

AMENDED IN ASSEMBLY AUGUST 25, 1998

AMENDED IN SENATE APRIL 22, 1998

SENATE BILL

No. 2126

Introduced by Committee on Public Employment and Retirement (Senators Schiff (Chair), Burton, and Karnette)

February 20, 1998

An act to amend Sections 22801, 22803, 22820, 23203, and 24201 of, and to add ~~Section 22147.5~~ *Sections 17193.5, 17199.5, 22147.5, 22260, and 22826* to, the Education Code, relating to the State Teachers' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

SB 2126, as amended, Committee on Public Employment and Retirement. State Teachers' Retirement System: benefits.

(1) The State Teachers' Retirement Law authorizes members to receive additional service credit upon payment of contributions.

This bill would require those payments to be made in not more than 120 monthly installments. The bill would authorize purchase of *up to 5 years of* nonqualified service, as defined.

(2) *Existing law authorizes redeposited refunded accumulated contributions to be made in not more than 60 monthly installments.*

This bill would authorize repayment in 120 monthly installments.

(3) Existing law authorizes purchase of out-of-state service and excludes that service from vesting requirements.

This bill would delete that exclusion, except as specified.

(4) *The California School Finance Authority Act authorizes the Controller, upon receipt of a deficiency notice from any school district or county office of education, to make specified apportionments to trustees.*

This bill would require the Controller to allocate apportionments to public credit providers, as defined, rather than the trustee if the bonds were subject to a credit enhancement agreement. The bill would authorize the State Teachers' Retirement System to provide credit enhancement for bonds, notes, certificates of participation, or other evidence of indebtedness of school employees.

(5) *The bill would incorporate additional changes in Section 24201 of the Education Code proposed by SB 610, that would become operative only if SB 610 and this bill are both chaptered and became effective on or before January 1, 1999, and this bill is chaptered last.*

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 17193.5 is added to the
2 Education Code, to read:

3 17193.5. (a) For purposes of this section, “public
4 credit provider” means any financial institution or
5 combination of financial institutions, which consists
6 either solely, or has as a member or participant, a public
7 retirement system. Notwithstanding any other provision
8 of law, a public credit provider may, in connection with
9 providing credit enhancement for bonds, notes,
10 certificates of participation, or other evidences of
11 indebtedness of a school district or county office of
12 education, require the school district or county office of
13 education to agree to the following conditions:

14 (1) If a participating school district or county office of
15 education adopts a resolution by a majority vote of its
16 board to participate under this section, it shall provide
17 notice to the Controller of that election. The notice shall
18 include a schedule for the repayment of principal and



1 interest on the bonds, notes, certificates of participation,
2 or other evidence of indebtedness and identify the public
3 credit provider that provided credit enhancement. The
4 notice shall be provided not later than the date of issuance
5 of the bonds.

6 (2) If, for any reason a public credit provider is
7 required to make principal or interest payments or both
8 pursuant to a credit enhancement agreement, the public
9 credit provider shall immediately notify the Controller of
10 that fact and of the amount paid out by the public credit
11 provider.

12 (3) Upon receipt of the notice required by paragraph
13 (2), the Controller shall make an apportionment to the
14 public credit provider in the amount of the payments
15 made by the public credit provider for the purpose of
16 reimbursing the public credit provider for its
17 expenditures made pursuant to the credit enhancement
18 agreement. The Controller shall make that
19 apportionment only from moneys designated for
20 apportionments to the school district pursuant to Section
21 42238 or to the county office of education pursuant to
22 Section 2558 or to the community college district
23 pursuant to Section 84750.

24 (b) The amount apportioned for a school district, a
25 county office of education, or a community college
26 district pursuant to this section shall be deemed to be an
27 allocation to the district or the county office of education
28 or the community college district for purposes of
29 subdivision (b) or Section 8 of Article XVI of the
30 California Constitution. For purposes of computing
31 revenue limits or revenue levels pursuant to Section
32 42338 for any school district or pursuant to Section 2558
33 for any county office of education or pursuant to Section
34 84750 for any community college district, the revenue
35 limit or revenue level for any fiscal year in which funds
36 are apportioned for the district or for the county office of
37 education pursuant to this section shall include any
38 amounts apportioned by the Controller pursuant to
39 paragraph (3) of subdivision (a).



