

AMENDED IN SENATE JULY 19, 2004
AMENDED IN ASSEMBLY MAY 10, 2004
AMENDED IN ASSEMBLY APRIL 15, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2753

Introduced by Assembly Member Corbett

February 20, 2004

An act to amend Sections 22714, 22714.5, 24216, and 84040.5 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2753, as amended, Corbett. State teachers' retirement: early retirement incentive.

(1) Existing law authorizes a school district, community college district, or county office of education to grant members of the Defined Benefit Program of the State Teachers' Retirement Plan 2 additional years of service credit or, prior to January 1, 2005, an additional 2 years of service and 2 years of age, if certain conditions are satisfied and the member retires for service within a designated period. Any member granted additional credit for service or service and age under those provisions forfeits that credit if he or she is reemployed within 5 years after retirement by the district from which he or she retired or within one year after retirement by any district.

This bill would instead provide that any member granted additional credit for service or service and age under those provisions would forfeit that credit if he or she is reemployed within one year after

retirement by the school district, community college district, or county office of education from which he or she retired.

(2) The Teachers’ Retirement Law prescribes limits on the amount of postretirement income that may be earned in specified types of employment by a retired member of the Defined Benefit Program without a reduction in the member’s retirement benefits. Specifically, that limit applies to a retired member who receives 2 additional years of service credit at retirement and performs creditable service within one year after retirement for the school district from which he or she retired.

Under this bill, that limit would apply to a retired member who receives those additional years of service credit at retirement and performs creditable service within one year after retirement for any school district, community college district, or county office of education in the state.

(3) *This bill would incorporate additional changes in Section 24216 of the Education Code proposed by AB 2554 to become operative only if this and AB 2554 are both enacted on or before January 1, 2005, each bill amends Section 24216 of the Education Code, and this bill is enacted last.*

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

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

1 SECTION 1. Section 22714 of the Education Code is
2 amended to read:

3 22714. (a) Whenever the governing board of a school district
4 or a community college district or a county office of education, by
5 formal action, determines pursuant to Section 44929 or 87488 that
6 because of impending curtailment of or changes in the manner of
7 performing services, the best interests of the district or county
8 office of education would be served by encouraging certificated
9 employees or academic employees to retire for service and that the
10 retirement will result in a net savings to the district or county office
11 of education, an additional two years of service credit shall be
12 granted under this part to a member of the Defined Benefit
13 Program if all of the following conditions exist:

14 (1) The member is credited with five or more years of service
15 credit and retires for service under Chapter 27 (commencing with



1 Section 24201) during a period of not more than 120 days or less
2 than 60 days, commencing no sooner than the effective date of the
3 formal action of the employer that shall specify the period.

4 (2) The employer transfers to the retirement fund an amount
5 determined by the Teachers' Retirement Board to equal the
6 actuarial equivalent of the difference between the allowance the
7 member receives after receipt of service credit pursuant to this
8 section and the amount the member would have received without
9 the service credit and an amount determined by the Teachers'
10 Retirement Board to equal the actuarial equivalent of the
11 difference between the purchasing power protection supplemental
12 payment the member receives after receipt of service credit
13 pursuant to this section and the amount the member would have
14 received without the service credit. The payment for purchasing
15 power shall be deposited in the Supplemental Benefit Maintenance
16 Account established by Section 22400 and shall be subject to
17 Section 24415. The transfer to the retirement fund shall be made
18 in a manner and a time period, not to exceed eight years, that is
19 acceptable to the Teachers' Retirement Board. The employer shall
20 transfer the required amount for all eligible employees who retire
21 pursuant to this section.

22 (3) The employer transmits to the retirement fund the
23 administrative costs incurred by the system in implementing this
24 section, as determined by the Teachers' Retirement Board.

25 (4) The employer has considered the availability of teachers or
26 academic employees to fill the positions that would be vacated
27 pursuant to this section.

28 (b) (1) The school district shall demonstrate and certify to the
29 county superintendent that the formal action taken would result in
30 a net savings to the district.

31 (2) The county superintendent shall certify to the Teachers'
32 Retirement Board that the result specified in paragraph (1) can be
33 demonstrated. The certification shall include, but not be limited to,
34 the information specified in subdivision (c) of Section 14502.1.

35 (3) The school district shall reimburse the county
36 superintendent for all costs to the county superintendent that result
37 from the certification.

38 (c) (1) The county office of education shall demonstrate and
39 certify to the Superintendent of Public Instruction that the formal



1 action taken would result in a net savings to the county office of
2 education.

3 (2) The Superintendent of Public Instruction shall certify to the
4 Teachers' Retirement Board that the result specified in paragraph
5 (1) can be demonstrated. The certification shall include, but not be
6 limited to, the information specified in subdivision (c) of Section
7 14502.1.

8 (3) The Superintendent of Public Instruction may request
9 reimbursement from the county office of education for all
10 administrative costs that result from the certification.

11 (d) (1) The community college district shall demonstrate and
12 certify to the chancellor's office that the formal action taken would
13 result in a net savings to the district.

14 (2) The chancellor shall certify to the Teachers' Retirement
15 Board that the result specified in paragraph (1) can be
16 demonstrated. The certification shall include, but not be limited to,
17 the information specified in subdivision (c) of Section 84040.5.

