

AMENDED IN SENATE JANUARY 10, 2000

AMENDED IN SENATE JUNE 14, 1999

AMENDED IN ASSEMBLY APRIL 13, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

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

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

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



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

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

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

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

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

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

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

28 ~~SEC. 2. Section 22136 of the Education Code is~~
29 ~~amended to read:~~

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

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 who~~
2 ~~retires or dies on or after January 1, 2000, and with respect~~
3 ~~to benefits based on service with a school employer,~~
4 ~~means the highest annual compensation which was~~
5 ~~earnable by the school member during the consecutive~~
6 ~~12-month period of employment immediately preceding~~
7 ~~the effective date of his or her retirement or the date of~~
8 ~~his or her last separation from service if earlier or during~~
9 ~~any other period of 12 consecutive months during his or~~
10 ~~her membership in this system that the member~~
11 ~~designates on the application for retirement.~~

12 ~~SEC. 4. amended to read:~~

13 22134. (a) "Final compensation" means the highest
14 average annual compensation earnable by a member
15 during ~~any period of three the~~ consecutive ~~school years~~
16 *12-month period of employment immediately preceding*
17 *the effective date of his or her retirement or the date of*
18 *his or her last separation from service if earlier or during*
19 *any other period of 12 consecutive months* while an active
20 member of the Defined Benefit Program or time during
21 which he or she was not a member but for which the
22 member has received credit under the Defined Benefit
23 Program, except time that was so credited for service
24 performed outside this state prior to July 1, 1944. The last
25 ~~three~~ consecutive ~~years~~ *12-month period* of employment
26 shall be used by the system in determining final
27 compensation unless designated to the contrary in
28 writing by the member.

29 (b) For purposes of this section, periods of service
30 separated by breaks in service may be aggregated to
31 constitute a period of ~~three 12~~ consecutive ~~years~~ *months*,
32 if the periods of service are consecutive except for the
33 breaks.

34 (c) The determination of final compensation of a
35 member who has concurrent membership in another
36 retirement system pursuant to Section 22115.2 shall take
37 into consideration the compensation earnable while a
38 member of the other system, provided that all of the
39 following exist:



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

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

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

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

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

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

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

30 *SEC. 2. Section 22136 of the Education Code is*
31 *amended to read:*

32 22136. ~~(a)~~ "Final compensation" with respect to a
33 member whose salary while an active member was
34 reduced because of a reduction in school funds means the
35 highest average annual compensation earnable by the
36 member during any ~~three—years~~ *12 months* while
37 employed to perform creditable service subject to
38 coverage by the Defined Benefit Program if the member
39 elects to be subject to this section.



1 ~~(b) For the purposes of this section, a year shall be~~
2 ~~considered to be a period of 12 consecutive months.~~
3 *SEC. 3.* The increased costs imposed upon the State
4 Teachers' Retirement System by this act shall be paid
5 from funds in the Teachers' Retirement Fund under
6 existing provisions of law.

