

AMENDED IN SENATE AUGUST 31, 2000

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)**

*(Coauthors: Senators Johnston, Karnette, Ortiz, and
Vasconcellos)*

February 24, 1999

An act to ~~amend Sections 22134 and 22136 of~~ *add Sections 22134.5 and 22136.5 to* the Education 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” *for members with 25 or more years of credited service* to, instead, mean the highest average annual compensation earnable by a *the* 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~~
4 *SECTION 1. Section 22134.5 is added to the*
5 *Education Code, to read:*
6 *22134.5. (a) Notwithstanding Section 22134, “final*
7 *compensation” means the highest average annual*
8 *compensation earnable by a member during the*
9 *consecutive 12-month period of employment*
10 ~~immediately preceding the effective date of his or her~~
11 ~~retirement or the date of his or her last separation from~~
12 ~~service if earlier or during any other~~ *during any period of*
13 *12 consecutive months while an active member of the*
14 *Defined Benefit Program or time during which he or she*
15 *was not a member but for which the member has*
16 *received credit under the Defined Benefit Program,*
17 *except time that was so credited for service performed*
18 *outside this state prior to July 1, 1944. The last consecutive*
19 *12-month period of employment shall be used by the*
20 *system in determining final compensation unless*
21 *designated to the contrary in writing by the member.*
22 *(b) For purposes of this section, periods of service*
23 *separated by breaks in service may be aggregated to*
24 *constitute a period of 12 consecutive months, if the*
25 *periods of service are consecutive except for the breaks.*
26 *(c) The determination of final compensation of a*
27 *member who has concurrent membership in another*
28 *retirement system pursuant to Section 22115.2 shall take*



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

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

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

10 (3) Retirement under the Defined Benefit Program is
11 concurrent with the member's retirement under the
12 other system.

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

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

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

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

33 *(g) This section shall only apply to a member who has*
34 *25 or more years of credited service, excluding service*
35 *credited pursuant to Section 22714, 22715, 22717, or 22826,*
36 *but including any credited service that a court has*
37 *ordered be awarded to a nonmember spouse pursuant to*
38 *Section 22652. This section also shall apply to a*
39 *nonmember spouse, if the member had at least 25 years*
40 *of credited service, excluding service credited pursuant*



1 to Section 22714, 22715, 22717, or 22826, on the date the
2 parties separated, as established in the judgment or court
3 order pursuant to Section 22652.

4 ~~SEC. 2. Section 22136 of the Education Code is~~
5 ~~amended to read:~~

6 ~~22136. “Final~~

7 *SEC. 2. Section 22136.5 is added to the Education*
8 *Code, to read:*

9 *22136.5. (a) Notwithstanding Section 22136, “final*
10 *compensation” with respect to a member whose salary*
11 *while an active member was reduced because of a*
12 *reduction in school funds means the highest average*
13 *annual compensation earnable by the member during*
14 *any 12 months while employed to perform creditable*
15 *service subject to coverage by the Defined Benefit*
16 *Program if the member elects to be subject to this section.*

17 *(b) This section shall only apply to a member who has*
18 *25 or more years of credited service, excluding service*
19 *credited pursuant to Section 22714, 22715, 22717, or 22826,*
20 *but including any credited service that a court has*
21 *ordered be awarded to a nonmember spouse pursuant to*
22 *Section 22652. This section also shall apply to a*
23 *nonmember spouse, if the member had at least 25 years*
24 *of credited service, excluding service credited pursuant*
25 *to Section 22714, 22715, 22717, or 22826, on the date the*
26 *parties separated, as established in the judgment or court*
27 *order pursuant to Section 22652.*

28 ~~SEC. 3. The increased costs imposed upon the State~~
29 ~~Teachers’ Retirement System by this act shall be paid~~
30 ~~from funds in the Teachers’ Retirement Fund under~~
31 ~~existing provisions of law.~~

