

AMENDED IN ASSEMBLY AUGUST 24, 1998
AMENDED IN ASSEMBLY JULY 27, 1998
AMENDED IN ASSEMBLY JULY 9, 1998
AMENDED IN ASSEMBLY JUNE 4, 1998
AMENDED IN ASSEMBLY APRIL 15, 1998
AMENDED IN ASSEMBLY MARCH 30, 1998
AMENDED IN SENATE JANUARY 7, 1998

SENATE BILL

No. 610

Introduced by Senator O'Connell

February 25, 1997

An act to amend Sections 22134, 23201, and 24201 of the Education Code, and to add Section 31840.8 to the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 610, as amended, O'Connell. Public employees retirement: reciprocity.

The State Teachers' Retirement Law provides that members of the Public Employees' Retirement System can utilize compensation earnable during service as a member of the State Teachers' Retirement System if they retire concurrently under both systems. The County Employees Retirement Law of 1937 also prescribes those reciprocal rights to members of the Public Employees' Retirement System.

This bill would extend reciprocal rights to persons who retire concurrently under the State Teachers' Retirement System and retirement systems established under the County Employees Retirement Law of 1937.

Existing law requires members to have at least 5 years of credited California service, if 5 of the final 6 years have been in this state, in order to retire and excludes service performed in other states for purposes of determining service based upon reciprocal service under other California retirement systems.

This bill would delete the California service requirement and the out-of-state service exclusion.

This bill would incorporate additional changes to Section 24201 of the Education Code made by SB 2126 contingent upon the prior enactment of SB 2126, as specified.

This bill would incorporate additional changes to Section 22134 of the Education Code made by AB 1102 contingent upon the prior enactment of AB 1102, as specified.

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 22134 of the Education Code is
 2 amended to read:
 3 22134. (a) "Final compensation" means the highest
 4 average annual compensation earnable by a member
 5 during any period of three consecutive school years while
 6 an active member of the ~~plan~~ *Defined Benefit Program*
 7 or time during which he or she was not a member but for
 8 which the member has received credit under the ~~plan~~
 9 *Defined Benefit Program*, except time that was so
 10 credited for service performed outside this state prior to
 11 July 1, 1944. The last three consecutive years of
 12 employment shall be used by the system in determining
 13 final compensation unless designated to the contrary in
 14 writing by the member.
 15 (b) For purposes of this section, periods of service
 16 separated by breaks in service may be aggregated to
 17 constitute a period of three consecutive years, if the
 18 periods of service are consecutive except for the breaks.



1 (c) The determination of final compensation of a
2 member who is also a member of the Public Employees'
3 Retirement System, the Legislators' Retirement System,
4 the University of California Retirement System, county
5 retirement systems established under Chapter 3
6 (commencing with Section 31450) of Part 3 of Division 4
7 of Title 3 of the Government Code, or the San Francisco
8 City and County Employees' Retirement System shall
9 take into consideration the compensation earnable while
10 a member of the other system, provided that all of the
11 following exist:

12 (1) The member was in state service or in the
13 employment of a local school district or of a county
14 superintendent of schools.

15 (2) Service under the other system was not performed
16 concurrently with service under this plan.

17 (3) Retirement under this plan is concurrent with the
18 member's retirement under the other system.

19 (d) The compensation earnable for the first position in
20 which California service is credited shall be used when
21 additional compensation earnable is required to
22 accumulate three consecutive years for the purpose of
23 determining final compensation under Section 23804.

24 (e) The board may specify a different final
25 compensation with respect to allowances based on
26 part-time service performed prior to July 1, 1956, for
27 which credit was given under this plan under board rules
28 in effect prior to that date.

29 (f) The board may specify a different final
30 compensation with respect to disability allowances,
31 disability retirement allowances, family allowances, and
32 children's portions of survivor benefit allowances payable
33 on and after January 1, 1978. The compensation earnable
34 for periods of part-time service shall be adjusted by the
35 ratio that part-time service has to full-time service.

36 (g) The amendment of former Section 22127 made by
37 Chapter 782 of the Statutes of 1982 does not constitute a
38 change in, but is declaratory of, the existing law.

