

AMENDED IN ASSEMBLY MARCH 24, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 963

Introduced by Assembly Member Bonilla

February 26, 2015

An act to amend Sections 22119.2, 22119.3, 22119.5, 22146, 22164.5, 26113, and 26135.7 of, and to add Sections 22119.6, 22458.3, 22458.5, and 22508.7 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 963, as amended, Bonilla. Teachers' Retirement Law.

Existing law, the Teachers' Retirement Law, establishes the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program. The defined benefit is based on final compensation, credited service, and age at retirement, subject to certain variations. The State Teachers' Retirement System (STRS) is administered by the Teachers' Retirement Board. Existing law establishes the Cash Balance Benefit Program, also administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

This bill would revise and recast the definition of creditable service for purposes of the Defined Benefit Program and the Cash Balance Benefit Program, as specified. The bill would, among other things, include as creditable service for the purposes of the Defined Benefit ~~Program~~, *Program* any activities that do not meet the definition of creditable service but were performed for an employer, as defined, on

or before December 31, 2015, and were reported as creditable service to STRS. The bill would revise the definition of “member” to include any person who has performed those activities. The bill would allow members and specified retired members who have performed those activities to irrevocably elect to have that service subject to coverage under a different public retirement system and excluded from coverage by the Defined Benefit Program, as specified. The bill would also allow a person who had service for those activities removed from STRS and reported to a different public retirement system, as directed by STRS, to make an irrevocable election to have all of that service and subsequent service in the same position to be subject to coverage by the Defined Benefit Program and excluded from that other system.

The bill would also require employers, upon request of the system, to provide the system with information relating to time creditable service activities and provisions of approved charters to perform creditable service, as specified.

The bill would make other conforming, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22119.2 of the Education Code is
 2 amended to read:
 3 22119.2. (a) “Creditable compensation” means remuneration
 4 that is paid in cash by an employer to all persons in the same class
 5 of employees for performing creditable service in that position.
 6 Creditable compensation shall include:
 7 (1) Salary or wages paid in accordance with a publicly available
 8 written contractual agreement, including, but not limited to, a
 9 salary schedule or employment agreement.
 10 (2) Remuneration that is paid in addition to salary or wages,
 11 provided it is paid to all persons who are in the same class of
 12 employees in the same dollar amount, the same percentage of
 13 salary or wages, or the same percentage of the amount being
 14 distributed.
 15 (3) Remuneration that is paid for the use of sick leave, vacation,
 16 and other employer-approved leave, except as provided in
 17 paragraph (4) of subdivision (c).

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

3 (5) Amounts that are deducted from a member’s remuneration,
4 including, but not limited to, deductions for participation in a
5 deferred compensation plan; deductions to purchase an annuity
6 contract, tax-deferred retirement plan, or insurance program; and
7 contributions to a plan that meets the requirements of Section 125,
8 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United
9 States Code.

10 (6) Any other payments the board determines to be “creditable
11 compensation.”

12 (b) Any creditable compensation determined by the system to
13 have been paid to enhance a member’s benefits shall not be credited
14 under the Defined Benefit Program. Contributions on that
15 compensation shall be credited to the Defined Benefit Supplement
16 Program. A presumption by the system that creditable
17 compensation was paid to enhance a member’s benefits may be
18 rebutted by the member or by the employer on behalf of the
19 member. Upon receipt of sufficient evidence to the contrary, a
20 presumption by the system that creditable compensation was paid
21 to enhance the member’s benefits may be reversed.

22 (c) “Creditable compensation” does not mean and shall not
23 include:

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

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

28 (3) Remuneration that is paid in addition to salary or wages if
29 it is not paid to all persons in the same class of employees in the
30 same dollar amount, the same percentage of salary or wages, or
31 the same percentage of the amount being distributed pursuant to
32 paragraph (2) of subdivision (a).

