

ASSEMBLY BILL

No. 2700

**Introduced by Assembly Member Lempert
(Principal coauthor: Assembly Member Knox)**

February 25, 2000

An act to amend Section 22119.2 of, and to add Chapter 36.5 (commencing with Section 24960) to Part 13 of, the Education Code, relating to retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2700, as introduced, Lempert. State teachers' retirement.

Existing law defines creditable compensation for purposes of the Defined Benefit Program established by the State Teachers' Retirement Law. That definition excludes money paid for service performed in excess of the full-time equivalent for the position and money paid for overtime or summer school service and aggregate service performed as a member in excess of one year of service credit for any one school year.

This bill would direct the Teachers' Retirement Board to develop and administer the California State Teachers' Retirement System Additional Compensation Allowance Program, a supplemental benefits program, for members of the Defined Benefit Program. This bill would create a special fund known as the California State Teachers' Retirement System Additional Compensation Allowance Program Fund, a continuously appropriated fund, in which each member of

the Defined Benefit Program would have an individual account to which, on January 1, 2003, and annually thereafter, each member would be credited an amount equal to 16% of the members' compensation for creditable service during the prior school year.

The bill would also revise and recast the definition of creditable compensation. The bill would delete the provisions described above that specifically exclude money paid for service in excess of the full-time equivalent for a position, for overtime and summer school service, and for aggregate service in excess of one year of service credit for any one school year. The bill would also specifically exclude from that definition compensation that is not payable in cash.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 22119.2 of the Education Code is
2 amended to read:

3 22119.2. (a) "Creditable compensation" means
4 salary and other remuneration payable in cash *and paid*
5 by an employer to a member for creditable service.
6 Creditable compensation shall include:

7 (1) Money paid in accordance with a salary schedule
8 ~~based on years of training and years of experience~~ for
9 creditable service ~~performed up to and including the~~
10 ~~full-time equivalent for the position in which the service~~
11 ~~is performed.~~

12 (2) For members not paid according to a salary
13 schedule, money paid for creditable service ~~performed~~
14 ~~up to and including the full-time equivalent for the~~
15 ~~position in which the service is performed.~~

16 (3) Money paid for the member's absence from
17 performance of creditable service as approved by the
18 employer *if the member is taking a leave of absence*
19 *during that time which has been granted by the*
20 *employer*, except as provided in paragraph ~~(7)~~ (5) of
21 subdivision (b).



1 (4) Member contributions picked up by an employer
2 pursuant to Section 22903 or 22904.

3 (5) Amounts deducted by an employer from the
4 member's salary, including deductions for participation
5 in a deferred compensation plan; deductions for the
6 purchase of annuity contracts, tax-deferred retirement
7 plans, or other insurance programs; and deductions for
8 participation in a plan that meets the requirements of
9 Section 125, 401(k), or 403(b) of Title 26 of the United
10 States Code.

11 (6) Money paid by an employer in addition to salary
12 paid under paragraph (1) or (2) if ~~paid~~ *payable* to all
13 employees in a class in the same dollar amount, the same
14 percentage of salary, or the same percentage of the
15 amount being distributed.

16 (7) Money paid ~~in accordance with a salary schedule~~
17 by an employer to an employee for achieving
18 certification from a national board ~~—awarding~~
19 ~~certifications, in which eligibility for this certification is~~
20 ~~that awards certification for professional teaching~~
21 ~~achievement~~ based, in part, on ~~an individual's~~ years of
22 training or years of experience ~~in teaching service~~, if the
23 compensation is ~~paid payable~~ by the employer to all
24 ~~persons in the same class of employees who achieved this~~
25 ~~are awarded the same certification.~~

26 (8) Any other payments the board determines to be
27 “creditable compensation.”

28 (b) “Creditable compensation” does not mean and
29 shall not include:

30 (1) ~~Money paid for service performed in excess of the~~
31 ~~full-time equivalent for the position.~~

32 (2) ~~Money paid for overtime or summer school~~
33 ~~service, or money paid for the aggregate service~~
34 ~~performed as a member of the Defined Benefit Program~~
35 ~~in excess of one year of service credit for any one school~~
36 ~~year.~~

37 (3) Money paid for service that is not creditable
38 service pursuant to Section 22119.5.

39 (4) ~~—~~



1 (2) Money paid by an employer in addition to salary
2 paid under paragraph (1) or (2) of subdivision (a) if not
3 ~~paid payable~~ to all employees in a class in the same dollar
4 amount, the same percentage of salary, or the same
5 percentage of the amount being distributed, except as
6 provided in paragraph (7) of subdivision (a).

7 ~~(5)–~~

8 (3) Fringe benefits provided by an employer.

9 ~~(6)–~~

10 (4) Job-related expenses paid or reimbursed by an
11 employer.

