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AB-1997 Teachers' Retirement Law. (2023-2024)

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Assembly Bill No. 1997

CHAPTER 690

An act to amend and repeal Section 22119.2 of, to amend, repeal, and add Sections 22104.8, 22115, 22119.3, 22119.5, 22121, 22170, 22317.5, 22701, and 22905 of, and to add Sections 22156.07, 22156.08, and 22324.5 to, the Education Code, relating to retirement, and making an appropriation therefor.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1997, McKinnor. Teachers' Retirement Law.

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 requires employers and employees to make contributions to the system based on the member's creditable compensation. Existing law defines terms for the purposes of STRS.

Existing law defines "annualized pay rate" to mean the salary or wages, as described, a person could earn during a school term for an assignment if creditable service were performed for that assignment on a full-time basis. Existing law establishes a pay rate when creditable service is not performed on a full-time basis because a member is performing activities pursuant to specified law.

This bill would redefine "annualized pay rate" to mean the salary, as described, a person could earn during a school term in a position subject to membership if creditable service were performed for that position on a full-time basis, to be determined pursuant to a publicly available pay schedule by a prescribed method. The bill, if no annualized pay rate exists for a position subject to membership, would deem all compensation earned in that position "supplemental pay," as prescribed.

Existing law defines "compensation earnable" for these calculations to be the sum of the average annualized pay rate, determined as the quotient obtained when salary or wages, as described, paid in a school year is divided by the service credited for that school year and remuneration that is paid in addition to salary or wages for the school year, as prescribed.

This bill would revise the definition of "compensation earnable" to be the sum of the average annualized pay rate, determined as the quotient obtained when salary earned in a school year is divided by the service credited for that salary and special pay, as prescribed.

Existing law defines "creditable compensation" to mean cash payments from an employer to all persons in the same class of employees for performing creditable service in that position of salary or wages pursuant to contract and remuneration that is paid in addition to salary or wages, as prescribed. Existing law alternatively defines "creditable compensation" for members who are subject to the California Public Employees' Pension Reform Act of 2013, as prescribed.

This bill would repeal both of those provisions and redefine “creditable compensation” to mean cash remuneration that includes base pay and supplemental pay, as prescribed.

Existing law defines “creditable service” to mean specified activities relating to education performed for employers, including specified K–12 employers, community college employers, and charter school employers.

This bill would redefine “creditable service” to mean service in a position subject to membership. The bill would for this purpose define “position subject to membership” to mean prescribed positions at various educational institutions. The bill would also include in that definition certain positions in which a member performed creditable service before the operative date of the added definition of “position subject to membership,” provided that the same member remains continuously employed to perform service in that position on and after that date.

Existing law establishes alternate definitions for “credited service” for members based on whether they are subject to the California Public Employees’ Pension Reform Act of 2013 (PEPRA).

This bill would instead define “credited service” to mean service for which the required contributions have been paid and service for which required contributions would have been paid in absence of prescribed limits.

Existing law defines “service” to mean work performed for compensation in a position subject to coverage under the defined benefit program, except as otherwise specifically provided in existing law, providing the contributions on compensation for that work are not credited to a defined benefit supplement program.

This bill would redefine “service” to mean work performed for compensation, except as otherwise specifically provided in existing law.

Existing law establishes a cap on the amount of compensation that is taken into account in computing benefits payable for a member who first joins the program on or after July 1, 1996.

This bill would additionally specify a cap for a member subject to PEPRA.

Existing law provides for the computation of service to be credited for service performed before July 1, 1972, or on or after July 1, 1972.

This bill would provide for the computation of service to be credited for service performed on or after a date determined by the board as described below.

This bill would require the board to determine a date when STRS has the capacity to implement the above-described changes and to post the date on the STRS internet website no later than July 1, 2027. The bill would make those provisions with the changes operative on the date determined by the board, would make the existing provisions inoperative on that same date, and would repeal those existing provisions on July 1, 2027. The bill would provide that the changes are consistent with prescribed principles that support the integrity of the retirement fund. The bill would require the board to adopt regulations to the extent required in order to continue to administer the bill accordingly.

Existing law creates the Teachers’ Retirement Fund, which is continuously appropriated for specified purposes, into which certain moneys are deposited, including employee contributions.