1 SEC. 2. Section 17199.5 is added to the Education
2 Code, to read:

3 17199.5. Notwithstanding Section 17199.4, if the bonds
4 were subject to a credit enhancement agreement
5 provided by a public credit provider pursuant to Section
6 17193.5 for which a payment for principal or interest, or
7 both, has been made by the public credit provider, the
8 Controller shall allocate to the public credit provider,
9 rather than the trustee, the percentage of the
10 apportionment to be made pursuant to this paragraph
11 equal to the percentage of the outstanding indebtedness
12 which is subject to the credit enhancement agreement.

13 SEC. 3. Section 22147.5 is added to the Education
14 Code, to read:

15 22147.5. “Nonqualified service” means time during
16 which creditable service subject to coverage by the plan
17 is not performed, excluding time a member is eligible to
18 purchase as permissive or additional service credit
19 pursuant to Chapter 14 (commencing with Section
20 22800), Chapter 14.2 (commencing with Section 22820),
21 and Chapter 14.5 (commencing with Section 22850).

22 ~~SEC. 2.—~~

23 SEC. 4. Section 22260 is added to the Education Code,
24 to read:

25 22260. Notwithstanding any other provision of law,
26 the system may provide credit enhancement for bonds,
27 notes, certificates of participation, or other evidences of
28 indebtedness of an employer, provided that any credit
29 enhancement transaction satisfies the requirement of
30 Section 22250 and does not constitute a prohibited
31 transaction for purposes of Section 503 of the United
32 States Internal Revenue Code.

33 SEC. 5. Section 22801 of the Education Code is
34 amended to read:

35 22801. (a) A member who elects to receive
36 additional service credit as provided in this chapter shall
37 pay, prior to retirement, all contributions with respect to
38 that service at the contribution rate for additional service
39 credit, adopted by the board as a plan amendment, in
40 effect at the time of election. Contributions shall be made



1 in a lump sum, or in not more than 120 monthly
2 installments. No installment, except the final installment,
3 shall be less than twenty-five dollars (\$25).

4 (b) If the member is employed to perform creditable
5 service subject to coverage by the plan at the time of the
6 election, the contributions shall be based upon the
7 compensation earnable in the current school year or
8 either of the two immediately preceding school years,
9 whichever is highest.

10 (c) If the member is not employed to perform
11 creditable service subject to coverage by the plan at the
12 time of the election, the contributions shall be based upon
13 the compensation earnable in the last school year of
14 credited service or either of the two immediately
15 preceding school years, whichever is highest.

16 (d) The employer may pay the amount required as
17 employer contributions for additional service credited
18 under paragraphs (2), (6), (7), (8), and (9) of subdivision
19 (a) of Section 22803.

20 (e) The Public Employees' Retirement System shall
21 transfer the actuarial present value of the assets of a
22 person who makes an election pursuant to paragraph
23 (10) of subdivision (a) of Section 22803.

24 (f) Regular interest shall be charged on all
25 contributions from the end of the school year on which
26 the contributions were based to the date of payment.

27 (g) Regular interest shall be charged on the monthly
28 unpaid balance if the member pays in installments.

29 ~~SEC. 3.~~

30 *SEC. 6.* Section 22803 of the Education Code is
31 amended to read:

32 22803. (a) A member may elect to receive credit for
33 any of the following:

34 (1) Service performed in a teaching position in a
35 publicly supported and administered university or
36 college in this state.

37 (2) Service performed in a certificated teaching
38 position in a child care center operated by a county
39 superintendent of schools or a school district in this state.



1 (3) Service performed in a teaching position in the
2 California School for the Deaf or the California School for
3 the Blind, or in special classes maintained by the public
4 schools of this state for the instruction of the deaf, the hard
5 of hearing, the blind, or the semisighted.

6 (4) Service performed in a certificated teaching
7 position in a federally supported and administered Indian
8 school in this state.