12 ~~(7)–~~

13 (5) Money paid for unused accumulated leave.

14 ~~(8)–~~

15 (6) Severance pay or compensatory damages or
16 money paid to a member in excess of salary as a
17 compromise settlement.

18 ~~(9)–~~

19 (7) Annuity contracts, tax-deferred retirement
20 programs, or other insurance programs, including, but
21 not limited to, plans that meet the requirements of
22 Section 125, 401(k), or 403(b) of Title 26 of the United
23 States Code that are purchased by an employer for the
24 member and are not deducted from the member’s salary.

25 ~~(10)–~~

26 (8) *Compensation that is not payable in cash.*

27 (9) Any payments determined by the board to have
28 been made by an employer for the principal purpose of
29 enhancing a member’s benefits under the Defined
30 Benefit Program. ~~An increase in the salary of a member
31 who is the only employee in a class pursuant to
32 subdivision (b) of Section 22112.5 that arises out of an
33 employer’s restructuring of compensation during the
34 member’s final compensation period shall be presumed
35 to have been granted for the principal purpose of
36 enhancing benefits under the Defined Benefit Program
37 and shall not be creditable compensation. If the board
38 determines sufficient evidence is provided to the system
39 to rebut this presumption, the increase in salary shall be
40 deemed creditable compensation. A presumption by the~~



1 *board that salary or other remuneration was paid for the*
2 *principal purpose of enhancing the member's benefits*
3 *under the plan may be rebutted by the member, or by the*
4 *employer on behalf of the member. Upon receipt of*
5 *sufficient evidence to the contrary, a presumption by the*
6 *board that salary or other remuneration was paid for the*
7 *principal purpose of enhancing the member's benefits*
8 *under the plan may be reversed.*

9 ~~(11)~~

10 (10) Any other payments the board determines not to
11 be "creditable compensation."

12 (c) Any employer or person who knowingly or
13 willfully reports compensation in a manner inconsistent
14 with subdivision (a) or (b) shall reimburse the plan for
15 any overpayment of benefits that occurs because of that
16 inconsistent reporting and may be subject to prosecution
17 for fraud, theft, or embezzlement in accordance with the
18 Penal Code. The system may establish procedures to
19 ensure that compensation reported by an employer is in
20 compliance with this section.

21 (d) The definition of "creditable compensation" in
22 this section is designed in accordance with sound funding
23 principles that support the integrity of the retirement
24 fund. These principles include, but are not limited to,
25 consistent treatment of compensation throughout the
26 career of the individual member, consistent treatment of
27 compensation for an entire class of employees, the
28 prevention of adverse selection, and the exclusion of
29 adjustments to, or increases in, compensation for the
30 principal purpose of enhancing benefits.

31 ~~(e) This section shall be deemed to have become~~
32 ~~operative on July 1, 1996.~~

33 SEC. 2. Chapter 36.5 (commencing with Section
34 24960) is added to Part 13 of the Education Code, to read:

35

36 CHAPTER 36.5. ADDITIONAL COMPENSATION ALLOWANCE
37 PROGRAM
38

39 24960. The board shall develop and administer the
40 California State Teachers' Retirement System Additional



1 Compensation Allowance Program as a qualified money
2 purchase plan under Section 401(a) of Title 26 of the
3 Internal Revenue Code for members of the Defined
4 Benefit Program. The design and administration of the
5 program shall conform to the applicable provisions of the
6 Internal Revenue Code of 1986 and the Revenue and
7 Taxation Code.

8 24960.1. The program developed pursuant to this
9 chapter shall supplement the benefits otherwise
10 provided under this part.

11 24960.2. Each active member of the Defined Benefit
12 Program shall have created in his or her name an
13 individual account in the fund, to which contributions
14 made pursuant to this section, and investment earnings
15 from those contributions, will be credited. On January 1,
16 2003 and annually each January 1 thereafter, each
17 member of the Defined Benefit Program shall be
18 credited an amount equal to 16 percent of the member's
19 compensation for creditable service during the prior
20 school year that was not subject to coverage pursuant to
21 Section 22703. A member may not make any additional
22 contributions to his or her account.

23 24960.3. The board shall determine how funds
24 contributed to the program developed pursuant to this
25 chapter, including earnings from investing those
26 contributions, shall be administered and invested.

27 24960.4. The board shall invest all account balances in
28 a pool of investments determined by the board to be
29 suitable for the program.

30 24960.5. There is in the State Treasury a special trust
31 fund to be known as the California State Teachers'
32 Retirement System Additional Compensation Allowance
33 Program Fund. Notwithstanding Section 13340 of the
34 Government Code the fund is continuously appropriated
35 to the board, without regard to fiscal year, to carry out the
36 provisions of this chapter. As used in this chapter, "fund"
37 means the California State Teachers' Retirement System
38 Additional Compensation Allowance Program Fund.

