

ASSEMBLY BILL

No. 821

Introduced by Committee on Public Employees, Retirement and Social Security (Correa (Chair), Firebaugh, Honda, Knox, and Pescetti)

February 24, 1999

An act to amend Sections 22134 and 22136 of the Education Code, and to add Section 20035.5 to the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 821, as introduced, Committee on Public Employees, Retirement and Social Security. Retirement.

Existing law provides for the payment of retirement benefits to various school employees under the State Teachers' Retirement System and the Public Employees' Retirement System. Under existing law, the retirement benefits are computed based upon various factors, including the employees final compensation. Under existing law, for those school employees, "final compensation" means the highest average annual compensation earnable by a member during any period of 3 consecutive school years.

This bill would change that definition of "final compensation" to, instead, mean the highest average annual compensation earnable by a member during a consecutive 12-month period of employment, as specified.

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
4 average annual compensation earnable by a member
5 during ~~any period of three consecutive school years~~ the
6 *consecutive 12-month period of employment*
7 *immediately preceding the effective date of his or her*
8 *retirement or the date of his or her last separation from*
9 *service if earlier or during any other period of 12*
10 *consecutive months* while an active member of the
11 Defined Benefit Program or ~~time~~ during which he or she
12 was not a member but for which the member has
13 received credit under the Defined Benefit Program,
14 except time that was so credited for service performed
15 outside this state prior to July 1, 1944. The last ~~three~~
16 *consecutive years 12-month period* of employment shall
17 be used by the system in determining final compensation
18 unless designated to the contrary in writing by the
19 member.

20 (b) For purposes of this section, periods of service
21 separated by breaks in service may be aggregated to
22 constitute a period of ~~three 12 consecutive-years~~ *months*,
23 if the periods of service are consecutive except for the
24 breaks.

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

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



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

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

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

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

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

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

25 SEC. 2. Section 22136 of the Education Code is
26 amended to read:

27 22136. (a) "Final compensation" with respect to a
28 member whose salary while an active member was
29 reduced because of a reduction in school funds means the
30 highest average annual compensation earnable by the
31 member during any ~~three~~ *12 months* while
32 employed to perform creditable service subject to
33 coverage by the plan if the member elects to be subject
34 to this section.

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

37 SEC. 3. Section 20035.5 is added to the Government
38 Code, to read:

39 20035.5. Notwithstanding Section 20037, 'final
40 compensation' for the purposes of determining any



1 pension or benefit with respect to a school member
2 means the highest annual compensation which was
3 earnable by the school member during the consecutive
4 12-month period of employment immediately preceding
5 the effective date of his or her retirement or the date of
6 his or her last separation from service if earlier or during
7 any other period of 12 consecutive months during his or
8 her membership in this system that the member
9 designates on the application for retirement.

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