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

35 (5) Payments, including, but not limited to, those for
36 participation in a deferred compensation plan; to purchase an
37 annuity contract, tax-deferred retirement plan, or insurance
38 program; and for contributions to a plan that meets the requirements
39 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title

1 26 of the United States Code when the cost is covered by an
2 employer and is not deducted from the member’s salary.

3 (6) Fringe benefits provided by an employer.

4 (7) Expenses paid or reimbursed by an employer.

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

8 (9) Any other payments the board determines not to be
9 “creditable compensation.”

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

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

22 (f) This definition of “creditable compensation” reflects sound
23 principles that support the integrity of the retirement fund. Those
24 principles include, but are not limited to, consistent treatment of
25 compensation throughout a member’s career, consistent treatment
26 of compensation among an entire class of employees, consistent
27 treatment of compensation for the position, preventing adverse
28 selection, and excluding from compensation earnable remuneration
29 that is paid to enhance a member’s benefits. The system shall
30 determine the appropriate crediting of contributions between the
31 Defined Benefit Program and the Defined Benefit Supplement
32 Program according to these principles, to the extent not otherwise
33 specified pursuant to this part.

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

35 (h) This section shall not apply to a member subject to the
36 California Public Employees’ Pension Reform Act of 2013.

37 SEC. 2. Section 22119.3 of the Education Code is amended to
38 read:

39 22119.3. (a) “Creditable compensation” for members who are
40 subject to the California Public Employees’ Pension Reform Act

1 of 2013 means remuneration that is paid each pay period in which
2 creditable service is performed for that position. Creditable
3 compensation shall be paid in cash by an employer to all persons
4 in the same class of employees in accordance with a publicly
5 available written contractual agreement, including, but not limited
6 to, a salary schedule or employment agreement. Creditable
7 compensation shall include:

8 (1) Remuneration that is paid for the use of sick leave, vacation,
9 and other employer-approved leave, except as provided in
10 paragraph (4) of subdivision (b).

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

13 (3) Amounts that are deducted from a member's remuneration,
14 including, but not limited to, deductions for participation in a
15 deferred compensation plan; deductions to purchase an annuity
16 contract, tax-deferred retirement plan, or insurance program; and
17 contributions to a plan that meets the requirements of Section 125,
18 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United
19 States Code.

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

23 (b) "Creditable compensation" does not mean and shall not
24 include:

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

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

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

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

33 (5) Payments, including, but not limited to, those for
34 participation in a deferred compensation plan; to purchase an
35 annuity contract, tax-deferred retirement plan, or insurance
36 program; and for contributions to a plan that meets the requirements
37 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title
38 26 of the United States Code when the cost is covered by an
39 employer.

40 (6) Fringe benefits provided by an employer.

1 (7) Expenses paid or reimbursed by an employer.

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

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

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

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

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

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

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

19 (c) (1) Except for purposes of calculating credited service in
20 the Defined Benefit Program and for reporting compensation
21 earnable on or after January 1, 2013, creditable compensation in
22 any fiscal year shall not exceed:

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

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

32 (2) The system shall adjust the limit based on the annual changes
33 to the Consumer Price Index for All Urban Consumers: U.S. City
34 Average, calculated by dividing the Consumer Price Index for All
35 Urban Consumers: U.S. City Average for the month of February
36 in the fiscal year preceding the adjustment by the Consumer Price
37 Index for All Urban Consumers: U.S. City Average for the month
38 of February of the previous year rounded to the nearest thousandth.
39 Notwithstanding paragraph (1) of subdivision (d) of Section

1 7522.10 of the Government Code, the adjustment shall be effective
2 annually on July 1, beginning July 1, 2014.

