The third-party employer does not participate in a California
24 public pension system.
- 25 (3) The activities performed by the individual are not normally
26 performed by employees of an employer, as defined in Section
27 22131.

28 ~~SEC. 8. Section 22458.3 is added to the Education Code, to~~
29 ~~read:~~

30 ~~22458.3. Upon request from the system, each employer shall~~
31 ~~provide the system with information regarding the percentage of~~
32 ~~time that creditable service activities, as described in paragraph~~
33 ~~(1) of subdivision (c) of Section 22119.5, are performed in a~~
34 ~~position.~~

35 ~~SEC. 9.~~

36 ~~SEC. 8. Section 22458.5 is added to the Education Code, to~~
37 ~~read:~~

38 ~~22458.5. Upon request from the system, each employer shall~~
39 ~~provide the system with information regarding the certification~~
40 ~~qualifications, minimum standards, or provisions of an approved~~

1 charter for the operation of a charter school required to perform
2 creditable service pursuant to subdivision (a) of Section 22119.5,
3 in a position.

4 ~~SEC. 10.~~

5 *SEC. 9.* Section 22508.7 is added to the Education Code, to
6 read:

7 22508.7. (a) This section shall apply to service deemed
8 creditable service pursuant to subdivision (a) of Section 22119.6
9 and a person who performs that service.

10 (b) (1) A member, including a member who retires on or before
11 December 31, 2015, may elect to have all of that service subject
12 to coverage by a different public retirement system and excluded
13 from coverage by the Defined Benefit Program, if the member is
14 not excluded from coverage by that public retirement system.

15 (2) If an election is made pursuant to this subdivision, all of the
16 following shall apply:

17 (A) All service that was subject to coverage by the Defined
18 Benefit Program shall be subject to coverage by the other public
19 retirement system, if the member is not excluded from coverage
20 by that public retirement system.

21 (B) Any member contributions and credited interest, as
22 determined by the system, and employer contributions, less any
23 amounts previously paid to the person, shall be returned to the
24 employer for that service, with the system recovering from the
25 person any amounts that were paid to the person and not recovered
26 from withheld member contributions, credited interest, or employer
27 contributions.

28 (C) Any amounts not recovered pursuant to subparagraph (B)
29 shall be paid in full by the member before his or her service can
30 be subject to coverage by the other public retirement system.

31 (3) If an election is made pursuant to this subdivision, the
32 following shall apply:

33 (A) A member not subject to the California Public Employees’
34 Pension Reform Act of 2013 in the Defined Benefit Program shall
35 not be subject to that act in the other public retirement system.

36 (B) A member subject to the California Public Employees’
37 Pension Reform Act of 2013 in the Defined Benefit Program shall
38 be subject to that act in the other public retirement system.

39 (4) If an election is not made pursuant to this subdivision, all
40 service performed shall continue to be subject to coverage by the

1 Defined Benefit Program until the member becomes employed
2 pursuant to subdivision (b) of Section 22119.6.

3 (c) (1) A person who had service removed from the system and
4 reported to a different public retirement system, as directed by the
5 system, including a person who is receiving a benefit on or before
6 December 31, 2015, may elect to have all of that service and
7 subsequent service in the same position subject to coverage by the
8 Defined Benefit Program and excluded from coverage by the other
9 public retirement system.

10 (2) If an election is made pursuant to this subdivision, all of the
11 following shall apply:

12 (A) All of that service and subsequent service in the same
13 position that was subject to coverage by the other public retirement
14 system shall be subject to coverage by the Defined Benefit Program
15 and reported to the system pursuant to Chapter 17 (commencing
16 with Section 23000).

17 (B) Any employee and employer contributions for that service
18 and subsequent service in the same position shall be remitted to
19 the system pursuant to Chapter 17 (commencing with Section
20 23000).

21 (3) If an election is made pursuant to this subdivision, the
22 following shall apply:

23 (A) A person not subject to the California Public Employees'
24 Pension Reform Act of 2013 in the other public retirement system
25 shall not be subject to that act in the Defined Benefit Program.

26 (B) A person subject to the California Public Employees'
27 Pension Reform Act of 2013 in the other public retirement system
28 shall be subject to that act in the Defined Benefit Program.

29 (4) If an election is not made pursuant to this subdivision, all
30 service performed will continue to be subject to coverage by the
31 other public retirement system.

32 (d) The election shall be made in writing and filed with the
33 office of the system on a form prescribed by the system on or
34 before June 30, 2016, and a copy of the election shall be filed with
35 the other public retirement system.

