

## Senate Bill No. 610

### CHAPTER 1077

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.

[Approved by Governor September 30, 1998. Filed  
with Secretary of State September 30, 1998.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 610, 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.

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

SECTION 1. Section 22134 of the Education Code is amended to read:

22134. (a) "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive school years while an active member of the Defined Benefit Program or time during which he or she was not a



member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944. The last three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for the breaks.

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

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

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

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

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

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

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

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

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

22134. (a) "Final compensation" means the highest average annual compensation earnable by a member who retires, becomes



disabled, or dies, before January 1, 1999, during any period of three consecutive school years while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944. The last three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

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

(c) For purposes of subdivision (a), periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for the breaks.

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

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

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



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

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

(e) The compensation earnable for the first position in which California service is credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Sections 23804, 23805, and 23855 for a member who applies for an allowance before January 1, 1999, and shall be used when additional compensation earnable is required to accumulate 12 consecutive months for the purpose of determining final compensation under Sections 23804, 23805, and 23855 for a member who applies for an allowance on or after January 1, 1999.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



Education Code, then Section 3.5 shall not become operative and shall be repealed on January 1, 1999.

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

