

AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1852

Introduced by Assembly Member Mullin

January 29, 2004

An act to amend Sections 22134, 22134.5, 22851, 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 amended, 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) *Existing law authorizes a member of the Defined Benefit Program of the State Teachers' Retirement Plan to receive credit, as specified, for the period of time during which he or she served in the uniformed services if the member or participant makes the employee contributions to the retirement fund that he or she would have otherwise been required to make during that period and other conditions exist.*

Under this bill, a member of the Defined Benefit Program would receive credit for the period of time during which he or she served in the uniformed services, up to one year, without paying any employee contributions if the period of service occurred between September 11, 2001 and July 30, 2005, and other conditions exist.

(3) 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)

(4) 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 school years while an active member of the Defined Benefit
6 Program or time during which he or she was not a member but for
7 which the member has received credit under the Defined Benefit
8 Program, except time that was so credited for service performed
9 outside this state prior to July 1, 1944. The last three school years
10 of employment shall be used by the system in determining final



1 compensation unless designated to the contrary in writing by the
2 member.

3 (b) For purposes of this section, any periods of service may be
4 aggregated to constitute a period of three school years of
5 employment.

6 (c) The determination of final compensation of a member who
7 has concurrent membership in another retirement system pursuant
8 to Section 22115.2 shall take into consideration the compensation
9 earnable while a member of the other system, provided that all of
10 the following exist:

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

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

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

17 (d) The compensation earnable for the first position in which
18 California service was credited shall be used when additional
19 compensation earnable is required to accumulate three school
20 years for the purpose of determining final compensation under
21 Section 23805.

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

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

33 (g) The amendment of former Section 22127 made by Chapter
34 782 of the Statutes of 1982 does not constitute a change in, but is
35 declaratory of, the existing law.

36 SEC. 2. Section 22134.5 of the Education Code is amended
37 to read:

38 22134.5. (a) Notwithstanding Section 22134, "final
39 compensation" means the highest average annual compensation
40 earnable by a member during any period of 12 consecutive months



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

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

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

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

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

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

24 (d) The compensation earnable for the first position in which
25 California service was credited shall be used when additional
26 compensation earnable is required to accumulate 12 consecutive
27 months for the purpose of determining final compensation under
28 Section 23805.

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

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



1 (g) This section shall only apply to a member who has 25 or
2 more years of credited service, excluding service credited pursuant
3 to Section 22714, 22714.5, 22715, 22717, or 22826, but including
4 any credited service that a court has ordered be awarded to a
5 nonmember spouse pursuant to Section 22652. This section also
6 shall apply to a nonmember spouse, if the member had at least 25
7 years of credited service, excluding service credited pursuant to
8 Section 22714, 22714.5, 22715, 22717, or 22826, on the date the
9 parties separated, as established in the judgment or court order
10 pursuant to Section 22652.

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

12 SEC. 4. *Section 22851 of the Education Code is amended to*
13 *read:*

14 22851. The right to pension benefits under this part of a
15 member who returns to employment with the same employer
16 ~~which~~ *that* had employed the member immediately prior to the
17 eligible period of service in the uniformed services, and is subject
18 to Chapter 43 (commencing with Section 4301) of Title 38 of the
19 United States Code shall be determined under this section.

20 (a) (1) A member shall be treated as not having incurred a
21 break in service by reason of that member's eligible period or
22 periods of service in the uniformed services.

23 (2) Each eligible period of service served by a member in the
24 uniformed services shall, upon return to employment, with the
25 same employer ~~which~~ *that* had employed the member
26 immediately prior to the eligible period of service in the uniformed
27 services, be deemed to constitute service with the employer or
28 employers toward plan vesting and eligibility for membership in
29 the Defined Benefit Program.

30 (3) A member who returns to employment, with the same
31 employer ~~which~~ *that* had employed the member immediately
32 prior to the eligible period of service in the uniformed services
33 ~~shall~~ *is not be* entitled to any benefits under this part in respect of
34 service in the uniformed services to which the member would not
35 otherwise have been entitled had the member remained
36 continuously employed and not undertaken ~~such~~ *that* service in the
37 uniformed services.

38 (b) For purposes of calculating benefits, a member who returns
39 to employment with the same employer ~~which~~ *that* had employed
40 the member immediately prior to the eligible period of service in



1 the uniformed services shall be entitled to service credit under this
2 part for the eligible period of service in the uniformed services
3 upon his or her payment of the member contributions required
4 under Section 22901 that otherwise would have been due for ~~such~~
5 *that* period of service had the member remained continuously
6 employed and not undertaken ~~such~~ *that* service in the uniformed
7 services. No ~~such~~ payment of member contributions may exceed
8 the amount the member would have been required to contribute
9 under this part had the member not served in the uniformed
10 services and had remained continuously employed by the
11 employer throughout the eligible period of service in the
12 uniformed services. If a member fails to remit the member
13 contributions that would have been required under Section 22901
14 in respect of the eligible period of service in the uniformed
15 services, no service credit shall be provided under this part for the
16 period to which the ~~omitted~~ *unpaid* contributions relate.

