

AMENDED IN ASSEMBLY MAY 20, 2004  
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, 22851~~ 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.~~

~~(4)~~

(2) Existing law authorizes ~~specified~~ members of the Defined Benefit Program of the State Teachers' Retirement Plan who retire prior to January 1, 2011, *at a specified age or at a specified age with 30 years of service*, to *elect 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 authorize any member who retires prior to that date to make that election. The bill would also specify the method to be used by the Teachers' Retirement Board to calculate the member's actuarially reduced monthly allowance, that results in no net actuarial impact to the program.~~

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~~



1 ~~three school years while an active member of the Defined Benefit~~  
2 ~~Program or time during which he or she was not a member but for~~  
3 ~~which the member has received credit under the Defined Benefit~~  
4 ~~Program, except time that was so credited for service performed~~  
5 ~~outside this state prior to July 1, 1944. The last three school years~~  
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, any periods of service may be~~  
10 ~~aggregated to constitute a period of three school years of~~  
11 ~~employment.~~

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

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

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

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

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

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

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



1 ~~(g) The amendment of former Section 22127 made by Chapter~~  
2 ~~782 of the Statutes of 1982 does not constitute a change in, but is~~  
3 ~~declaratory of, the existing law.~~

4 ~~SEC. 2. Section 22134.5 of the Education Code is amended~~  
5 ~~to read:~~

6 ~~22134.5. (a) Notwithstanding Section 22134, “final~~  
7 ~~compensation” means the highest average annual compensation~~  
8 ~~earnable by a member during any period of 12 consecutive months~~  
9 ~~while an active member of the Defined Benefit Program or time~~  
10 ~~during which he or she was not a member but for which the~~  
11 ~~member has received credit under the Defined Benefit Program;~~  
12 ~~except time that was so credited for service performed outside this~~  
13 ~~state prior to July 1, 1944. The last consecutive 12-month period~~  
14 ~~of employment shall be used by the system in determining final~~  
15 ~~compensation unless designated to the contrary in writing by the~~  
16 ~~member.~~

17 ~~(b) For purposes of this section, periods of service separated by~~  
18 ~~breaks in service may be aggregated to constitute a period of 12~~  
19 ~~consecutive months, if the periods of service are consecutive~~  
20 ~~except for the breaks.~~

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

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

28 ~~(2) Service under the other system was not performed~~  
29 ~~concurrently with service under the Defined Benefit Program.~~

30 ~~(3) Retirement under the Defined Benefit Program is~~  
31 ~~concurrent with the member’s retirement under the other system.~~

32 ~~(d) The compensation earnable for the first position in which~~  
33 ~~California service was credited shall be used when additional~~  
34 ~~compensation earnable is required to accumulate 12 consecutive~~  
35 ~~months for the purpose of determining final compensation under~~  
36 ~~Section 23805.~~

37 ~~(e) If a member has received service credit for part-time service~~  
38 ~~performed prior to July 1, 1956, the member’s final compensation~~  
39 ~~shall be adjusted for that service in excess of one year by the ratio~~  
40 ~~that part-time service bears to full-time service.~~



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

8 ~~(g) This section shall only apply to a member who has 25 or~~  
9 ~~more years of credited service, excluding service credited pursuant~~  
10 ~~to Section 22714, 22714.5, 22715, 22717, or 22826, but including~~  
11 ~~any credited service that a court has ordered be awarded to a~~  
12 ~~nonmember spouse pursuant to Section 22652. This section also~~  
13 ~~shall apply to a nonmember spouse, if the member had at least 25~~  
14 ~~years of credited service, excluding service credited pursuant to~~  
15 ~~Section 22714, 22714.5, 22715, 22717, or 22826, on the date the~~  
16 ~~parties separated, as established in the judgment or court order~~  
17 ~~pursuant to Section 22652.~~

18 ~~SEC. 3. Section 22136 of the Education Code is repealed.~~

19 ~~SEC. 4.~~

20 *SECTION 1.* Section 22851 of the Education Code is  
21 amended to read:

22 22851. The right to pension benefits under this part of a  
23 member who returns to employment with the same employer that  
24 had employed the member immediately prior to the eligible period  
25 of service in the uniformed services, and is subject to Chapter 43  
26 (commencing with Section 4301) of Title 38 of the United States  
27 Code shall be determined under this section.