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

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

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

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

22 (f) This definition of “creditable compensation” reflects sound
23 principles that support the integrity of the retirement fund. Those
24 principles include, but are not limited to, consistent treatment of
25 compensation throughout a member’s career, consistent treatment
26 of compensation among an entire class of employees, consistent
27 treatment of compensation for the position, preventing adverse
28 selection, and excluding from creditable compensation
29 remuneration that is paid to enhance a member’s benefits. The
30 system shall determine the appropriate crediting of contributions
31 according to these principles, to the extent not otherwise specified
32 pursuant to this part. A presumption by the system that creditable
33 compensation was paid to enhance the member’s benefits may be
34 rebutted by the member or by the employer on behalf of the
35 member. Upon receipt of sufficient evidence to the contrary, a
36 presumption by the system that creditable compensation was paid
37 to enhance the member’s benefits may be reversed.

38 SEC. 3. Section 22119.5 of the Education Code is amended to
39 read:

1 22119.5. (a) “Creditable service” means any of the activities
2 described in subdivision (b) performed for any of the following
3 employers:

4 (1) ~~Prekindergarten~~—A *prekindergarten* through grade 12
5 employer in a position requiring certification qualifications as
6 designated in regulations adopted by the Commission on Teacher
7 Credentialing pursuant to Section 44001.

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

17 (3) ~~Charter~~—A *charter* school employer under the provisions of
18 an approved charter for the operation of a charter school for which
19 the charter school is eligible to receive state apportionment.

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

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

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

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

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

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

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

4 (7) Services as a California public school librarian.

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

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

12 (c) "Creditable service" also means the work of superintendents
13 of California public schools, and presidents and chancellors of
14 community college employers.

15 (d) "Creditable service" also means the performance of
16 California public school activities relating to, and an outgrowth
17 of, the instructional and guidance program of the California public
18 school—~~if~~ *when* performed in addition to any of the activities
19 described in subdivision (b) or (c).

20 (e) (1) All of the activities performed in a position shall be
21 deemed "creditable service" if the employer requires one or more
22 of the activities described in subdivision (b) or (c) to be performed
23 in that position for more than 50 percent of the time, as established
24 pursuant to Section 22138.5, for a class of employees performing
25 just those activities described in subdivision (b).

26 (2) This subdivision shall not apply to a person who performs
27 creditable service for fewer days or hours than the employer
28 requires for full time as established pursuant to Section 22138.5.

29 (3) All of the activities performed in a position with service that
30 has been deemed creditable pursuant to paragraph (1) shall be
31 subject to coverage under the Defined Benefit Program until the
32 member performing the activities becomes employed by the same
33 or a different employer in a different position at which time an
34 election may be made under Section 22508.

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

37 SEC. 4. Section 22119.6 is added to the Education Code, to
38 read:

39 22119.6. (a) Creditable service shall also include any activities
40 that do not meet the definition of creditable service under Section

1 22119.5, but were performed for any employer, as defined in
 2 Section 22131, on or before December 31, 2015, and were reported
 3 as creditable service to the system.

4 (b) The type of activities described in subdivision (a) performed
 5 by a member who becomes employed by the same or a different
 6 employer in a new position on or after January 1, 2016, shall be
 7 subject to Section 22119.5.

8 SEC. 5. Section 22146 of the Education Code is amended to
 9 read:

10 22146. “Member” means any person, unless excluded under
 11 other provisions of this part, who has performed creditable service
 12 as defined in Section 22119.5 or 22119.6 and has earned creditable
 13 compensation for that service and has not received a refund for
 14 that service and, as a result, is subject to the Defined Benefit
 15 Program. A member’s rights and obligations under this part with
 16 respect to the Defined Benefit Program shall be determined by the
 17 applicability of subdivision (a), (b), (c), or (d), and subject to any
 18 applicable exceptions under other provisions of this part.

19 (a) An active member is a member who is not retired or disabled
 20 and who earns creditable compensation during the school year.

21 (b) An inactive member is a member who is not retired or
 22 disabled and who has not earned creditable compensation during
 23 the current or preceding school year.

24 (c) A disabled member is a member to whom a disability
 25 allowance is payable under Chapter 25 (commencing with Section
 26 24001).