36 (e) Only a person who has performed service creditable under
37 subdivision (a) of Section 22119.6 can make an election under this
38 section.

39 (f) An election made pursuant to this section shall be irrevocable.

1 (g) The board shall be under no obligation to identify, locate,
2 or notify a person who has performed service creditable pursuant
3 to subdivision (a) of Section 22119.6 and is eligible to make an
4 election pursuant to this section.

5 ~~SEC. 11.~~

6 *SEC. 10.* Section 26113 of the Education Code is amended to
7 read:

8 26113. (a) “Creditable service” means any of the activities
9 described in subdivision (b) performed for any of the following
10 employers:

11 (1) A prekindergarten through grade 12 employer, including
12 the state, in a position requiring certification qualifications as
13 designated in regulations adopted by the Commission on Teacher
14 Credentialing pursuant to Section 44001.

15 (2) A community college employer by a faculty member, as
16 defined in Section 87003, in an academic position, as defined in
17 subdivision (b) of Section 87001, or by an educational
18 administrator, as defined in subdivision (b) of Section 87002,
19 subject to the appropriate minimum standards adopted by the Board
20 of Governors of the California Community Colleges pursuant to
21 Section 87356, or pursuant to a contract between a community
22 college district and the United States Department of Defense to
23 provide vocational training.

24 (3) A charter school employer under the provisions of an
25 approved charter for the operation of a charter school for which
26 the charter school is eligible to receive state apportionment.

27 (b) The types of activities are any of the following:

28 (1) The work of teachers, instructors, district interns, and
29 academic employees employed in the instructional program for
30 pupils, including special programs such as adult education, regional
31 occupational programs, child care centers, and prekindergarten
32 programs pursuant to Section 22161.

33 (2) Education or vocational counseling, guidance, and placement
34 services.

35 (3) The work of employees who plan courses of study to be
36 used in California public schools, or research connected with the
37 evaluation or efficiency of the instructional program.

38 (4) The selection, collection, preparation, classification,
39 demonstration, or evaluation of instructional materials of any
40 course of study for use in the development of the instructional

1 program in California public schools, or other services related to
2 California public school curriculum.

3 (5) The examination, selection, in-service training, mentoring,
4 or assignment of teachers, principals, or other similar personnel
5 involved in the instructional program.

6 (6) The work of nurses, physicians, speech therapists,
7 psychologists, audiometrists, audiologists, and other California
8 public school health professionals.

9 (7) Services as a California public school librarian.

10 (8) Activities connected with the enforcement of the laws
11 relating to compulsory education, coordination of child welfare
12 activities involving the school and the home, and the school
13 adjustment of pupils.

14 (9) The work of employees who are responsible for the
15 supervision of persons or administration of the duties described
16 in this subdivision.

17 (10) Trustee service as described in Section 26403.

18 (c) “Creditable service” also means any of the activities
19 described in subdivision (b) when they are performed for an
20 employer by:

21 (1) Superintendents of California public schools, and presidents
22 and chancellors of community college employers.

23 (2) Consulting teachers employed by an employer to participate
24 in the California Peer Assistance and Review Program for Teachers
25 pursuant to Article 4.5 (commencing with Section 44500) of
26 Chapter 3 of Part 25 of Division 3 of Title 2.

27 (d) “Creditable service” also means the performance of
28 California public school activities related to, and an outgrowth of,
29 the instructional and guidance program of the California public
30 school when performed for the same employer for which the
31 member is performing any of the activities described in subdivision
32 (b) or (c).

33 (e) The board shall have final authority for determining
34 creditable service to cover activities not already specified.

35 ~~SEC. 12.~~

36 *SEC. 11.* Section 26135.7 of the Education Code is amended
37 to read:

38 26135.7. (a) “Retired participant activities” means one or more
39 activities identified in subdivision (b), (c), or (d) of Section 22119.5
40 or (b), (c), or (d) of Section 26113 within the California public

- 1 school system and performed by a participant retired for service
2 under this part as one of the following:
- 3 (1) An employee of an employer.
 - 4 (2) An employee of a third party, except as specified in
5 subdivision (b).
 - 6 (3) An independent contractor.
- 7 (b) The activities of an employee of a third party shall not be
8 included in the definition of “retired participant activities” if all
9 of the following conditions apply:
- 10 (1) The employee performs an assignment of 24 months or less.
 - 11 (2) The third-party employer does not participate in a California
12 public pension system.
 - 13 (3) The activities performed by the individual are not normally
14 performed by employees of an employer, as defined in Section
15 22131.