

ASSEMBLY BILL

No. 1852

Introduced by Assembly Member Mullin

January 29, 2004

An act to amend Sections 22134, 22134.5, 24203, and 24221 of, and to repeal Section 22136 of, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1852, as introduced, Mullin. State teachers' retirement.

(1) Under existing law, retirement benefits of a member of the Defined Benefit Program of the State Teachers' Retirement Plan are calculated, in part, based upon the member's final compensation. Final compensation, for members with fewer than 25 years of service who are not classroom teachers, is defined for this purpose as the highest average annual compensation earnable by the member during a period of 3 consecutive school years.

This bill would authorize any periods of service to be aggregated to constitute a period of 3 school years for that purpose. The bill would also make related technical changes.

(2) Under existing law, a member of the Defined Benefit Program of the State Teachers' Retirement Plan who is 50 years of age may retire and receive specified benefits if he or she has 30 years of credited service.

This bill would instead permit a member who is 50 years of age to retire and receive specified benefits if he or she has 25 years of credited service.

(3) Existing law authorizes specified members of the Defined Benefit Program of the State Teachers' Retirement Plan who retire prior

to January 1, 2011, to receive a specified lump-sum payment upon retirement and an actuarially reduced monthly allowance. Existing law also provides a member of the program with a specified increase to his or her monthly allowance if the member retires with 30 or more years of service.

This bill would authorize a member who retires with 30 or more years of service, in lieu of that increase to his or her monthly allowance, to receive a lump-sum payment upon retirement equal to the actuarial present value of that increase.

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 average
4 annual compensation earnable by a member during any period of
5 ~~three-consecutive~~ school years while an active member of the
6 Defined Benefit Program or time during which he or she was not
7 a member but for which the member has received credit under the
8 Defined Benefit Program, except time that was so credited for
9 service performed outside this state prior to July 1, 1944. The last
10 ~~three-consecutive~~ school years of employment shall be used by the
11 system in determining final compensation unless designated to the
12 contrary in writing by the member.

13 (b) For purposes of this section, any periods of service
14 ~~separated by breaks in service~~ may be aggregated to constitute a
15 period of three-consecutive school years, ~~if the periods of service~~
16 ~~are consecutive except for the breaks of employment.~~

17 (c) The determination of final compensation of a member who
18 has concurrent membership in another retirement system pursuant
19 to Section 22115.2 shall take into consideration the compensation
20 earnable while a member of the other system, provided that all of
21 the following exist:

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

24 (2) Service under the other system was not performed
25 concurrently with service under the Defined Benefit Program.



1 (3) Retirement under the Defined Benefit Program is
2 concurrent with the member's retirement under the other system.

3 (d) The compensation earnable for the first position in which
4 California service was credited shall be used when additional
5 compensation earnable is required to accumulate three
6 ~~consecutive~~ *school* years for the purpose of determining final
7 compensation under Section 23805.

8 (e) If a member has received service credit for part-time service
9 performed prior to July 1, 1956, the member's final compensation
10 shall be adjusted for that service in excess of one year by the ratio
11 that part-time service bears to full-time service.

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

19 (g) The amendment of former Section 22127 made by Chapter
20 782 of the Statutes of 1982 does not constitute a change in, but is
21 declaratory of, the existing law.

22 SEC. 2. Section 22134.5 of the Education Code is amended
23 to read:

24 22134.5. (a) Notwithstanding Section 22134, "final
25 compensation" means the highest average annual compensation
26 earnable by a member during any period of 12 consecutive months
27 while an active member of the Defined Benefit Program or time
28 during which he or she was not a member but for which the
29 member has received credit under the Defined Benefit Program,
30 except time that was so credited for service performed outside this
31 state prior to July 1, 1944. The last consecutive 12-month period
32 of employment shall be used by the system in determining final
33 compensation unless designated to the contrary in writing by the
34 member.

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

39 (c) The determination of final compensation of a member who
40 has concurrent membership in another retirement system pursuant



1 to Section 22115.2 shall take into consideration the compensation
2 earnable while a member of the other system, provided that all of
3 the following exist:

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

6 (2) Service under the other system was not performed
7 concurrently with service under the Defined Benefit Program.

8 (3) Retirement under the Defined Benefit Program is
9 concurrent with the member's retirement under the other system.

10 (d) The compensation earnable for the first position in which
11 California service was credited shall be used when additional
12 compensation earnable is required to accumulate ~~three~~ 12
13 consecutive ~~years~~ months for the purpose of determining final
14 compensation under Section 23805.

15 (e) If a member has received service credit for part-time service
16 performed prior to July 1, 1956, the member's final compensation
17 shall be adjusted for that service in excess of one year by the ratio
18 that part-time service bears to full-time service.

