

AMENDED IN SENATE JANUARY 4, 2016

**SENATE BILL**

**No. 294**

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**Introduced by Senator *Senators Pan and Nielsen***

February 23, 2015

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An act to amend ~~Section 22350 of the Education Code, relating to the State Teachers' Retirement System. Sections 19780, 20997, and 21029 of the Government Code, relating to public employment.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 294, as amended, Pan. ~~The State Teachers' Retirement System. Public employment: military service: return to state service.~~

*The State Civil Service Act requires the reinstatement of a permanent, probationary, or exempt employee who returns from active duty military service to his or her former position, as specified. Under existing law, reinstatement to an employee's former exempt position reestablishes the employee's tenure and civil service reinstatement rights, if any, as they existed immediately prior to his or her military leave. Existing law requires an employer to contribute an amount equal to the contributions that would have been made by the employer and the employee during the employee's absence if that absence is due to military service or service with the uniformed services, except as specified.*

*This bill would require the Board of Administration of the Public Employees' Retirement System to adopt a separate and unique form to be used by a member to receive credit for his or her military service, as specified. The bill would require employers to inform the member of his or her rights within 30 days of the member's return to state service by utilizing that form. The bill would additionally require an employer, on or before April 1, 2017, to provide a letter or electronic*

*communication to all employees informing them of their right to receive credit for military or uniform service pursuant to these provisions.*

*Existing law authorizes a member to elect at any time prior to retirement, in accordance with regulations of the Board of Administration of the Public Employees' Retirement System, to receive credit for public service, in addition to his or her current and prior service credit.*

*This bill would require an employer to inform a new employee at the time of hire of his or her rights to purchase service credit as a result of that person's active service, prior to entering the retirement system, in the Armed Forces of the United States or the active service in the Merchant Marine of the United States prior to 1950, as specified.*

~~Existing law establishes the State Teachers' Retirement System in order to provide a financially sound plan for the retirement, with adequate retirement allowances, of teachers in the public schools of this state, teachers in schools supported by this state, and other persons employed in connection with the schools. Existing law finds and declares that it is necessary and desirable that the system obtain the best possible investment expertise.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

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 19780 of the Government Code is  
2     amended to read:  
3     19780. (a) Except as provided in Section 19781, a permanent,  
4     probationary, or exempt employee who begins active duty within  
5     90 calendar days from the effective date of his or her long-term  
6     military leave or within 10 calendar days from the effective date  
7     of his or her short-term or emergency military leave and who  
8     returns to state service within six months after termination of  
9     military service under his or her long-term military leave or within  
10    10 days after termination of military service under his or her  
11    short-term or emergency military leave shall be reinstated to his  
12    or her former position. Reinstatement to an employee's former  
13    exempt position under this section or Section 19783 shall  
14    reestablish the employee's tenure and civil service reinstatement

1 rights, if any, as they existed immediately prior to his or her  
2 military leave pursuant to this section or resignation pursuant to  
3 Section 19783. For the purpose of this section any period of  
4 rehabilitation afforded by the United States or the state following  
5 active duty shall be considered as military service and termination  
6 of the state military emergency by the Governor shall be considered  
7 termination of military service.

8 *(b) Within 30 days of the employee's return to state service, the*  
9 *appointing authority shall inform the employee of his or her rights*  
10 *pursuant to Section 20997, and provide the member with the form*  
11 *authorized pursuant to subdivision (f) of that section.*

12 *(c) Prior to April 1, 2017, every appointing authority shall*  
13 *provide a letter or electronic communication to all employees*  
14 *informing them of the rights provided by Section 20997.*

15 *SEC. 2. Section 20997 of the Government Code is amended to*  
16 *read:*

17 20997. (a) Notwithstanding any other provision of this part,  
18 for each member other than a National Guard member absent  
19 without compensation due to military service pursuant to Section  
20 20990, the employer shall contribute an amount equal to the  
21 contributions that would have been made by the employer and the  
22 employee during the absence. The employer's contribution pursuant  
23 to this section shall be based upon the member's compensation  
24 earnable and the contribution rates in effect at the commencement  
25 of the absence, if any of the following apply:

26 (1) The member returns to state service within six months after  
27 receiving a discharge from military service other than dishonorable.

28 (2) The member returns to state service within six months after  
29 completion of any period of rehabilitation offered by the United  
30 States government, except that for purposes of this section,  
31 rehabilitation solely for education purposes shall not be considered.

32 (3) The member is granted a leave of absence from the state  
33 employer as of the same date the member was reinstated to that  
34 employment from military service, provided that the member  
35 returns to state service at the conclusion of the leave.

