



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

**SB-1402 Public employees' retirement: armed forces: service credit.** (2021-2022)

SHARE THIS:  

Date Published: 08/26/2022 09:00 PM

**Senate Bill No. 1402**

**CHAPTER 196**

An act to amend Section 22806 of the Education Code, and to amend Sections 21024, 21027, and 21029 of the Government Code, relating to public employees' retirement, and making an appropriation therefor.

[ Approved by Governor August 26, 2022. Filed with Secretary of State August 26, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1402, Umberg. Public employees' retirement: armed forces: service credit.

Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, creditable service, and age at retirement, subject to certain variations. STRS is administered by the Teachers' Retirement Board. Existing law creates the Teachers' Retirement Fund, which is continuously appropriated for specified purposes, into which certain moneys are deposited, including employee contributions.

Existing law authorizes a member of STRS to receive creditable service for certain types of service outside the system, including military service, and distinguishes in this regard between service performed before membership and after becoming a member. Existing law authorizes a member who is a state employee, or a retired member who retired immediately following service as a state employee, as specified, to receive credit for specified military or Merchant Marine service occurring prior to membership and prescribes requirements and limits in this connection. Existing law requires, in this context, that the member contribute sufficient funds to cover the total cost of military service credit, as specified. Existing law limits the application of this authorization to receive premembership service credit to specified service in the Armed Forces of the United States or in the Merchant Marine of the United States prior to January 1, 1950.

This bill would delete the limitation that the service have occurred prior to January 1, 1950, from these provisions, unless certain exceptions apply, and would delete the requirement that the electing member is a state employee or a retired member who retired immediately following service as a state employee. By providing for additional contributions to be made to a continuously appropriated fund, this bill would make an appropriation.

The Public Employees' Retirement Law creates the Public Employees' Retirement System (PERS), which is administered by the Board of Administration of the Public Employees' Retirement System. Existing law establishes the Public Employees' Retirement Fund, which is a trust fund that is appropriated continuously for specified purposes, into which certain moneys are deposited, including employee contributions.

Existing law authorizes specified members of PERS, including state members, to receive public service credit for certain types of service outside the system, including military service, and distinguishes in this regard between service performed before membership and after becoming a member. Existing law authorizes receipt of public service credit for specified military or Merchant Marine service occurring prior to membership and prescribes requirements and limits in this connection. Existing law

requires, in this context, that the member contribute funds to cover the total cost of this public service credit, as specified. Existing law limits the application of this authorization to receive this public service credit to specified service in the Armed Forces of the United States or in the Merchant Marine of the United States prior to January 1, 1950. Existing law provides that this authorization only applies to agencies contracting with PERS if the agency elects to amend its contract.

This bill would delete the requirement that the service subject to the authorization described above have occurred prior to January 1, 1950, and would require contracting agencies to provide members the option to receive the public service credit for specified service in the Armed Forces of the United States or in the Merchant Marine of the United States. By providing for additional contributions to be made to a continuously appropriated fund, this bill would make an appropriation.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

---

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

### **SECTION 1.** Section 22806 of the Education Code is amended to read:

**22806.** (a) A member who retired on or after December 31, 1981, may elect to receive credit under this part, of not to exceed four years, for time served of not less than one year, prior to membership in the Defined Benefit Program, in the Armed Forces of the United States or in the Merchant Marine of the United States. Service credit shall not be granted if that service terminated with a discharge under dishonorable conditions. The service credit to be accorded pursuant to this section for that service shall be on the basis of one year of credit for each five years of credited service, but shall not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent service. A member electing to receive credit under this part for that service shall have been credited with at least 10 years of service on the date of election.

(b) A member who elects to become subject to this section shall pay all reasonable administrative costs and contributions, sufficient to cover the total employer and employee cost plus interest of the military service credit, to be calculated in a manner consistent with other permissive service credit purchases in this chapter, as determined by the board.