By making the changes to creditable compensation that affect contributions to the fund, the 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 22104.8 of the Education Code is amended to read:

22104.8. (a) “Annualized pay rate” means the salary or wages, as described in Section 22119.2 or 22119.3, a person could earn during a school term for an assignment if creditable service were performed for that assignment on a full-time basis.

(b) If creditable service is not performed on a full-time basis because a member is performing those activities pursuant to subdivision (d) of Section 22119.5, the annualized pay rate shall be determined as if the salary or wages have been earned at the lowest annualized pay rate of other creditable service activities performed by the member for the same employer during the same school year.

(c) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 2. Section 22104.8 is added to the Education Code, to read:

22104.8. (a) "Annualized pay rate" means the salary, as described in Section 22119.3, a person could earn during a school term in a position subject to membership if creditable service were performed for that position on a full-time basis.

(b) The annualized pay rate shall be determined pursuant to the publicly available pay schedule by using either of the following methods:

(1) Explicitly itemized as a single amount, either separately or within a table.

(2) Derived from an explicit hourly or daily rate multiplied by the total hours or days required in order to be employed in the position subject to membership on a full-time basis pursuant to Section 22138.5. If the total hours or days required to be employed on a full-time basis is not established, the number of hours or days shall be the minimum standard described in Section 22138.5.

(c) If no annualized pay rate exists pursuant to subdivision (b) for a position subject to membership, all compensation earned in that position shall be deemed "supplemental pay" pursuant to paragraph (2) of subdivision (a) of Section 22119.3.

(d) This definition of "annualized pay rate" is consistent with subdivision (e) of Section 22115.

(e) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 3. Section 22115 of the Education Code is amended to read:

22115. (a) "Compensation earnable" means the sum of the following:

(1) The average annualized pay rate, which shall be determined as the quotient obtained when salary or wages, as described in Section 22119.2 or 22119.3, paid in a school year is divided by the service credited for that school year. The quotient shall not exceed the member's highest annualized pay rate for that school year.

(2) Remuneration that is paid in addition to salary or wages, as described in Section 22119.2 or 22119.3, for the school year described in paragraph (1).

(b) If a member earns creditable compensation at multiple annualized pay rates during a school year and service credited at the highest annualized pay rate is at least 0.900 of a year, compensation earnable shall be determined as if all service credited for that year had been earned at the highest annualized pay rate.

(c) Compensation earnable excludes creditable compensation for which contributions are credited by the system to the Defined Benefit Supplement Program.

(d) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 4. Section 22115 is added to the Education Code, to read:

22115. (a) "Compensation earnable" means the sum of the following:

(1) The average annualized pay rate, which shall be determined as the quotient obtained when salary, as described in Section 22119.3, earned in a school year is divided by the service credited for that salary pursuant to paragraph (1) of subdivision (c) of Section 22701. The quotient shall not exceed the member's highest annualized pay rate for that school year.

(2) Special pay, as described in Section 22119.3, for the same school year referenced in paragraph (1).

(b) If a member earns salary at multiple annualized pay rates during a school year and service credited at the highest annualized pay rate is at least 0.900 of a year, compensation earnable shall be determined as if all salary for that year had been earned at the highest annualized pay rate.

(c) Compensation earnable excludes all supplemental pay and any creditable compensation for which contributions are credited by the system to the Defined Benefit Supplement Program.

(d) Compensation earnable shall not exceed the limits described in Section 22317.5.

(e) This definition of "compensation earnable" reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation earnable throughout a member's career, consistent treatment of compensation earnable among an entire class of employees, consistent treatment of compensation earnable for the position, preventing adverse selection, and excluding from compensation earnable remuneration that is paid to enhance a member's benefits. This definition is also consistent with the definition of "pensionable compensation" under Section 7522.34 of the Government Code for members who are subject to the California Public Employees' Pension Reform Act of 2013.

(f) A presumption by the system that creditable compensation was paid or reported to enhance the member's benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the system that creditable compensation was paid to enhance the member's benefits may be reversed.

(g) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 5. Section 22119.2 of the Education Code is amended to read:

22119.2. (a) "Creditable compensation" means the following remuneration that is paid in cash by an employer to all persons in the same class of employees for performing creditable service in that position:

(1) Salary or wages paid in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement.