36 (4) The member is placed on a state civil service reemployment  
37 list within six months after receiving a discharge from military  
38 service other than dishonorable and returns to state service upon  
39 receipt of an offer of reemployment.

1 (5) The member retires from this system for service or disability  
 2 during the course of an absence from state service for military  
 3 service.

4 (6) The member dies during the course of an absence from state  
 5 service for military service.

6 (b) Any member on leave from state service for military service  
 7 who elects to continue contributing to this system shall be entitled  
 8 to a refund of those contributions upon request.

9 (c) Any member who withdrew contributions during or in  
 10 contemplation of his or her military service is entitled to the  
 11 benefits of this section irrespective of whether the contributions  
 12 are redeposited. The rate for future contributions for the member  
 13 shall be based upon the member’s age at the time the member  
 14 commenced a leave of absence from state service for service in  
 15 the military.

16 (d) The employer’s contribution pursuant to this section may  
 17 be made either in lump sum, or it may be included in its monthly  
 18 contribution as adjusted by inclusion of the amount due in the  
 19 employer rate at the valuation most near in time to the event  
 20 causing the employer’s liability for those contributions. The  
 21 employer’s contributions pursuant to this section shall be used  
 22 solely for the purpose of paying retirement and death benefits and  
 23 shall not be paid to the member whose contributions are refunded  
 24 to him or her pursuant to Section 20735.

25 (e) *Within 30 days of the member’s return to state service, the*  
 26 *employer shall inform the member of his or her rights pursuant to*  
 27 *this section, and provide the employee with the form authorized*  
 28 *pursuant to subdivision (f).*

29 (f) *The board shall authorize a separate and unique form to be*  
 30 *used by the member to receive credit for his or her military service*  
 31 *as provided by this section. The form shall not pertain to any other*  
 32 *type of service credit purchase and shall clearly state that the*  
 33 *member has no obligation to pay for any portion of the employer*  
 34 *contribution required by this section.*

35 SEC. 3. *Section 21029 of the Government Code is amended to*  
 36 *read:*

37 21029. (a) “Public service” with respect to a state member or  
 38 a school member or with respect to a retired former state employee  
 39 or a retired former school employee, who retired on or after  
 40 December 31, 1981, also means active service, prior to entering

1 this system as a state member or as a school member, of not less  
2 than one year in the Armed Forces of the United States, or, active  
3 service, prior to entering this system as a state or school member,  
4 of not less than one year in the Merchant Marine of the United  
5 States prior to January 1, 1950. Public service credit shall not be  
6 granted if the service described above terminated with a discharge  
7 under dishonorable conditions. The public service credit to be  
8 granted for that service shall be on the basis of one year of credit  
9 for each year of credited state service, but shall not exceed a total  
10 of four years of public service credit regardless of the number of  
11 years of either that service or subsequent state service. A state  
12 member or a school member or a retired former state employee or  
13 a retired former school employee electing to receive a credit for  
14 that public service shall have been credited with at least one year  
15 of state service on the date of election or the date of retirement.

16 (b) An election by a state member or a school member with  
17 respect to public service under this section may be made only while  
18 the member is in state, university, or school employment, and a  
19 retired former employee shall have retired immediately following  
20 service as a state member or as a school member. The retirement  
21 allowance of a retired former state employee or a retired former  
22 school employee, who elects to receive public service credit  
23 pursuant to this section shall be increased only with respect to the  
24 allowance payable on and after the date of election. For the  
25 purposes of this section, a member as described in subdivision (d)  
26 of Section 20776, shall also mean a former state employee or a  
27 former school employee, who retired on or after December 31,  
28 1981.

29 (c) A member or retired former employee who elects to become  
30 subject to this section shall make the contributions as specified in  
31 Sections 21050 and 21052.

32 (d) The board has no duty to locate or notify any eligible former  
33 member who is currently retired or to provide the name or address  
34 of any such retired person, agency, or entity for the purpose of  
35 notifying those persons.

36 (e) *An employer shall inform a new employee at the time of hire*  
37 *of his or her rights to purchase service credit under this section.*

38 ~~SECTION 1.—Section 22350 of the Education Code is amended~~  
39 ~~to read:~~

1     ~~22350. The Legislature finds and declares that the changing~~  
2     ~~economic conditions and increasing complexity in the investment~~  
3     ~~market make it necessary and desirable that the system obtain the~~  
4     ~~best possible investment expertise.~~

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7     CORRECTIONS: \_\_\_\_\_

8     Text—Page 4.

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