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

26 (g) This section shall only apply to a member who has 25 or
27 more years of credited service, excluding service credited pursuant
28 to Section 22714, 22714.5, 22715, 22717, or 22826, but including
29 any credited service that a court has ordered be awarded to a
30 nonmember spouse pursuant to Section 22652. This section also
31 shall apply to a nonmember spouse, if the member had at least 25
32 years of credited service, excluding service credited pursuant to
33 Section 22714, 22714.5, 22715, 22717, or 22826, on the date the
34 parties separated, as established in the judgment or court order
35 pursuant to Section 22652.

36 SEC. 3. Section 22136 of the Education Code is repealed.

37 ~~22136. (a) "Final compensation" with respect to a member~~
38 ~~whose salary while an active member was reduced because of a~~
39 ~~reduction in school funds means the highest average annual~~
40 ~~compensation earnable by the member during any three years~~



1 ~~while employed to perform creditable service subject to coverage~~
2 ~~by the Defined Benefit Program if the member elects to be subject~~
3 ~~to this section.~~

4 ~~(b) For the purposes of this section, a year shall be considered~~
5 ~~to be a period of 12 consecutive months.~~

6 SEC. 4. Section 24203 of the Education Code is amended to
7 read:

8 24203. (a) A member who has ~~30~~ 25 years of credited service
9 under this part may retire at age 50 years or older and receive an
10 annual allowance equal to 2 percent of final compensation for each
11 year of credited service. If the member has attained age 50 years,
12 but has not attained early retirement age, the allowance shall be
13 reduced by one-quarter of 1 percent for each full month or fraction
14 of a month that will elapse until the member will attain early
15 retirement age and one-half of 1 percent for each full month, or
16 fraction of a month between early retirement age and normal
17 retirement age.

18 (b) In computing the amounts described in subdivision (a), the
19 age of the member on the last day of the month in which the
20 retirement allowance begins to accrue or any later date provided
21 in Section 24204 shall be used.

22 SEC. 5. Section 24221 of the Education Code is amended to
23 read:

24 24221. (a) A member who retires for service ~~on or after~~
25 ~~January 1, 2004, and~~ prior to January 1, 2011, and who ~~has reached~~
26 either *has reached* the age of 60 years and three months within the
27 month he or she retires or ~~the age of 60 years if he or she~~ has at least
28 30 years of credited service may elect, on a form prescribed by the
29 system, to receive a lump-sum payment and an actuarially reduced
30 monthly allowance pursuant to this section in lieu of the monthly
31 allowance that would otherwise be payable to the member
32 pursuant to this chapter. The election under this section shall be
33 made at the time the member files his or her application for service
34 retirement allowance as provided in Section 24204.

35 (b) A member who makes the election described in subdivision
36 (a) *and who has reached the age of 60 years and three months*
37 *within the month he or she retires or the age of 60 years if he or she*
38 *has at least 30 years of credited service* shall receive a one-time,
39 lump-sum payment in an amount that equals or does not exceed the
40 lesser of the following amounts:



1 (1) The actuarial present value of the difference between (A)
2 the monthly allowance payable to the member pursuant to this
3 chapter, and (B) an amount equal to 2 percent of the member's final
4 compensation multiplied by the number of years of credited
5 service and divided by 12.

6 (2) Fifteen percent of the actuarial present value of the monthly
7 allowance payable to the member under this chapter.

8 (c) *A member who makes the election described in subdivision*
9 *(a) and who has at least 30 years of credited service shall receive*
10 *a one-time, lump-sum payment in an amount that equals or does*
11 *not exceed the greater of the following amounts:*

12 (1) *If the member has reached the age of 60 years, the amount*
13 *that the member would otherwise be entitled to receive under*
14 *subdivision (b).*

15 (2) *The actuarial present value of the increase in the allowance*
16 *payable to the member pursuant to Section 24203.6, after any*
17 *modification pursuant to Sections 24300 and 24307.*

18 (d) Notwithstanding any other provision of this part, a member
19 who makes the election described in subdivision (a) shall receive
20 a monthly allowance, pursuant to this chapter, that shall be
21 actuarially reduced to reflect the lump-sum amount paid under
22 subdivision (b) *or subdivision (c).*

23 ~~(d)~~

24 (e) A member may not apply a lump-sum payment made
25 pursuant to this section for the purposes of redepositing previously
26 refunded retirement contributions pursuant to Chapter 19
27 (commencing with Section 23200) or purchasing service credit
28 pursuant to Chapter 14 (commencing with Section 22800),
29 Chapter 14.2 (commencing with Section 22820) or Chapter 14.5
30 (commencing with Section 22850). The Legislature hereby finds
31 and declares that if a member who elects to receive a partial
32 lump-sum payment also elects to redeposit previously refunded
33 contributions or purchase service credit as a result of the receipt of
34 the lump-sum payment, the Defined Benefit Program may
35 experience a net actuarial impact.

36 ~~(e)~~

37 (f) The Legislature reserves the right to modify the provisions
38 of this section to further the objective of permitting eligible
39 members to receive a lump-sum distribution of a portion of their
40 benefits, with a corresponding actuarial reduction in their monthly



- 1 allowance, so that there is no net actuarial impact to the Defined
- 2 Benefit Program.

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