(2) Remuneration that is paid in addition to salary or wages, provided it is paid to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed.

(b) Creditable compensation shall include:

(1) Remuneration that is paid for the use of sick leave, vacation leave, or an employer-approved compensated leave of absence, except as provided in paragraph (4) of subdivision (d).

(2) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(3) Amounts that are deducted from a member's remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(4) Any other payments the board determines to be "creditable compensation."

(c) Any creditable compensation determined by the system to have been paid to enhance a member's benefits shall not be credited under the Defined Benefit Program. Contributions on that compensation shall be credited to the Defined Benefit Supplement Program. A presumption by the system that creditable compensation was paid to enhance a member's benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the system that creditable compensation was paid to enhance the member's benefits may be reversed.

(d) "Creditable compensation" does not mean and shall not include:

(1) Remuneration that is not paid in cash or is not paid to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5 or 22119.6.

(3) Remuneration that is paid in addition to salary or wages if it is not paid to all persons in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed

pursuant to paragraph (2) of subdivision (a).

(4) Remuneration that is paid in exchange for the relinquishment of unused accumulated leave.

(5) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer and is not deducted from the member's salary.

(6) Fringe benefits provided by an employer.

(7) Expenses paid or reimbursed by an employer.

(8) Severance pay, including lump-sum and installment payments, or money paid in excess of salary or wages to a member as compensatory damages or as a compromise settlement.

(9) Any other payments the board determines not to be "creditable compensation."

(e) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a), (b), or (d) may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(f) For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

(g) This definition of "creditable compensation" reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member's career, consistent treatment of compensation among an entire class of employees, consistent treatment of compensation for the position, preventing adverse selection, and excluding from compensation earnable remuneration that is paid to enhance a member's benefits. The system shall determine the appropriate crediting of contributions between the Defined Benefit Program and the Defined Benefit Supplement Program according to these principles, to the extent not otherwise specified pursuant to this part.

(h) The section shall become operative on July 1, 2002.

(i) This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

(j) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 6. Section 22119.3 of the Education Code is amended to read:

22119.3. (a) "Creditable compensation" for members who are subject to the California Public Employees' Pension Reform Act of 2013 means the following remuneration that is paid in cash by an employer for performing creditable service in that position each pay period the creditable service is performed:

(1) Salary or wages.

(2) Remuneration that is paid in addition to salary or wages, only if it is paid to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed.

(b) Creditable compensation shall be paid to all persons in the same class of employees in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement, and shall include:

(1) Remuneration that is paid for the use of sick leave, vacation leave, or an employer-approved compensated leave of absence, except as provided in paragraph (4) of subdivision (c).

(2) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(3) Amounts that are deducted from a member's remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program;

and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(4) Notwithstanding paragraphs (6) and (8) of subdivision (c) of Section 7522.34 of the Government Code, remuneration that is paid for creditable service that exceeds one year in a school year.

(c) "Creditable compensation" does not mean and shall not include:

(1) Remuneration that is not paid in cash or is not paid to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5 or 22119.6.

(3) Remuneration that is not paid each pay period in which creditable service is performed for that position.

(4) Remuneration that is paid in exchange for the relinquishment of unused accumulated leave.

(5) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(6) Fringe benefits provided by an employer.

(7) Expenses paid or reimbursed by an employer.

(8) Severance pay, including lump-sum and installment payments, or money paid in excess of salary or wages to a member as compensatory damages or as a compromise settlement.

(9) Creditable compensation determined by the system to have been paid to enhance a member's benefit.

(10) Compensation paid to the member in lieu of benefits provided to the member by the employer or paid directly by the employer to a third party other than the system for the benefit of the member.

(11) Any one-time or ad hoc payments made to a member.

(12) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniform.

(13) Any bonus paid in addition to compensation described in subdivision (a).

(14) Any other payments the board determines not to be "creditable compensation."

(d) (1) Except for purposes of calculating credited service in the Defined Benefit Program and for reporting annualized pay rate on or after January 1, 2013, creditable compensation in any fiscal year shall not exceed:

(A) One hundred twenty percent of the "contribution and benefit base," as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is not included in the federal system.