9 (5) Time served, not to exceed two years, in a
10 certificated teaching position in a job corps center
11 administered by the United States government in this
12 state if the member was employed to perform creditable
13 service subject to coverage by the plan within one year
14 prior to entering the service and returned to
15 employment to perform creditable service subject to
16 coverage by the plan within six months following the date
17 of termination of service in the job corps.

18 (6) Time spent on a sabbatical leave after July 1, 1956.

19 (7) Time spent on an approved leave to participate in
20 any program under the federal Mutual Educational and
21 Cultural Exchange Program.

22 (8) Time spent on an approved maternity or paternity
23 leave of two years or less in duration, regardless of
24 whether or not the leave was taken before or after the
25 addition of this subdivision.

26 (9) Time spent on an approved leave, up to four
27 months in any 12-month period, for family care or
28 medical leave purposes, as defined by Section 12945.2 of
29 the Government Code, as it read on the date leave was
30 granted, excluding maternity and paternity leave.

31 (10) Time spent employed by the Board of Governors
32 of the California Community Colleges in a position
33 subject to coverage by the Public Employees' Retirement
34 System between July 1, 1991, and December 31, 1997,
35 provided the member has elected to return to coverage
36 under the State Teachers' Retirement System pursuant to
37 Section 20309 of the Government Code.

38 ~~(11) Time elected as nonqualified service, up to five~~
39 ~~years, provided the member is vested in the plan as~~
40 ~~provided in Section 22156.~~



1 (b) In no event shall the member receive credit for
2 service or time described in paragraphs (1) to (11),
3 inclusive, of subdivision (a) if the member has received
4 or is eligible to receive credit for the same service or time
5 in the Cash Balance Plan under Part 14 (commencing
6 with Section 26000) or another retirement system.

7 ~~SEC. 4.~~

8 *SEC. 7.* Section 22820 of the Education Code is
9 amended to read:

10 22820. (a) A member, other than a retired member,
11 may elect to purchase out-of-state service credited in a
12 public retirement system for service covering public
13 education in another state or territory of the United
14 States or by the United States for its citizens. In no event
15 shall the member receive credit for this service if the
16 member has credit or is eligible to receive credit for the
17 same service in the Cash Balance Plan under Part 14
18 (commencing with Section 26000) or another public
19 retirement system, excluding social security.

20 (b) The amount of out-of-state service for which a
21 member may purchase credit may not exceed the
22 number of years of service credited to the member in the
23 out-of-state retirement system or 10 years, whichever is
24 less.

25 (c) Out-of-state service credit may be purchased
26 under this section by means of any of the following
27 actions:

28 (1) Paying an amount equal to the amount refunded
29 from the other public retirement system and receiving
30 service credit in this plan pursuant to subdivision (a) of
31 Section 22823.

32 (2) Paying the contributions required under this plan
33 pursuant to subdivision (a) of Section 22823 for the
34 service credited in the other public retirement system.

35 (3) Paying an amount equal to the amount refunded
36 from the other public retirement system and an
37 additional amount in accordance with subdivision (a) of
38 Section 22823 for the service credited in the other public
39 retirement system.



1 (d) Contributions made to a plan qualified under
2 Section 403(b) of the Internal Revenue Code may not be
3 used to purchase credit for out-of-state service.

4 (e) Compensation for out-of-state service shall not be
5 used in determining the highest average annual
6 compensation earnable when calculating final
7 compensation.

8 (f) The credited service purchase under this section
9 shall not be used to meet the eligibility requirements for
10 benefits provided under Sections 24001 and 24101.

11 ~~SEC. 5.~~

12 *SEC. 8. Section 22826 is added to the Education Code,*
13 *to read:*

14 *22826. (a) A member may elect to receive up to five*
15 *years of credit for nonqualified service provided the*
16 *member is vested in the plan as provided in Section 22156.*

17 *(b) A member who elects to receive credit for*
18 *nonqualified service as provided in this chapter shall*
19 *contribute to the retirement fund the actuarial cost of the*
20 *service, including interest as appropriate, as determined*
21 *by the board based on the most recent valuation of the*
22 *plan.*

23 *(1) Payment that a member may make to the system*
24 *to obtain credit for nonqualified service shall be paid in*
25 *full prior to the effective date of a family, survivor,*
26 *disability, or retirement allowance.*