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

31 (2) Each eligible period of service served by a member in the  
32 uniformed services shall, upon return to employment, with the  
33 same employer that had employed the member immediately prior  
34 to the eligible period of service in the uniformed services, be  
35 deemed to constitute service with the employer or employers  
36 toward plan vesting and eligibility for membership in the Defined  
37 Benefit Program.

38 (3) A member who returns to employment, with the same  
39 employer that had employed the member immediately prior to the  
40 eligible period of service in the uniformed services is not entitled



1 to any benefits under this part ~~in respect of~~ *with respect to* service  
2 in the uniformed services to which the member would not  
3 otherwise have been entitled had the member remained  
4 continuously employed and not undertaken that service in the  
5 uniformed services.

6 (b) For purposes of calculating benefits, a member who returns  
7 to employment with the same employer that had employed the  
8 member immediately prior to the eligible period of service in the  
9 uniformed services shall be entitled to service credit under this part  
10 for the eligible period of service in the uniformed services upon his  
11 or her payment of the member contributions required under  
12 Section 22901 that otherwise would have been due for that period  
13 of service had the member remained continuously employed and  
14 not undertaken that service in the uniformed services. No payment  
15 of member contributions may exceed the amount the member  
16 would have been required to contribute under this part had the  
17 member not served in the uniformed services and had remained  
18 continuously employed by the employer throughout the eligible  
19 period of service in the uniformed services. If a member fails to  
20 remit the member contributions that would have been required  
21 under Section 22901 ~~in respect of~~ *with respect to* the eligible  
22 period of service in the uniformed services, no service credit shall  
23 be provided under this part for the period to which the unpaid  
24 contributions relate.

25 (c) Any payment of member contributions to the Defined  
26 Benefit Program in this section shall be made by the member  
27 during the period beginning with the date of return to employment  
28 and may continue for three times the period of the member's  
29 eligible service in the uniformed services, not to exceed five years.  
30 Any payment of member contributions to the Defined Benefit  
31 Program in this section by a member who returned to employment  
32 prior to January 1, 1997, and qualifies for benefits in accordance  
33 with the Uniformed Services Employment and Reemployment  
34 Rights Act of 1994 (Chapter 43 (commencing with Section 4301)  
35 of Title 38 of the United States Code), shall be made by the  
36 member during the period beginning with the date of notification  
37 of eligibility by the employer to the system and may continue for  
38 three times the period of the member's eligible service in the  
39 uniformed services, not to exceed five years. Any subsequent  
40 request to purchase this service shall be subject to the provisions



1 of Chapter 14 (commencing with Section 22800). If all  
2 contributions due under this part are not paid to the plan with  
3 respect to the Defined Benefit Program within the specified  
4 repayment period and in accordance with subdivision (b) of  
5 Section 22851, the contributions shall be returned to the member  
6 at the end of the repayment period. Interest on member  
7 contributions made for the eligible period of service in the  
8 uniformed services may not be credited under this part until after  
9 the contributions due are paid and then only prospectively to the  
10 member's account in accordance with Section 22216.

11 (d) (1) Notwithstanding subdivision (b), a member is not  
12 required to pay contributions to receive credit pursuant to this  
13 section for the eligible period of service in the uniformed services  
14 if the service was performed on or after September 11, 2001, and  
15 the member returned to employment prior to July 30, 2005, with  
16 the same employer that had employed the member immediately  
17 prior to the eligible period of service.

18 (2) The maximum amount of credited service that a member  
19 employed on a full-time basis may receive without payment of  
20 contributions under this subdivision shall be one year. The  
21 maximum amount of credited service that a member employed on  
22 less than a full-time basis may receive without payment of  
23 contributions under this subdivision may not exceed the amount  
24 of credited service the member would have earned during the  
25 12-month period immediately following his or her entry into the  
26 eligible period of service in the uniformed services.

