

AMENDED IN SENATE AUGUST 31, 2015  
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**

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**Introduced by Assembly Member Bonilla**

February 26, 2015

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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, 22458.5, 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 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:

1 22115. (a) "Compensation earnable" means the creditable  
2 compensation a person could earn in a school year for creditable  
3 service performed on a full-time basis, excluding service for which  
4 contributions are credited by the system to the Defined Benefit  
5 Supplement Program.

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

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

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

22 (e) If creditable service is not performed on a full-time basis  
23 because a member is performing those activities pursuant to  
24 subdivision (d) of Section 22119.5, compensation earnable for  
25 those activities ~~shall, in any one school year, be an amount~~  
26 ~~determined by the system on or before each July 1 equal to the~~  
27 ~~average compensation earnable of all active members during the~~  
28 ~~fiscal year ending in the previous calendar year. shall be determined~~  
29 *as if the creditable compensation had been earned at the lowest*  
30 *pay rate for other creditable service activities performed by the*  
31 *member for the same employer during the same school year.*

32 (f) (1) Except as provided in subdivision (g), for purposes of  
33 determining compensation earnable for a member employed by a  
34 community college prior to July 1, 1996, full time shall be defined  
35 pursuant to Section 22138.5 and pursuant to Section 20521 of Title  
36 5 of the California Code of Regulations, as those provisions read  
37 on June 30, 1996, if application of that definition will increase the  
38 compensation earnable or otherwise enhance the benefits of the  
39 member.

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

3 (A) Establish and implement factors and assumptions necessary  
4 to calculate and compare the benefits payable under the definition  
5 of compensation earnable described in this subdivision. Those  
6 factors and assumptions may be based on information reported by  
7 the employer, including, but not limited to, all of the following:

- 8 (i) Base hours.
- 9 (ii) Actual earnings.
- 10 (iii) Compensation earnable.

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

- 22 (i) Base hours.
- 23 (ii) Actual earnings.
- 24 (iii) Compensation earnable.

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

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

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

37 SEC. 2. Section 22119.2 of the Education Code is amended to  
38 read:

39 22119.2. (a) "Creditable compensation" means remuneration  
40 that is paid in cash by an employer to all persons in the same class

1 of employees for performing creditable service in that position.

2 Creditable compensation shall include:

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

6 (2) Remuneration that is paid in addition to salary or wages,  
7 provided it is paid to all persons who are in the same class of  
8 employees in the same dollar amount, the same percentage of  
9 salary or wages, or the same percentage of the amount being  
10 distributed.

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

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

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

23 (6) Any other payments the board determines to be "creditable  
24 compensation."

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

35 (c) "Creditable compensation" does not mean and shall not  
36 include:

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

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

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

1 that is paid to enhance a member’s benefits. The system shall  
2 determine the appropriate crediting of contributions between the  
3 Defined Benefit Program and the Defined Benefit Supplement  
4 Program according to these principles, to the extent not otherwise  
5 specified pursuant to this part.

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

7 (h) This section shall not apply to a member subject to the  
8 California Public Employees’ Pension Reform Act of 2013.

9 SEC. 3. Section 22119.3 of the Education Code is amended to  
10 read:

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

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

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

25 (3) Amounts that are deducted from a member’s remuneration,  
26 including, but not limited to, deductions for participation in a  
27 deferred compensation plan; deductions to purchase an annuity  
28 contract, tax-deferred retirement plan, or insurance program; and  
29 contributions to a plan that meets the requirements of Section 125,  
30 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United  
31 States Code.

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

35 (b) “Creditable compensation” does not mean and shall not  
36 include:

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

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

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

1 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose  
2 service is included in the federal system pursuant to any changes  
3 in state or federal law enacted on or after January 1, 2013.

4 (2) The system shall adjust the limit based on the annual changes  
5 to the Consumer Price Index for All Urban Consumers: U.S. City  
6 Average, calculated by dividing the Consumer Price Index for All  
7 Urban Consumers: U.S. City Average for the month of February  
8 in the fiscal year preceding the adjustment by the Consumer Price  
9 Index for All Urban Consumers: U.S. City Average for the month  
10 of February of the previous year rounded to the nearest thousandth.  
11 Notwithstanding paragraph (1) of subdivision (d) of Section  
12 7522.10 of the Government Code, the adjustment shall be effective  
13 annually on July 1, beginning July 1, 2014.

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

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

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

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

33 (f) This definition of “creditable compensation” reflects sound  
34 principles that support the integrity of the retirement fund. Those  
35 principles include, but are not limited to, consistent treatment of  
36 compensation throughout a member’s career, consistent treatment  
37 of compensation among an entire class of employees, consistent  
38 treatment of compensation for the position, preventing adverse  
39 selection, and excluding from creditable compensation  
40 remuneration that is paid to enhance a member’s benefits. The

1 system shall determine the appropriate crediting of contributions  
2 according to these principles, to the extent not otherwise specified  
3 pursuant to this part. A presumption by the system that creditable  
4 compensation was paid to enhance the member's benefits may be  
5 rebutted by the member or by the employer on behalf of the  
6 member. Upon receipt of sufficient evidence to the contrary, a  
7 presumption by the system that creditable compensation was paid  
8 to enhance the member's benefits may be reversed.

