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SB-294 Public retirement: leave of absence: service credit. (2021-2022)

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Senate Bill No. 294

CHAPTER 539

An act to amend Sections 22711, 44987, 45210, 87768.5, and 88210 of the Education Code, and to amend Section 20906 of the Government Code, relating to public retirement, and making an appropriation therefor.

[Approved by Governor October 05, 2021. Filed with Secretary of State October 05, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 294, Leyva. Public retirement: leave of absence: service credit.

The Public Employees' Retirement Law (PERL) establishes the Public Employees' Retirement System (PERS) for the purpose of providing pension benefits to state employees and employees of contracting agencies. Existing law requires administration of PERS by the Board of Administration of PERS. Existing law creates the Public Employees' Retirement Fund, a continuously appropriated fund, as a trust fund to be expended for purposes related to the system and its administration, and into which employee contributions are deposited.

The Teachers' Retirement Law establishes the State Teachers' Retirement System (STRS) for the purpose of providing a defined benefit to members of the program. STRS is governed by the Teachers' Retirement Board. Existing law creates the Teachers' Retirement Fund, which is continuously appropriated for specified purposes, and into which employee contributions are deposited.

Existing law entitles an elected officer of an employee organization that is on a compensated leave of absence, as specified, for purposes of service with an employee organization to retirement service credit in STRS and PERS if specified conditions are met. Existing law requires the governing board of a school district, or the governing board of a community college district, to grant any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve in this manner, as specified. Existing law excepts certain employees from these provisions if they are subject to a collective bargaining agreement that expressly provides for a leave of absence without loss of compensation for participation in authorized activities as an elected officer or an unelected member of the public employee organization. Existing law limits the maximum amount of the service credit earned during a compensated leave of absence for the purposes described above to 12 years.

This bill would remove the 12-year limitation for service credit earned on a compensated leave of absence for purposes of service with an employee organization, as described above. The bill would state that this leave is in addition to any leave to which public employees may be entitled by other laws or by a memorandum of understanding or collective bargaining agreement. The bill, for purposes of provisions relating to community college districts, would apply its provisions retroactively to service as an elected officer in a public employee organization occurring after August 31, 1978, and would prescribe a process and conditions for receiving service credit in this context. The bill would prescribe the rates at which contributions are to be made for certain provisions. The bill would make conforming changes consistent with its retroactive effect and would make technical changes. By increasing contributions into the continuously appropriated Public Employees' Retirement Fund and Teachers' Retirement Fund, the bill would make an appropriation.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22711 of the Education Code is amended to read:

22711. An elected officer of an employee organization that is on a compensated leave of absence pursuant to Section 44987 or 87768.5 shall be entitled to the service credit, compensation earnable, interest, and additional earnings credits under this part that they otherwise would have been due had the member not been on the compensated leave of absence, if all of the following conditions are met:

(a) The member was employed and performed creditable service subject to coverage under this Defined Benefit Program in the month before commencement of the leave of absence.

(b) The member makes contributions to the Teachers' Retirement Fund in the amount that the member would have contributed had the member performed creditable service during the period the member served as an elected officer of the employee organization.

(c) The member's employer contributes to the Teachers' Retirement Fund at a rate adopted by the board as a plan amendment with respect to the Defined Benefit Program an amount based upon the creditable compensation that would have been paid to the member had the member performed creditable service during the period the member served as an elected officer of the employee organization.

SEC. 2. Section 44987 of the Education Code is amended to read:

44987. (a) (1) The governing board of a school district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local school district public employee organization, or any statewide or national public employee organization with which the local organization is affiliated.

(2) The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the school district as employer. The required employer contribution rate shall be the rate adopted by the Teachers' Retirement Board as a plan amendment with respect to the Defined Benefit Program as provided in Section 22711. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by Section 22711. Any employee who serves as a full-time officer of a public employee organization is not eligible for disability benefits under the State Teachers' Retirement Plan while on the leave of absence.

(3) Following the school district's payment of the employee for the leave of absence, the school district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee.

(4) The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code. The leave provided under this section shall be in addition to any leave to which public employees may be entitled by other laws or by a memorandum of understanding or collective bargaining agreement.

(5) For purposes of this section, "school district" also means "county superintendent of schools."