(B) One hundred percent of the "contribution and benefit base," as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is included in the federal system pursuant to any changes in state or federal law enacted on or after January 1, 2013.

(2) The system shall adjust the limit based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February in the fiscal year preceding the adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February of the previous year rounded to the nearest thousandth. Notwithstanding paragraph (1) of subdivision (d) of Section 7522.10 of the Government Code, the adjustment shall be effective annually on July 1, beginning July 1, 2014.

(3) The Legislature reserves the right to modify the requirements of this subdivision with regard to all members subject to this subdivision, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(4) This subdivision shall apply to compensation paid during the 2013–14 fiscal year and each fiscal year thereafter.

(e) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision (a), (b), or (c) may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(f) For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

(g) This definition of "creditable compensation" reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member's career, consistent treatment of compensation among an entire class of employees, consistent treatment of compensation for the position, preventing adverse selection, and excluding from creditable compensation remuneration that is paid to enhance a member's benefits. The system shall determine the appropriate crediting of contributions according to these principles, to the extent not otherwise specified pursuant to this part. A presumption by the system that creditable compensation was paid to enhance the member's benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the system that creditable compensation was paid to enhance the member's benefits may be reversed.

(h) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 7. Section 22119.3 is added to the Education Code, to read:

22119.3. (a) "Creditable compensation" means the following remuneration that is paid in cash by an employer:

(1) "Base pay," which shall be used exclusively to determine compensation earnable and shall meet all the following criteria:

(A) Is either of the following:

(i) Salary established pursuant to a publicly available pay schedule.

(ii) Special pay established pursuant to a publicly available agreement.

(B) Is paid for performing creditable service up to the full-time equivalent.

(C) Is paid to all persons in the same class of employees who meet the requirements specified in a publicly available pay schedule or publicly available agreement provided that those requirements are permitted by the board in accordance with regulations.

(D) Is not paid a limited number of times.

(E) Is not a bonus for members who are subject to the California Public Employees' Pension Reform Act of 2013.

(2) "Supplemental pay" is any compensation that does not meet the criteria for base pay and is not otherwise excluded from this definition of creditable compensation pursuant to subdivision (c).

(b) Except as otherwise prohibited pursuant to subdivision (c), "creditable compensation" shall include:

(1) Remuneration that is paid for the use of sick leave, vacation leave, or an employer-approved compensated leave of absence, except as provided in paragraph (4) of subdivision (c).

(2) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(3) Amounts that are deducted from a member's remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(4) Notwithstanding paragraphs (6) and (8) of subdivision (c) of Section 7522.34 of the Government Code, remuneration that is paid for creditable service that exceeds one year in a school year.

(c) "Creditable compensation" does not mean and shall not include:

(1) Remuneration that is not paid in cash.

(2) Remuneration that is paid in exchange for the relinquishment of unused accumulated leave.

(3) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(4) Fringe benefits provided by an employer.

(5) Expenses paid or reimbursed by an employer.

(6) Severance pay, including lump-sum and installment payments.

(7) Compensation paid in excess of base pay to a member as compensatory damages or as a compromise settlement.

(8) Creditable compensation determined by the system to have been paid to enhance a member's benefit.

(9) Compensation paid to the member in lieu of benefits provided to the member by the employer or paid directly by the employer to a third party other than the system for the benefit of the member.

(10) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniform.

(11) Any other payments the board determines not to be "creditable compensation."

(d) Except for purposes of calculating credited service in the Defined Benefit Program and for reporting annualized pay rates, creditable compensation in any fiscal year shall not exceed the limits described in Section 22317.5.

(e) An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with this section or Section 22104.8 may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

(f) This definition of "creditable compensation" is consistent with subdivision (e) of Section 22115.

(g) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 8. Section 22119.5 of the Education Code is amended to read:

22119.5. (a) "Creditable service" means any of the activities described in subdivision (b) performed for any of the following employers:

(1) A prekindergarten through grade 12 employer in a position with certification qualifications authorized by the Commission on Teacher Credentialing pursuant to Section 44001.

(2) A community college employer by a faculty member, as defined in Section 87003, in an academic position, as defined in subdivision (b) of Section 87001, or by an educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356, or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training.