9 SEC. 4. Section 22119.5 of the Education Code is amended to  
10 read:

11 22119.5. (a) "Creditable service" means any of the activities  
12 described in subdivision (b) performed for any of the following  
13 employers:

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

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

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

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

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

36 (2) Education or vocational counseling, guidance, and placement  
37 services.

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

1 (4) The selection, collection, preparation, classification,  
2 demonstration, or evaluation of instructional materials of any  
3 course of study for use in the development of the instructional  
4 program in California public schools, or other services related to  
5 California public school curriculum.

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

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

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

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

17 (9) The work of employees who are responsible for the  
18 supervision of persons or administration of the duties described  
19 in this subdivision.

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

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

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

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

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

37 SEC. 5. Section 22119.6 is added to the Education Code, to  
38 read:

39 22119.6. (a) Creditable service shall also include any activities  
40 that do not meet the definition of creditable service under Section

1 22119.5, but were performed for any employer, as defined in  
2 Section 22131, on or before December 31, 2015, and were reported  
3 as creditable service to the system.

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

8 SEC. 6. Section 22146 of the Education Code is amended to  
9 read:

10 22146. "Member" means any person, unless excluded under  
11 other provisions of this part, who has performed creditable service  
12 as defined in Section 22119.5 or 22119.6 and has earned creditable  
13 compensation for that service and has not received a refund for  
14 that service and, as a result, is subject to the Defined Benefit  
15 Program. A member's rights and obligations under this part with  
16 respect to the Defined Benefit Program shall be determined by the  
17 applicability of subdivision (a), (b), (c), or (d), and subject to any  
18 applicable exceptions under other provisions of this part.

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

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

24 (c) A disabled member is a member to whom a disability  
25 allowance is payable under Chapter 25 (commencing with Section  
26 24001).

27 (d) A retired member is a member who has terminated  
28 employment and has retired for service under the provisions of  
29 Chapter 27 (commencing with Section 24201), or has retired for  
30 disability under the provisions of Chapter 26 (commencing with  
31 Section 24100) or retired for service or disability under the  
32 provisions of Chapter 21 (commencing with Section 23400), and  
33 to whom a retirement allowance is therefore payable.

34 SEC. 7. Section 22164.5 of the Education Code is amended to  
35 read:

36 22164.5. (a) "Retired member activities" means one or more  
37 activities identified in subdivision (b), (c), or (d) of Section 22119.5  
38 or subdivision (b), (c), or (d) of Section 26113 within the California  
39 public school system and performed by a member retired for  
40 service under this part as one of the following:

1 (1) An employee of an employer.

2 (2) An employee of a third party, except as specified in  
3 subdivision (b).

4 (3) An independent contractor.

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

8 (1) The employee performs an assignment of 24 months or less.

9 (2) The third-party employer does not participate in a California  
10 public pension system.

11 (3) The activities performed by the individual are not normally  
12 performed by employees of an employer, as defined in Section  
13 22131.

14 SEC. 8. Section 22458.5 is added to the Education Code, to  
15 read:

16 22458.5. Upon request from the system, each employer shall  
17 provide the system with information regarding the certification  
18 qualifications, minimum standards, or provisions of an approved  
19 charter for the operation of a charter school required to perform  
20 creditable service pursuant to subdivision (a) of Section 22119.5,  
21 in a position.

22 SEC. 9. Section 22508.7 is added to the Education Code, to  
23 read:

24 22508.7. (a) This section shall apply to service deemed  
25 creditable service pursuant to subdivision (a) of Section 22119.6  
26 and a person who performs that service.

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

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

34 (A) All service that was subject to coverage by the Defined  
35 Benefit Program shall be subject to coverage by the other public  
36 retirement system, if the member is not excluded from coverage  
37 by that public retirement system.

38 (B) Any member contributions and credited interest, as  
39 determined by the system, and employer contributions, less any  
40 amounts previously paid to the person, shall be returned to the

1 employer for that service, with the system recovering from the  
2 person any amounts that were paid to the person and not recovered  
3 from withheld member contributions, credited interest, or employer  
4 contributions.

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

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

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

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

16 (4) If an election is not made pursuant to this subdivision, all  
17 service performed shall continue to be subject to coverage by the  
18 Defined Benefit Program until the member becomes employed  
19 pursuant to subdivision (b) of Section 22119.6.