(b) (1) An employee who after August 31, 1978, was absent on account of elected-officer service, shall receive full service credit in the State Teachers' Retirement Plan, provided that both of the following conditions are met:

(A) The employee makes a written request to the employer for a leave of absence for the period of the elected-officer service.

(B) The employee organization of which the member is an elected officer pays to the member's employer an amount equal to the required State Teachers' Retirement Plan member and employer retirement contributions, including regular interest on the balance of contributions due to the State Teachers' Retirement System, calculated from the date the contributions would have been due when the elected-officer service was performed to the date payment is received by the State Teachers' Retirement System, compounded daily based on the regular interest rate in effect the day the payment is received by the State Teachers' Retirement System, as prescribed by this section.

(2) The school district, following this written request and payment, shall transmit the amount received to the State Teachers' Retirement System, informing it of the period of the employee's leave of absence. The State Teachers' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.

(3) If the employee has been compensated by the school district for the period of the service, then, as a condition to the employee's entitlement to service credit for this period, the school district shall be reimbursed by the employee organization for the amount of the compensation.

(c) Notwithstanding any other provisions of law, this section shall apply retroactively to all service as an elected officer in a public employee organization occurring after August 31, 1978.

SEC. 3. Section 45210 of the Education Code is amended to read:

45210. (a) (1) The governing board of a school district shall grant to a classified employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of a local school district public employee organization, or a statewide or national public employee organization with which the local organization is affiliated.

(2) The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the school district as employer. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by subdivision (a) of Section 20677 of the Government Code.

(b) Upon request of a recognized local school district public employee organization, or a statewide or national public employee organization with which the local organization is affiliated, the governing board of a school district shall grant a leave of absence, without loss of compensation, to a reasonable number of unelected classified employees for the purpose of enabling an employee to attend important organizational activities authorized by the public employee organization. Compensation during the leave shall include retirement fund contributions required of the school district as employer. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by subdivision (a) of Section 20677 of the Government Code.

(c) Following the school district's payment of the employee for the leave of absence, the school district shall be reimbursed by the employee organization of which the employee is an elected officer or an unelected member for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee.

(d) The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code. The leave provided under this section shall be in addition to any leave to which public employees may be entitled by other laws or by a memorandum of understanding or collective bargaining agreement.

(e) For purposes of this section, "school district" also means "county superintendent of schools."

(f) The representing employee organization shall provide reasonable notification to the employer requesting a leave of absence without loss of compensation pursuant to subdivision (a).

(g) (1) A classified employee who after August 31, 1987, was absent on account of elected-officer service, shall receive full service credit in the Public Employees' Retirement System, provided that both of the following conditions are met:

(A) The employee makes a written request to the employer for a leave of absence for the period of the elected-officer service.

(B) The employee organization of which the employee is an elected officer pays to the employee's school district an amount equal to the required Public Employees' Retirement System member and employer retirement contributions, as prescribed by this section.

(2) The school district, following this written request and payment, shall transmit the amount received to the Public Employees' Retirement System, informing it of the period of the employee's leave of absence. The Public Employees' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.

(3) If the employee has been compensated by the school district for the period of the service, then, as a condition to the employee's entitlement to service credit for this period, the school district shall be reimbursed by the employee organization for the amount of the compensation.

(h) Notwithstanding any other provisions of law, this section shall apply retroactively to all service as an elected officer in a public employee organization occurring after August 31, 1987.

(i) This section shall not apply to an employee who is subject to a collective bargaining agreement that expressly provides for a leave of absence without loss of compensation for participation in authorized activities as an elected officer or an unelected member of the public employee organization.

SEC. 4. Section 87768.5 of the Education Code is amended to read:

87768.5. (a) (1) The governing board of a community college district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local community college district public employee organization, or of any statewide or national public employee organization with which the local organization is affiliated.

(2) The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the community college district as employer. The required employer contribution rate shall be the rate adopted by the Teachers' Retirement Board as a plan amendment with respect to the Defined Benefit Program as provided in Section 22711. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by Section 22711. Any employee who serves as a full-time officer of a public employee organization shall not be eligible for disability benefits under the State Teachers' Retirement System while on the leave of absence.

(3) Following the community college district's payment of the employee for the leave of absence, the community college district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the community college district's certification of payment of compensation to the employee.

(4) The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code. The leave provided under this section shall be in addition to any leave to which public employees may be entitled by other laws or by a memorandum of understanding or collective bargaining agreement.