27 (3) This subdivision does not modify the employer's obligation  
28 to make contributions on behalf of the member pursuant to Section  
29 22852.

30 ~~SEC. 5.—Section 24203 of the Education Code is amended to~~  
31 ~~read:~~

32 ~~24203.—(a) A member who has 25 years of credited service~~  
33 ~~under this part may retire at age 50 years or older and receive an~~  
34 ~~annual allowance equal to 2 percent of final compensation for each~~  
35 ~~year of credited service. If the member has attained age 50 years,~~  
36 ~~but has not attained early retirement age, the allowance shall be~~  
37 ~~reduced by one-quarter of 1 percent for each full month or fraction~~  
38 ~~of a month that will elapse until the member will attain early~~  
39 ~~retirement age and one-half of 1 percent for each full month, or~~



1 ~~fraction of a month between early retirement age and normal~~  
 2 ~~retirement age.~~

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

7 ~~SEC. 6.~~

8 *SEC. 2.* Section 24221 of the Education Code is amended to  
 9 read:

10 24221. (a) A member who retires for service prior to January  
 11 ~~1, 2011, and who either has reached the age of 60 years and three~~  
 12 ~~months within the month he or she retires or has at least 30 years~~  
 13 ~~of credited service 1, 2011, may elect, on a form prescribed by the~~  
 14 system, to receive a lump-sum payment and an actuarially reduced  
 15 monthly allowance pursuant to this section in lieu of the monthly  
 16 allowance that would otherwise be payable to the member  
 17 pursuant to this chapter. The election under this section shall be  
 18 made at the time the member files his or her application for service  
 19 retirement allowance as provided in Section 24204.

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

26 (1) The actuarial present value of the ~~difference between~~  
 27 ~~amount by which (A) the monthly allowance payable to the~~  
 28 member pursuant to this chapter, ~~and exceeds (B) an amount equal~~  
 29 to 2 percent of the member's final compensation multiplied by the  
 30 number of years of credited service and divided by 12.

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

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

37 ~~(1) If the member has reached the age of 60 years, the amount~~  
 38 ~~that the member would otherwise be entitled to receive under~~  
 39 ~~subdivision (b).~~



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

4 ~~(d)~~

5 (c) Notwithstanding any other provision of this part, a member  
6 who makes the election described in subdivision (a) shall receive  
7 a monthly allowance, pursuant to this chapter, that shall be  
8 actuarially reduced to reflect the lump-sum amount paid under  
9 subdivision (b) ~~or subdivision (e).~~

10 ~~(e)~~

11 (d) A member may not apply a lump-sum payment made  
12 pursuant to this section for the purposes of redepositing previously  
13 refunded retirement contributions pursuant to Chapter 19  
14 (commencing with Section 23200) or purchasing service credit  
15 pursuant to Chapter 14 (commencing with Section 22800),  
16 Chapter 14.2 (commencing with Section 22820) or Chapter 14.5  
17 (commencing with Section 22850). The Legislature hereby finds  
18 and declares that if a member who elects to receive a partial  
19 lump-sum payment also elects to redeposit previously refunded  
20 contributions or purchase service credit as a result of the receipt of  
21 the lump-sum payment, the Defined Benefit Program may  
22 experience a net actuarial impact.

23 ~~(f)~~

24 (e) *An election pursuant to subdivision (a) may have no net*  
25 *actuarial impact to the Defined Benefit Program. The board shall*  
26 *adopt present value factors to establish a corresponding*  
27 *actuarially reduced monthly allowance, that results in no net*  
28 *actuarial impact to the Defined Benefit Program. The Legislature*  
29 *reserves the right to modify the provisions of this section to further*  
30 *the objective of permitting eligible members to receive a*  
31 *lump-sum distribution of a portion of their benefits, with a*  
32 *corresponding actuarial reduction in their monthly allowance, so*  
33 *that there is no net actuarial impact to the Defined Benefit*  
34 *Program.*