20 (c) (1) A person who had service removed from the system and  
21 reported to a different public retirement system, as directed by the  
22 system, including a person who is receiving a benefit on or before  
23 December 31, 2015, may elect to have all of that service and  
24 subsequent service in the same position subject to coverage by the  
25 Defined Benefit Program and excluded from coverage by the other  
26 public retirement system.

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

29 (A) All of that service and subsequent service in the same  
30 position that was subject to coverage by the other public retirement  
31 system shall be subject to coverage by the Defined Benefit Program  
32 and reported to the system pursuant to Chapter 17 (commencing  
33 with Section 23000).

34 (B) Any employee and employer contributions for that service  
35 and subsequent service in the same position shall be remitted to  
36 the system pursuant to Chapter 17 (commencing with Section  
37 23000).

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

1 (A) A person not subject to the California Public Employees’  
2 Pension Reform Act of 2013 in the other public retirement system  
3 shall not be subject to that act in the Defined Benefit Program.

4 (B) A person subject to the California Public Employees’  
5 Pension Reform Act of 2013 in the other public retirement system  
6 shall be subject to that act in the Defined Benefit Program.

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

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

14 (e) Only a person who has performed service creditable under  
15 subdivision (a) of Section 22119.6 can make an election under this  
16 section.

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

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

22 SEC. 10. Section 26113 of the Education Code is amended to  
23 read:

24 26113. (a) “Creditable service” means any of the activities  
25 described in subdivision (b) performed for any of the following  
26 employers:

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

31 (2) A community college employer by a faculty member, as  
32 defined in Section 87003, in an academic position, as defined in  
33 subdivision (b) of Section 87001, or by an educational  
34 administrator, as defined in subdivision (b) of Section 87002,  
35 subject to the appropriate minimum standards adopted by the Board  
36 of Governors of the California Community Colleges pursuant to  
37 Section 87356, or pursuant to a contract between a community  
38 college district and the United States Department of Defense to  
39 provide vocational training.

- 1 (3) A charter school employer under the provisions of an  
2 approved charter for the operation of a charter school for which  
3 the charter school is eligible to receive state apportionment.
- 4 (b) The types of activities are any of the following:
  - 5 (1) The work of teachers, instructors, district interns, and  
6 academic employees employed in the instructional program for  
7 pupils, including special programs such as adult education, regional  
8 occupational programs, child care centers, and prekindergarten  
9 programs pursuant to Section 22161.
  - 10 (2) Education or vocational counseling, guidance, and placement  
11 services.
  - 12 (3) The work of employees who plan courses of study to be  
13 used in California public schools, or research connected with the  
14 evaluation or efficiency of the instructional program.
  - 15 (4) The selection, collection, preparation, classification,  
16 demonstration, or evaluation of instructional materials of any  
17 course of study for use in the development of the instructional  
18 program in California public schools, or other services related to  
19 California public school curriculum.
  - 20 (5) The examination, selection, in-service training, mentoring,  
21 or assignment of teachers, principals, or other similar personnel  
22 involved in the instructional program.
  - 23 (6) The work of nurses, physicians, speech therapists,  
24 psychologists, audiometrists, audiologists, and other California  
25 public school health professionals.
  - 26 (7) Services as a California public school librarian.
  - 27 (8) Activities connected with the enforcement of the laws  
28 relating to compulsory education, coordination of child welfare  
29 activities involving the school and the home, and the school  
30 adjustment of pupils.
  - 31 (9) The work of employees who are responsible for the  
32 supervision of persons or administration of the duties described  
33 in this subdivision.
  - 34 (10) Trustee service as described in Section 26403.
- 35 (c) "Creditable service" also means any of the activities  
36 described in subdivision (b) when they are performed for an  
37 employer by:
  - 38 (1) Superintendents of California public schools, and presidents  
39 and chancellors of community college employers.

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

5 (d) “Creditable service” also means the performance of  
6 California public school activities related to, and an outgrowth of,  
7 the instructional and guidance program of the California public  
8 school when performed for the same employer for which the  
9 member is performing any of the activities described in subdivision  
10 (b) or (c).

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

13 SEC. 11. Section 26135.7 of the Education Code is amended  
14 to read:

15 26135.7. (a) “Retired participant activities” means one or more  
16 activities identified in subdivision (b), (c), or (d) of Section 22119.5  
17 or (b), (c), or (d) of Section 26113 within the California public  
18 school system and performed by a participant retired for service  
19 under this part as one of the following:

20 (1) An employee of an employer.

21 (2) An employee of a third party, except as specified in  
22 subdivision (b).

23 (3) An independent contractor.

24 (b) The activities of an employee of a third party shall not be  
25 included in the definition of “retired participant activities” if all  
26 of the following conditions apply:

27 (1) The employee performs an assignment of 24 months or less.

28 (2) The third-party employer does not participate in a California  
29 public pension system.

30 (3) The activities performed by the individual are not normally  
31 performed by employees of an employer, as defined in Section  
32 22131.