(b) (1) An employee who after August 31, 1978, was absent on account of elected-officer service, shall receive full service credit in the State Teachers' Retirement Plan, provided that both of the following conditions are met:

(A) The employee makes a written request to the employer for a leave of absence for the period of the elected-officer service.

(B) The employee organization of which the member is an elected officer pays to the member's employer an amount equal to the required State Teachers' Retirement Plan member and employer retirement contributions, including regular interest on the balance of contributions due to the State Teachers' Retirement System, calculated from the date the contributions would have been due when the elected-officer service was performed to the date payment is received by the State Teachers' Retirement System, compounded daily based on the regular interest rate in effect the day the payment is received by the State Teachers' Retirement System, as prescribed by this section.

(2) The community college district, following this written request and payment, shall transmit the amount received to the State Teachers' Retirement System, informing it of the period of the employee's leave of absence. The State Teachers' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.

(3) If the employee has been compensated by the school district for the period of the service, then, as a condition to the employee's entitlement to service credit for this period, the school district shall be reimbursed by the employee organization for the amount of the compensation.

(c) Notwithstanding any other provisions of law, this section shall apply retroactively to all service as an elected officer in a public employee organization occurring after August 31, 1978.

SEC. 5. Section 88210 of the Education Code is amended to read:

88210. (a) (1) The governing board of a community college district shall grant to a classified employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of a local community college district public employee organization, or of a statewide or national public employee organization with which the local organization is affiliated.

(2) The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the community college district employer. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by subdivision (a) of Section 20677 of the Government Code.

(b) Upon request of a recognized local community college district public employee organization, or a statewide or national public employee organization with which the local organization is affiliated, the governing board of a community college district shall grant a leave of absence, without loss of compensation, to a reasonable number of unelected classified employees for the purpose of enabling an employee to attend important organizational activities authorized by the public employee organization. Compensation during the leave shall include retirement fund contributions required of the community college district as employer. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by subdivision (a) of Section 20677 of the Government Code.

(c) Following the community college district's payment of the employee for the leave of absence, the community college district shall be reimbursed by the employee organization of which the employee is an elected officer or an unelected member for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the community college district's certification of payment of compensation to the employee.

(d) The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code. The leave provided under this section shall be in addition to any leave to which public employees may be entitled by other laws or by a memorandum of understanding or collective bargaining agreement.

(e) The representing employee organization shall provide reasonable notification to the employer requesting a leave of absence without loss of compensation pursuant to subdivision (a).

(f) (1) A classified employee who after August 31, 1987, was absent on account of elected-officer service, shall receive full service credit in the Public Employees' Retirement System, provided that both of the following conditions are met:

(A) The employee makes a written request to the employer for a leave of absence for the period of the elected-officer service.

(B) The employee organization of which the employee is an elected officer pays to the employee's community college district an amount equal to the required Public Employees' Retirement System member and employer retirement contributions, as prescribed by this section.

(2) The community college district, following the written request and payment, shall transmit the amount received to the Public Employees' Retirement System, informing it of the period of the employee's leave of absence. The Public Employees' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.

(3) If the employee has been compensated by the community college district for the period of the service, then, as a condition to the employee's entitlement to service credit for the period, the community college district shall be reimbursed by the employee organization for the amount of the compensation.

(g) Notwithstanding any other provisions of law, this section shall apply retroactively to all service as an elected officer in a public employee organization occurring after August 31, 1987.

(h) This section shall not apply to an employee who is subject to a collective bargaining agreement that expressly provides for a leave of absence without loss of compensation for participation in authorized activities as an elected officer or an unelected member of the public employee organization.

SEC. 6. Section 20906 of the Government Code is amended to read:

20906. (a) Notwithstanding any other provision of this part, a school member who is on an approved leave of absence to serve as an elected officer of an employee organization pursuant to Section 45210 or 88210 of the Education Code, shall receive the service credit the member would have received if not on leave, and shall have benefits the member is entitled to under this part, based upon the salary that the member would receive if not on leave. Both the member and the member's employer shall contribute to the retirement fund the amount that would have been contributed had the member not been on leave.

(b) The school employer shall verify the eligibility of the applicant for the elected officer's leave of absence.

(c) The employer shall maintain the necessary records to separately identify each employee receiving service credit pursuant to this section.