27 *(2) If the system is unable to inform the member of the*
28 *amount required to purchase nonqualified service prior*
29 *to the effective date of the applicable allowance, the*
30 *member may make payment in full within 30 working*
31 *days after the date of mailing of the statement of*
32 *contributions and interest required or the effective date*
33 *of the appropriate allowance, whichever is later.*

34 *(c) Contributions for nonqualified service credit shall*
35 *be made in a lump sum or in not more than 120 monthly*
36 *installments. No installment, except the final installment,*
37 *shall be less than twenty-five dollars (\$25).*

38 *(d) Regular interest shall be charged on the monthly*
39 *unpaid balance if the member makes installment*
40 *payments.*



1 SEC. 9. Section 23203 of the Education Code is
2 amended to read:

3 23203. Redeposit of refunded accumulated
4 retirement contributions shall be made in one sum, or in
5 not more than ~~€~~ 120 monthly installments, provided that
6 no installment, except the final installment, shall be less
7 than twenty-five dollars (\$25).

8 SEC. 10. Section 24201 of the Education Code is
9 amended to read:

10 24201. (a) A member may retire for service upon
11 written application for retirement to the board, under
12 paragraph (1) or (2) as follows:

13 (1) The member has attained age 55 years or more and
14 has at least five years of credited service, ~~including~~
15 ~~out-of-state service purchased pursuant to Section 22820,~~
16 at least one year of which has been performed subsequent
17 to the most recent refund of accumulated retirement
18 contributions. *The five years of credited service may*
19 *include out-of-state service purchased pursuant to*
20 *Section 22820.*

21 (2) The member is credited with service that is not
22 used as a basis for benefits under any other public
23 retirement system, excluding the federal ~~Social Security~~
24 *social security* system, if he or she has attained age 55
25 years and retires concurrently under the Public
26 Employees' Retirement System, the Legislators'
27 Retirement System, the University of California
28 Retirement System, ~~county retirement systems~~
29 ~~established under the County Employee Retirement Law~~
30 ~~of 1937,~~ or the San Francisco City and County Employees'
31 Retirement System.

32 (b) Application for retirement under paragraph (2) of
33 subdivision (a) may be made at any time.

34 SEC. 11. Section 24201 of the Education Code is
35 amended to read:

36 24201. (a) A member may retire for service upon
37 written application for retirement to the board, under
38 paragraph (1) or (2) as follows:

39 (1) The member has attained age 55 years or more and
40 has at least five years of credited ~~California~~ service, at



1 least one year of which has been performed subsequent
2 to the most recent refund of accumulated retirement
3 contributions, ~~if. The five of the final six years of credited~~
4 ~~service have been in this state may include out-of-state~~
5 ~~service purchased pursuant to Section 22820.~~

6 (2) The member is credited with service that is not
7 used as a basis for benefits under any other public
8 retirement system, *excluding the federal social security*
9 *system*, if he or she has attained age 55 years and retires
10 concurrently under the Public Employees' Retirement
11 System, the Legislators' Retirement System, the
12 University of California Retirement System, *county*
13 *retirement systems established under the County*
14 *Employee Retirement Law of 1937*, or the San Francisco
15 City and County Employees' Retirement System.

16 ~~(b) In the calculation of allowances of members who~~
17 ~~qualify for retirement under paragraph (2) of subdivision~~
18 ~~(a) and who are not qualified for retirement under~~
19 ~~paragraph (1) of that subdivision, any service performed~~
20 ~~in other states of the United States, its territories and~~
21 ~~possessions, or in Canada shall be excluded.~~

22 ~~(c) Application for retirement under paragraph (2) of~~
23 ~~subdivision (a) may be made at any time.~~

24 *SEC. 12. Section 11 of this bill incorporates*
25 *amendments to Section 24201 of the Education Code*
26 *proposed by both this bill and SB 610. It shall only become*
27 *operative if (1) both bills are enacted and become*
28 *effective on or before January 1, 1999, (2) each bill*
29 *amends Section 24201 of the Education Code, and (3) this*
30 *bill is enacted after SB 610, in which case Section 10 of this*
31 *bill shall not become operative.*