39 *SEC. 1.5. Section 22134 of the Education Code is*
40 *amended to read:*



1 22134. (a) “Final compensation” means the highest
2 average annual compensation earnable by a member
3 *who retires, becomes disabled, or dies, before January 1,*
4 *1999,* during any period of three consecutive school years
5 while an active member of the ~~plan~~ *Defined Benefit*
6 *Program* or time during which he or she was not a
7 member but for which the member has received credit
8 under the ~~plan~~ *Defined Benefit Program*, except time
9 that was so credited for service performed outside this
10 state prior to July 1, 1944. The last three consecutive years
11 of employment shall be used by the system in
12 determining final compensation unless designated to the
13 contrary in writing by the member.

14 (b) *“Final compensation” means the highest average*
15 *annual compensation earnable by a member who retires,*
16 *becomes disabled, or dies, on or after January 1, 1999,*
17 *during any period of 12 consecutive months while an*
18 *active member of the plan or time during which he or she*
19 *was not a member but for which the member has*
20 *received credit under the plan. The last 12 consecutive*
21 *months of employment shall be used by the system in*
22 *determining final compensation unless designated to the*
23 *contrary in writing by the member. “Final*
24 *compensation,” for purposes of this subdivision, shall not*
25 *include any amount resulting from a percentage increase*
26 *in compensation earnable during the 12 consecutive*
27 *months described in this subdivision that exceeds the*
28 *increase generally applicable to members employed by*
29 *the employer, in accordance with uniform criteria*
30 *applicable to all of these members during that period.*
31 *This exclusion shall not apply if the increase in*
32 *compensation earnable results either from employment*
33 *with a different employer or, as determined by the board,*
34 *from a promotion to a position held by another employee*
35 *within the 12-month period immediately preceding the*
36 *promotion.*

37 (c) For purposes of ~~this—section~~ *subdivision (a),*
38 *periods of service separated by breaks in service may be*
39 *aggregated to constitute a period of three consecutive*



1 years, if the periods of service are consecutive except for
2 the breaks.

3 ~~(e)~~

4 *For purposes of subdivision (b), periods of service*
5 *separated by breaks in service may be aggregated to*
6 *constitute a period of 12 consecutive months, if the*
7 *periods of service are consecutive except for the breaks.*

8 (d) The determination of final compensation of a
9 member who is also a member of the Public Employees'
10 Retirement System, the Legislators' Retirement System,
11 the University of California Retirement System, *county*
12 *retirement systems established under Chapter 3*
13 *(commencing with Section 31450) of Part 3 of Division 4*
14 *of Title 3 of the Government Code, or the San Francisco*
15 *City and County Employees' Retirement System shall*
16 *take into consideration the compensation earnable while*
17 *a member of the other system, provided that all of the*
18 *following exist:*

19 (1) The member was in state service or in the
20 employment of a local school district or of a county
21 superintendent of schools.

22 (2) Service under the other system was not performed
23 concurrently with service under this plan.

24 (3) Retirement under this plan is concurrent with the
25 member's retirement under the other system.

26 ~~(d)~~

27 (e) The compensation earnable for the first position in
28 which California service is credited shall be used when
29 additional compensation earnable is required to
30 accumulate three consecutive years for the purpose of
31 determining final compensation under ~~Section~~ Sections
32 23804, 23805, and 23855 for a member who applies for an
33 allowance before January 1, 1999, and shall be used when
34 additional compensation earnable is required to
35 accumulate 12 consecutive months for the purpose of
36 determining final compensation under Sections 23804,
37 23805, and 23855 for a member who applies for an
38 allowance on or after January 1, 1999.

39 ~~(e)~~



1 (f) The board may specify a different final
2 compensation with respect to allowances based on
3 part-time service performed prior to July 1, 1956, for
4 which credit was given under this plan under board rules
5 in effect prior to that date.

6 ~~(f)~~

7 (g) The board may specify a different final
8 compensation with respect to disability allowances,
9 disability retirement allowances, family allowances, and
10 children's portions of survivor benefit allowances payable
11 on and after January 1, 1978. The compensation earnable
12 for periods of part-time service shall be adjusted by the
13 ratio that part-time service has to full-time service.

14 ~~(g)~~

15 (h) The amendment of former Section 22127 made by
16 Chapter 782 of the Statutes of 1982 does not constitute a
17 change in, but is declaratory of, the existing law.