27 (d) A retired member is a member who has terminated
 28 employment and has retired for service under the provisions of
 29 Chapter 27 (commencing with Section 24201), or has retired for
 30 disability under the provisions of Chapter 26 (commencing with
 31 Section 24100) or retired for service or disability under the
 32 provisions of Chapter 21 (commencing with Section 23400), and
 33 to whom a retirement allowance is therefore payable.

34 SEC. 6. Section 22164.5 of the Education Code is amended to
 35 read:

36 22164.5. (a) “Retired member activities” means one or more
 37 activities identified in subdivision (b), (c), or (d) of Section 22119.5
 38 or subdivision (b), (c), or (d) of Section 26113 within the California
 39 public school system and performed by a member retired for
 40 service under this part as one of the following:

- 1 (1) An employee of an employer.
2 (2) An employee of a third party, except as specified in
3 subdivision (b).
4 (3) An independent contractor.
5 (b) The activities of an employee of a third party shall not be
6 included in the definition of “retired member activities” if all of
7 the following conditions apply:
8 (1) The employee performs an assignment of 24 months or less.
9 (2) The third-party employer does not participate in a California
10 public pension system.
11 (3) The activities performed by the individual are not normally
12 performed by employees of an employer, as defined in Section
13 22131.
14 SEC. 7. Section 22458.3 is added to the Education Code, to
15 read:
16 22458.3. Upon request from the system, each employer shall
17 provide the system with information regarding the percentage of
18 time that creditable service activities, as described in paragraph
19 (1) of subdivision (e) of Section 22119.5, are performed in a
20 position.
21 SEC. 8. Section 22458.5 is added to the Education Code, to
22 read:
23 22458.5. Upon request from the system, each employer shall
24 provide the system with information regarding the certification
25 qualifications, minimum standards, or provisions of an approved
26 charter for the operation of a charter school required to perform
27 creditable service pursuant to subdivision (a) of Section 22119.5,
28 in a position.
29 SEC. 9. Section 22508.7 is added to the Education Code, to
30 read:
31 22508.7. (a) This section shall apply to service deemed
32 creditable service pursuant to subdivision (a) of Section 22119.6
33 and a person who performs that service.
34 (b) (1) A member, including a member who retires on or before
35 December 31, 2015, may elect to have all of that service subject
36 to coverage by a different public retirement system and excluded
37 from coverage by the Defined Benefit Program, if the member is
38 not excluded from coverage by that public retirement system.
39 (2) If an election is made pursuant to this subdivision, all of the
40 following shall apply:

1 (A) All service that was subject to coverage by the Defined
2 Benefit Program shall be subject to coverage by the other public
3 retirement system, if the member is not excluded from coverage
4 by that public retirement system.

5 (B) Any member contributions and credited interest, as
6 determined by the system, and employer contributions, less any
7 amounts previously paid to the person, shall be returned to the
8 employer for that service, with the system recovering from the
9 person any amounts that were paid to the person and not recovered
10 from withheld member contributions, credited interest, or employer
11 contributions.

12 (C) Any amounts not recovered pursuant to subparagraph (B)
13 shall be paid in full by the member before his or her service can
14 be subject to coverage by the other public retirement system.

15 (3) If an election is made pursuant to this subdivision, the
16 following shall apply:

17 (A) A member not subject to the California Public Employees’
18 Pension Reform Act of 2013 in the Defined Benefit Program shall
19 not be subject to that act in the other public retirement system.

20 (B) A member subject to the California Public Employees’
21 Pension Reform Act of 2013 in the Defined Benefit Program shall
22 be subject to that act in the other public retirement system.

23 (4) If an election is not made pursuant to this subdivision, all
24 service performed shall continue to be subject to coverage by the
25 Defined Benefit Program until the member becomes employed
26 pursuant to subdivision (b) of Section 22119.6.

27 (c) (1) A person who had service removed from the system and
28 reported to a different public retirement system, as directed by the
29 system, including a person who ~~received~~ *is receiving* a benefit on
30 or before December 31, 2015, may elect to have all of that service
31 and subsequent service in the same position subject to coverage
32 by the Defined Benefit Program and excluded from coverage by
33 the other public retirement system.