(c) This section shall not apply to a member who is receiving either of the following:

(1) Military retirement pay based on 20 or more years of active duty with the Armed Forces of the United States, except for credit toward military retirement pay that is earned by a combination of active duty and nonactive duty with a reserve component of the Armed Forces of the United States and where the retirement pay is payable only upon the attainment of a specified age.

(2) Disability retirement pay that is paid by one of the Armed Forces of the United States, except for a member who is receiving disability compensation from the Veterans Administration and is not receiving retirement pay from one of the Armed Forces of the United States.

(d) A member shall not receive credit for service or time under this section if the member has received or is eligible to receive credit for the same service or time in the Cash Balance Benefit Program under Part 14 (commencing with Section 26000) or in another public retirement system.

(e) The board has no duty to locate or notify any member or to provide the name or address of any member, agency, or entity for the purpose of notifying those persons.

### **SEC. 2.** Section 21024 of the Government Code is amended to read:

**21024.** (a) "Public service" with respect to a local member, other than a school member, also means active service with the Armed Forces or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the member's first employment by the employer under this section in which the employee was a member.

(b) Any member electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service under this section shall not include military service in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990), or to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a member may select which of two or more periods of service entitles the member to receive public service under this section.

(e) This section shall apply to a member only if the member elects to receive credit while in state service in the employment of one employer on or after the date of the employer's election to be subject to this section.

(f) An employer shall inform a new employee at the time of hire of their rights to purchase service credit under this section.

**SEC. 3.** Section 21027 of the Government Code is amended to read:

**21027.** (a) "Public service" with respect to a local member who retired pursuant to this part before the effective date of the election of their employer to be subject to Section 21024 also means active service with the Armed Forces of the United States or the Merchant Marine of the United States, including time during any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes, and for six months thereafter prior to the person's first employment by the employer under this section in which the person was a member.

(b) Any retired person electing to receive credit for that public service shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who requests costing of service credit between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(c) The public service shall not include military service in any period for which credit is otherwise given under this article or Article 4 (commencing with Section 20990), or to the extent that total credit under this section would exceed four years.

(d) Notwithstanding Section 21034, a retired person may select which of two or more periods of service entitles the retired person to receive public service under this section.

(e) This section shall apply to a retired person only if that person retired immediately following service as a local member, pursuant to this part, and before the effective date of the election by their employer to be subject to Section 21024.

(f) The retirement allowance of a retired person who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the effective date of the election.

**SEC. 4.** Section 21029 of the Government Code is amended to read:

**21029.** (a) "Public service" with respect to a state member or a school member or with respect to a retired former state employee or a retired former school employee, who retired on or after December 31, 1981, also means active service, prior to entering this system as a state member or as a school member, of not less than one year in the Armed Forces of the United States, or, active service, prior to entering this system as a state or school member, of not less than one year in the Merchant Marine of the United States. Public service credit shall not be granted if the service described above terminated with a discharge under dishonorable conditions. The public service credit to be granted for that service shall be on the basis of one year of credit for each year of credited state service, but shall not exceed a total of four years of public service credit regardless of the number of years of either that service or subsequent state service. A state member or a school member or a retired former state employee or a retired former school employee electing to receive a credit for that public service shall have been credited with at least one year of state service on the date of election or the date of retirement.

(b) An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university, or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member. The retirement allowance of a retired former state employee or a retired former school employee, who elects to receive public service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election. For the purposes of this section, a member as described in subdivision (d) of Section 20776, shall also mean a former state employee or a former school employee, who retired on or after December 31, 1981.

(c) A member or retired former employee who elects to become subject to this section shall make the contributions as specified in Sections 21050 and 21052.

(d) The board has no duty to locate or notify any eligible former member who is currently retired or to provide the name or address of any such retired person, agency, or entity for the purpose of notifying those persons.

(e) An employer shall inform a new employee at the time of hire of their rights to purchase service credit under this section.