(3) A charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment.

(b) The types of activities are any of the following:

(1) The work of teachers, instructors, district interns, and academic employees employed in the instructional program for pupils, including special programs such as adult education, regional occupation programs, child care centers, and prekindergarten programs pursuant to Section 22161.

(2) Education or vocational counseling, guidance, and placement services.

(3) The work of employees who plan courses of study to be used in California public schools, or research connected with the evaluation or efficiency of the instructional program.

(4) The selection, collection, preparation, classification, demonstration, or evaluation of instructional materials of any course of study for use in the development of the instructional program in California public schools, or other services related to California public school curriculum.

(5) The examination, selection, in-service training, mentoring, or assignment of teachers, principals, or other similar personnel involved in the instructional program.

(6) The work of nurses, physicians, speech therapists, psychologists, audiologists, and other California public school health professionals.

(7) Services as a California public school librarian.

(8) Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.

(9) The work of employees who are responsible for the supervision of persons or administration of the duties described in this subdivision.

(c) "Creditable service" also means any of the activities described in subdivision (b) when they are performed for an employer by:

(1) Superintendents of California public schools, and presidents and chancellors of community college employers.

(2) Consulting teachers employed by an employer to participate in the California Peer Assistance and Review Program for Teachers pursuant to Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25 of Division 3 of Title 2.

(3) Audiometrists who hold a certificate of registration issued by the State Department of Health Care Services.

(d) "Creditable service" also means the performance of California public school activities related to, and an outgrowth of, the instructional and guidance program of the California public school when performed for the same employer for which the member is performing any of the activities described in subdivision (b) or (c).

(e) The board shall have final authority for determining creditable service to cover any activities not already specified.

(f) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 9. Section 22119.5 is added to the Education Code, to read:

22119.5. (a) "Creditable service" means service in a position subject to membership.

(b) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 10. Section 22121 of the Education Code is amended to read:

22121. (a) "Credited service" means service for which the required contributions have been paid and service for which required contributions would have been paid in absence of the limit prescribed by Section 401(a)(17) of Title 26 of the United States Code as described in Section 22317.5.

(b) "Credited service" for members who are subject to the California Public Employees' Pension Reform Act of 2013 means service for which required contributions have been paid and service for which required contributions would have been paid in absence of the limit established by subdivision (d) of Section 22119.3.

(c) "Credited service" for the limited purpose of determining eligibility for benefits pursuant to Section 22134.5, 24203.5, or 24203.6 also includes up to two-tenths of one year of service granted pursuant to Section 22717.

(d) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 11. Section 22121 is added to the Education Code, to read:

22121. (a) "Credited service" means service for which the required contributions have been paid and service for which required contributions would have been paid in absence of the limits described in Section 22317.5.

(b) "Credited service" for the limited purpose of determining eligibility for benefits pursuant to Section 22134.5, 24203.5, or 24203.6 also includes up to two-tenths of one year of service granted pursuant to Section 22717.

(c) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 12. Section 22156.07 is added to the Education Code, to read:

22156.07. (a) Except as otherwise provided under this part, "position subject to membership" means the following:

(1) A position at a county office of education or school district, not including a charter school, that the governing body of the employer has designated in a resolution adopted at a public meeting as a position subject to membership for which the employer requires the holding of a valid credential, license, or certificate authorized by the Commission on Teacher Credentialing or the State Department of Health Care Services. The resolution must be in effect on the date of hire in the position or be effective retroactively to include the position as of the date of hire, whichever is later, but no earlier than the operative date of this section as determined by subdivision (c).

(2) A position at a county office of education or school district, including a charter school, that is included in a certificated bargaining unit represented by an exclusive representative, whether by agreement between the exclusive representative and the employer as reflected in a collective bargaining agreement or by written decision of the Public Employment Relations Board. The collective bargaining agreement must be in effect on the date of hire in the position or be effective retroactively to include the position as of the date of hire, whichever is later, but no earlier than the operative date of this section as determined by subdivision (c).

(3) A position at a charter school eligible to receive state apportionment where the position requires the holding of a Commission on Teacher Credentialing certificate, permit, or other document pursuant to subdivision (l) of Section 47605.