18 SEC. 2. Section 23201 of the Education Code is
19 amended to read:

20 23201. Any person whose accumulated retirement
21 contributions were refunded and who has received, or
22 will qualify to receive, a retirement allowance from the
23 Public Employees' Retirement System, the University of
24 California Retirement System, the Legislators'
25 Retirement System, county retirement systems
26 established under Chapter 3 (commencing with Section
27 31450) of Part 3 of Division 4 of Title 3 of the Government
28 Code, or the San Francisco City and County Employees'
29 Retirement System may elect to redeposit the
30 accumulated retirement contributions that were
31 refunded, with regular interest from the date of refund
32 to the date of payment, without being employed to
33 perform creditable service subject to coverage ~~by the~~
34 ~~plan~~ *under the Defined Benefit Program*. A person who
35 elects to redeposit pursuant to this section shall not
36 receive credit for service that might otherwise be
37 creditable under Section 22810.

38 SEC. 3. Section 24201 of the Education Code is
39 amended to read:



1 24201. (a) A member may retire for service *under*
2 *this part* upon written application for retirement to the
3 board, under paragraph (1) or (2) as follows:

4 (1) The member has attained age 55 years or more and
5 has at least five years of credited California service, at
6 least one year of which has been performed subsequent
7 to the most recent refund of accumulated retirement
8 contributions.

9 (2) The member is credited with service that is not
10 used as a basis for benefits under any other public
11 retirement system, excluding the federal social security
12 system, if he or she has attained age 55 years and retires
13 concurrently under the Public Employees' Retirement
14 System, the Legislators' Retirement System, the
15 University of California Retirement System, county
16 retirement systems established under the County
17 Employee Retirement Law of 1937, or the San Francisco
18 City and County Employees' Retirement System.

19 (b) Application for retirement under paragraph (2) of
20 subdivision (a) may be made at any time.

21 SEC. 3.5. Section 24201 of the Education Code is
22 amended to read:

23 24201. (a) A member may retire for service *under*
24 *this part* upon written application for retirement to the
25 board, under paragraph (1) or (2) as follows:

26 (1) The member has attained age 55 years or more and
27 has at least five years of credited service, at least one year
28 of which has been performed subsequent to the most
29 recent refund of accumulated retirement contributions.
30 The five years of credited service may include out-of-state
31 service purchased pursuant to Section 22820.

32 (2) The member is credited with service that is not
33 used as a basis for benefits under any other public
34 retirement system, excluding the federal social security
35 system, if he or she has attained age 55 years and retires
36 concurrently under the Public Employees' Retirement
37 System, the Legislators' Retirement System, the
38 University of California Retirement System, county
39 retirement systems established under the County



1 Employees Retirement Law of 1937, or the San Francisco
2 City and County Employees' Retirement System.

3 (b) Application for retirement under paragraph (2) of
4 subdivision (a) may be made at any time.

5 SEC. 4. Section 31840.8 is added to the Government
6 Code, to read:

7 31840.8. The provisions of this chapter extending
8 rights to a member of a county retirement system
9 established under this chapter by reason of his or her
10 membership in the Public Employees' Retirement
11 System shall also apply to members of the State Teachers'
12 Retirement System Defined Benefit Plan.

13 SEC. 5. Section 3.5 of this act shall only become
14 operative if both this bill and SB 2126 of the 1997-98
15 Regular Session are enacted and amend Section 24201 of
16 the Education Code, and this bill is chaptered last, in
17 which case Section 3 of this act shall not become operative
18 and shall be repealed on January 1, 1999. If SB 2126 of the
19 1997-98 Regular Session is not enacted or does not amend
20 Section 24201 of the Education Code, then Section 3.5
21 shall not become operative and shall be repealed on
22 January 1, 1999.

23 *SEC. 6. Section 1.5 of this bill incorporates*
24 *amendments to Section 22134 of the Education Code*
25 *proposed by both this bill and AB 1102. It shall only*
26 *become operative if (1) both bills are enacted and*
27 *become effective on or before January 1, 1999, (2) each*
28 *bill amends Section 22134 of the Education Code, and (3)*
29 *this bill is enacted after AB 1102, in which case Section 1*
30 *of this bill shall not become operative.*