34 (2) If an election is made pursuant to this subdivision, all of the
35 following shall apply:

36 (A) All of that service and subsequent service in the same
37 position that was subject to coverage by the other public retirement
38 system shall be subject to coverage by the Defined Benefit Program
39 and reported to the system pursuant to Chapter 17 (commencing
40 with Section 23000).

1 (B) Any employee and employer contributions for that service
2 and subsequent service in the same position shall be remitted to
3 the system pursuant to Chapter 17 (commencing with Section
4 23000).

5 (3) If an election is made pursuant to this subdivision, the
6 following shall apply:

7 (A) A person not subject to the California Public Employees’
8 Pension Reform Act of 2013 in the other public retirement system
9 shall not be subject to that act in the Defined Benefit Program.

10 (B) A person subject to the California Public Employees’
11 Pension Reform Act of 2013 in the other public retirement system
12 shall be subject to that act in the Defined Benefit Program.

13 (4) If an election is not made pursuant to this subdivision, all
14 service performed will continue to be subject to coverage by the
15 other public retirement system.

16 (d) The election shall be made in writing and filed with the
17 office of the system on a form prescribed by the system on or
18 before June 30, 2016, and a copy of the election shall be filed with
19 the other public retirement system.

20 (e) Only a person who has performed service creditable under
21 subdivision (a) of Section 22119.6 can make an election under this
22 section.

23 (f) An election made pursuant to this section shall be irrevocable.

24 (g) The board shall be under no obligation to identify, locate,
25 or notify a person who has performed service creditable pursuant
26 to subdivision (a) of Section 22119.6 and is eligible to make an
27 election pursuant to this section.

28 SEC. 10. Section 26113 of the Education Code is amended to
29 read:

30 26113. (a) “Creditable service” means any of the activities
31 described in subdivision (b) performed for any of the following
32 employers:

33 (1) ~~Prekindergarten~~—A *prekindergarten* through grade 12
34 employer in a position requiring certification qualifications as
35 designated in regulations adopted by the Commission on Teacher
36 Credentialing pursuant to Section 44001.

37 (2) ~~Community~~—A *community* college employer by a faculty
38 member, as defined in Section 87003, in an academic position, as
39 defined in subdivision (b) of Section 87001, or by an educational
40 administrator, as defined in subdivision (b) of Section 87002,

1 subject to the appropriate minimum standards adopted by the Board
2 of Governors of the California Community Colleges pursuant to
3 Section 87356, or pursuant to a contract between a community
4 college district and the United States Department of Defense to
5 provide vocational training.

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

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

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

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

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

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

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

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

31 (7) Services as a California public school librarian.

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

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

39 (10) Trustee service as described in Section 26403.

1 (c) “Creditable service” also means the work of superintendents
2 of California public schools, and presidents and chancellors of
3 community college employers.

4 (d) “Creditable service” also means the performance of
5 California public school activities related to, and an outgrowth of,
6 the instructional and guidance program of the California public
7 school when performed in addition to any of the activities described
8 in subdivision (b) or (c).

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

11 SEC. 11. Section 26135.7 of the Education Code is amended
12 to read:

13 26135.7. (a) “Retired participant activities” means one or more
14 activities identified in subdivision (b), (c), or (d) of Section 22119.5
15 or (b), (c), or (d) of Section 26113 within the California public
16 school system and performed by a participant retired for service
17 under this part as one of the following:

18 (1) An employee of an employer.

19 (2) An employee of a third party, except as specified in
20 subdivision (b).

21 (3) An independent contractor.

22 (b) The activities of an employee of a third party shall not be
23 included in the definition of “retired participant activities” if all
24 of the following conditions apply:

25 (1) The employee performs an assignment of 24 months or less.

26 (2) The third-party employer does not participate in a California
27 public pension system.

28 (3) The activities performed by the individual are not normally
29 performed by employees of an employer, as defined in Section
30 22131.