(4) A position at a community college district, that is any of the following:

(A) A faculty member, as defined in Section 87003, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356.

(B) An academic position, as defined in subdivision (b) of Section 87001, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356.

(C) An educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356.

(D) A position pursuant to a contract with the United States Department of Defense to provide vocational training as an employee of a community college employer.

(5) A position as a superintendent of a California public school.

(6) A position that would otherwise be subject to membership in a different public retirement system when held by a member who has elected coverage by the Defined Benefit Program pursuant to Chapter 10 (commencing with Section 22500).

(b) "Position subject to membership" does not mean and shall not include:

(1) A position that would otherwise be subject to coverage by the Defined Benefit Program when held by a member of the Public Employees' Retirement System who has elected coverage in the Public Employees' Retirement System pursuant to Chapter 10 (commencing with Section 22500).

(2) A position that is not employed by an employer or employing agency as defined in Section 22131.

(3) A position at a county office of education or school district, including a charter school, that is included in a noncertificated bargaining unit represented by an exclusive representative, whether by agreement between the exclusive representative and the employer as reflected in a collective bargaining agreement in effect on the date of hire in the position or by written decision of the Public Employment Relations Board.

(c) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 13. Section 22156.08 is added to the Education Code, to read:

22156.08. (a) "Position subject to membership" shall also include the following positions in which a member performed creditable service before the operative date of Section 22156.07 provided that the same member remains continuously employed to perform service in that position on and after the operative date of Section 22156.07:

(1) A position in which the member performed creditable service pursuant to Section 22119.5, as that section read before the operative date of Section 22156.07.

(2) A position in which the member performed the activities described in subdivision (a) of Section 22119.6.

(b) Subdivision (a) shall not apply to a member who becomes employed by the same or a different employer in a new position on or after the operative date of this section, and the member shall be subject to Section 22156.07.

(c) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 14. Section 22170 of the Education Code is amended to read:

22170. (a) "Service" means work performed for compensation in a position subject to coverage under the Defined Benefit Program, except as otherwise specifically provided in this part, providing the contributions on compensation for that work are not credited to the Defined Benefit Supplement Program.

(b) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 15. Section 22170 is added to the Education Code, to read:

22170. (a) "Service" means work performed for compensation, except as otherwise specifically provided in this part.

(b) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 16. Section 22317.5 of the Education Code is amended to read:

22317.5. (a) The amount of compensation that is taken into account in computing benefits payable under this part to any person who first becomes a member of the Defined Benefit Program on or after July 1, 1996, shall not exceed the annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period, shall be subject to the annual compensation limit applicable to that period.

(b) Notwithstanding any other provision of this part, no member contribution shall be paid upon any compensation in excess of the annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United States Code.

(c) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 17. Section 22317.5 is added to the Education Code, to read:

22317.5. (a) The amount of compensation that is taken into account in computing benefits payable under this part shall not exceed the following limitations:

(1) For any person who first becomes a member of the Defined Benefit Program on or after July 1, 1996, the annual compensation limitations prescribed by Section 401(a)(17) of Title 26 of the United States Code upon public retirement systems, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living. The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period, shall be subject to the annual compensation limit applicable to that period.

(2) For a member subject to the California Public Employees' Pension Reform Act of 2013:

(A) (i) One hundred twenty percent of the "contribution and benefit base," as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is not included in the federal system.

(ii) One hundred percent of the "contribution and benefit base," as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is included in the federal system pursuant to any changes in state or federal law enacted on or after January 1, 2013.

(B) The system shall adjust the limit based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February in the fiscal year preceding the adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February of the previous year rounded to the nearest thousandth. Notwithstanding paragraph (1) of subdivision (d) of Section 7522.10 of the Government Code, the adjustment shall be effective annually on July 1, beginning July 1, 2014.

(C) The Legislature reserves the right to modify the requirements of this subdivision with regard to all members subject to this subdivision, except that the Legislature shall not modify these provisions in a manner that would result in a decrease in benefits accrued before the operative date of the modification.

(b) Notwithstanding any other provision of this part, no member contribution shall be paid upon any compensation in excess of the annual compensation limitations prescribed by this section.