17 (c) Any payment of member contributions to the Defined
18 Benefit Program in this section shall be made by the member
19 during the period beginning with the date of return to employment
20 and may continue for three times the period of the member's
21 eligible service in the uniformed services, not to exceed five years.
22 Any payment of member contributions to the Defined Benefit
23 Program in this section by a member who returned to employment
24 prior to January 1, 1997, and qualifies for benefits in accordance
25 with the Uniformed Services Employment and Reemployment
26 Rights Act of 1994 (Chapter 43 (commencing with Section 4301)
27 of Title 38 of the United States Code), shall be made by the
28 member during the period beginning with the date of notification
29 of eligibility by the employer to the system and may continue for
30 three times the period of the member's eligible service in the
31 uniformed services, not to exceed five years. Any subsequent
32 request to purchase this service shall be subject to the provisions
33 of Chapter 14 (commencing with Section 22800). If all
34 contributions due under this part are not paid to the plan with
35 respect to the Defined Benefit Program within the specified
36 repayment period and in accordance with subdivision (b) of
37 Section 22851 the contributions shall be returned to the member
38 at the end of the repayment period. Interest on member
39 contributions made for the eligible period of service in the
40 uniformed services ~~shall~~ *may* not be credited under this part until



1 after the contributions due are paid and then only prospectively to
2 the member's account in accordance with Section 22216.

3 *(d) (1) Notwithstanding subdivision (b), a member is not*
4 *required to pay contributions to receive credit pursuant to this*
5 *section for the eligible period of service in the uniformed services*
6 *if the service was performed on or after September 11, 2001, and*
7 *the member returned to employment prior to July 30, 2005, with*
8 *the same employer that had employed the member immediately*
9 *prior to the eligible period of service.*

10 *(2) The maximum amount of credited service that a member*
11 *employed on a full-time basis may receive without payment of*
12 *contributions under this subdivision shall be one year. The*
13 *maximum amount of credited service that a member employed on*
14 *less than a full-time basis may receive without payment of*
15 *contributions under this subdivision may not exceed the amount of*
16 *credited service the member would have earned during the*
17 *12-month period immediately following his or her entry into the*
18 *eligible period of service in the uniformed services.*

19 *(3) This subdivision does not modify the employer's obligation*
20 *to make contributions on behalf of the member pursuant to Section*
21 *22852.*

22 **SEC. 5.** Section 24203 of the Education Code is amended to
23 read:

24 24203. (a) A member who has 25 years of credited service
25 under this part may retire at age 50 years or older and receive an
26 annual allowance equal to 2 percent of final compensation for each
27 year of credited service. If the member has attained age 50 years,
28 but has not attained early retirement age, the allowance shall be
29 reduced by one-quarter of 1 percent for each full month or fraction
30 of a month that will elapse until the member will attain early
31 retirement age and one-half of 1 percent for each full month, or
32 fraction of a month between early retirement age and normal
33 retirement age.

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

38 ~~SEC. 5.~~

39 **SEC. 6.** Section 24221 of the Education Code is amended to
40 read:



1 24221. (a) A member who retires for service prior to January
2 1, 2011, and who either has reached the age of 60 years and three
3 months within the month he or she retires or has at least 30 years
4 of credited service may elect, on a form prescribed by the system,
5 to receive a lump-sum payment and an actuarially reduced
6 monthly allowance pursuant to this section in lieu of the monthly
7 allowance that would otherwise be payable to the member
8 pursuant to this chapter. The election under this section shall be
9 made at the time the member files his or her application for service
10 retirement allowance as provided in Section 24204.

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

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

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

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

28 (1) If the member has reached the age of 60 years, the amount
29 that the member would otherwise be entitled to receive under
30 subdivision (b).

31 (2) The actuarial present value of the increase in the allowance
32 payable to the member pursuant to Section 24203.6, after any
33 modification pursuant to Sections 24300 and 24307.

34 (d) Notwithstanding any other provision of this part, a member
35 who makes the election described in subdivision (a) shall receive
36 a monthly allowance, pursuant to this chapter, that shall be
37 actuarially reduced to reflect the lump-sum amount paid under
38 subdivision (b) or subdivision (c).

39 (e) A member may not apply a lump-sum payment made
40 pursuant to this section for the purposes of redepositing previously



1 refunded retirement contributions pursuant to Chapter 19
2 (commencing with Section 23200) or purchasing service credit
3 pursuant to Chapter 14 (commencing with Section 22800),
4 Chapter 14.2 (commencing with Section 22820) or Chapter 14.5
5 (commencing with Section 22850). The Legislature hereby finds
6 and declares that if a member who elects to receive a partial
7 lump-sum payment also elects to redeposit previously refunded
8 contributions or purchase service credit as a result of the receipt of
9 the lump-sum payment, the Defined Benefit Program may
10 experience a net actuarial impact.

11 (f) The Legislature reserves the right to modify the provisions
12 of this section to further the objective of permitting eligible
13 members to receive a lump-sum distribution of a portion of their
14 benefits, with a corresponding actuarial reduction in their monthly
15 allowance, so that there is no net actuarial impact to the Defined
16 Benefit Program.