(c) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 18. Section 22324.5 is added to the Education Code, to read:

22324.5. (a) The amendments to this part by the act adding this section during the second year of the 2023–24 Regular Session are consistent with subdivision (e) of Section 22115. The board shall adopt regulations to the extent required in order to continue to administer the statutes accordingly.

(b) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 19. Section 22701 of the Education Code is amended to read:

22701. (a) Service performed prior to July 1, 1972, shall be credited according to the provisions of law in effect at the time service was performed.

(b) Creditable service performed on or after July 1, 1972, and credited under the Defined Benefit Program, shall be credited in the proportion that the member's salary or wages, as described in Section 22119.2 or 22119.3, for that service bears to the member's annualized pay rate.

(c) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 20. Section 22701 is added to the Education Code, to read:

22701. (a) Service performed prior to July 1, 1972, shall be credited according to the provisions of law in effect at the time service was performed.

(b) Service performed on or after July 1, 1972, and credited under the Defined Benefit Program, shall be credited in the proportion that the member's salary or wages, as described in Section 22119.2 or 22119.3, as those sections read prior to the operative date of the act adding this section, for that service bears to the member's annualized pay rate.

(c) Service performed on or after the operative date of the act adding this section shall be credited as determined using the sum of the following, not to exceed one year in any given school year:

(1) The quotient obtained when all salary, as described in clause (i) of subparagraph (A) of paragraph (1) of subdivision (a) of Section 22119.3, is divided by the annualized pay rate of the applicable salary.

(2) The quotient obtained when all supplemental pay, as described in paragraph (2) of subdivision (a) of Section 22119.3, is divided by the compensation earnable for the applicable school year.

(d) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).

SEC. 21. Section 22905 of the Education Code is amended to read:

22905. (a) Member contributions pursuant to Sections 22901, 22901.3, and 22901.7, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Except as provided in subdivision (e), member and employer contributions, exclusive of contributions pursuant to Sections 22901.7, 22950.5, and 22951, on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for creditable service that exceeds one year in a school year shall be credited effective on the July 1 immediately following the period for which the compensation is earned.

(2) Compensation that is determined by the system to have been paid to enhance a member's benefits pursuant to subdivision (b) of Section 22119.2 or to not reflect sound principles that support the integrity of the retirement fund pursuant to subdivision (f) of Section 22119.2 shall be credited effective as of the earliest day contributions are due in the office pursuant to Section 23002.

(3) Compensation that is paid for a limited number of times as specified by law, a collective bargaining agreement, or an employment agreement shall be credited effective as of the earliest day contributions are due in the office pursuant to Section 23002.

(c) A member shall not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program nor may a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Any contributions on compensation that is creditable to the Defined Benefit Supplement account shall be limited to the contributions made pursuant to Sections 22901, 22901.3, 22950, and 22951. Any excess member contributions, as determined by the system, shall be returned to the member through the employer and any excess employer contributions shall be returned to the employer.

(e) Paragraphs (2) and (3) of subdivision (b) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

(f) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become inoperative on the date determined by the board pursuant to paragraph (1), and this section shall be repealed on July 1, 2027.

SEC. 22. Section 22905 is added to the Education Code, to read:

22905. (a) Member contributions pursuant to Sections 22901, 22901.3, and 22901.7, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Except as provided in subdivision (e), member and employer contributions, exclusive of contributions pursuant to Sections 22950.5 and 22951, on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for service that exceeds one year in a school year shall be credited effective on the July 1 immediately following the period for which the compensation is earned.

(2) Supplemental pay in any school year in which the member does not earn base pay pursuant to Section 22119.3.

(c) A member shall not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program nor may a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Any contributions on compensation that is creditable to the Defined Benefit Supplement account shall be limited to the contributions made pursuant to Sections 22901, 22901.3, 22901.7, 22950, and 22951. Any excess employer contributions shall be returned to the employer.

(e) Paragraphs (2) and (3) of subdivision (b) of Section 22905 as operative before the date determined pursuant to subdivision (f) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

(f) (1) The board shall determine a date based on when the system has the capacity to implement the changes made by the act that added this subdivision. The date determined by the board shall be posted on the internet website of the system no later than July 1, 2027.

(2) This section shall become operative on the date determined by the board pursuant to paragraph (1).