18 (3) The chancellor may request reimbursement from the
19 community college district for all administrative costs that result
20 from the certification.

21 (e) The opportunity to be granted service credit pursuant to this
22 section shall be available to all members employed by the school
23 district, community college district, or county office of education
24 who meet the conditions set forth in this section.

25 (f) The amount of service credit shall be two years.

26 (g) Any member of the Defined Benefit Program who retires
27 under this part for service under Chapter 27 (commencing with
28 Section 24201) with service credit granted under this section and
29 who subsequently reinstates shall forfeit the service credit granted
30 under this section.

31 (h) Any member of the Defined Benefit Program who retires
32 under this part for service under Chapter 27 (commencing with
33 Section 24201) with service credit granted under this section and
34 who takes any job with the school district, community college
35 district, or county office of education that granted the member the
36 service credit less than one year after receiving the credit shall
37 forfeit the ongoing benefit he or she receives from the additional
38 service credit granted under this section.

39 (i) This section does not apply to any member otherwise
40 eligible if the member receives any unemployment insurance



1 payments arising out of employment with an employer subject to
2 this part during a period extending one year beyond the effective
3 date of the formal action, or if the member is not otherwise eligible
4 to retire for service.

5 SEC. 2. Section 22714.5 of the Education Code is amended
6 to read:

7 22714.5. (a) Notwithstanding Sections 22714, 44929, and
8 87488, an additional two years of service and an additional two
9 years of age shall be credited under this part to a member of the
10 Defined Benefit Program if the following conditions exist:

11 (1) The member is credited with five or more years of service
12 credit and retires for service under the provisions of Chapter 27
13 (commencing with Section 24201) within the period designated in
14 the memorandum of understanding or formal action described in
15 paragraph (6).

16 (2) The employer determines that the best interests of the
17 school district, community college district, or county office of
18 education would be served by encouraging certificated or
19 academic employees to retire for service and that the retirement
20 will result in a net savings to the district or county office of
21 education.

22 (3) The employer transfers to the retirement fund an amount
23 determined by the Teachers' Retirement Board to equal the
24 actuarial equivalent of the difference between the allowance the
25 member receives after receipt of service and age credit pursuant to
26 this section and the amount the member would have received
27 without the service and age credit and an amount determined by
28 the Teachers' Retirement Board to equal the actuarial equivalent
29 of the difference between the purchasing power protection
30 supplemental payment the member receives after receipt of
31 service and age credit pursuant to this section and the amount the
32 member would have received without the service and age credit.
33 The payment for purchasing power shall be deposited in the
34 Supplemental Benefit Maintenance Account established by
35 Section 22400 and shall be subject to Section 24415. The transfer
36 to the retirement fund shall be made in a manner and time period,
37 not to exceed eight years, that is acceptable to the Teachers'
38 Retirement Board.



1 (4) (A) A school district shall demonstrate and certify to the
2 county superintendent that the formal action taken would result in
3 a net savings to the district.

4 (B) The county superintendent shall certify to the Teachers'
5 Retirement Board that the result specified in subparagraph (A) can
6 be demonstrated. The certification shall include, but not be limited
7 to, the information specified in subdivision (c) of Section 14502.1.

8 (C) The school district shall reimburse that county
9 superintendent for all costs to the county superintendent that result
10 from the certification.

11 (5) (A) The county office of education shall demonstrate and
12 certify to the Superintendent of Public Instruction that the formal
13 action taken would result in a net savings to the county office of
14 education.

15 (B) The Superintendent of Public Instruction shall certify to the
16 Teachers' Retirement Board that the result specified in
17 subparagraph (A) can be demonstrated. The certification shall
18 include, but not be limited to, the information specified in
19 subdivision (c) of Section 14502.1.

20 (C) The Superintendent of Public Instruction may request
21 reimbursement from the county office of education for all
22 administrative costs that result from the certification.

23 (6) (A) A community college district shall demonstrate and
24 certify to the chancellor's office that the formal action taken would
25 result in a net savings to the district.

26 (B) The chancellor shall certify to the Teachers' Retirement
27 Board that the result specified in subparagraph (A) can be
28 demonstrated. The certification shall include, but not be limited to,
29 the information specified in subdivision (c) of Section 84040.5.

30 (C) The chancellor may request reimbursement from the
31 community college district for all administrative costs that result
32 from the certification.

33 (7) This section has been made applicable to the employer and
34 the member pursuant to a memorandum of understanding between
35 the employer and the representative employee organization or, for
36 members who are not represented by a representative employee
37 organization, this section has been made applicable to all of the
38 members employed by the school district, community college
39 district, or county office of education, pursuant to a formal action
40 of the governing board. The employer shall transfer the required



1 amount for all eligible employees who retire pursuant to this
2 section.

3 (8) The employer transmits to the retirement fund the
4 administrative costs incurred by the system in implementing this
5 section, as determined by the Teachers' Retirement Board.

6 (b) The amount of additional service credit and additional age
7 shall each be two years regardless of credited service or age. A
8 member of the Defined Benefit Program who is credited with
9 additional age and service under this section may not be credited
10 with additional service under Section 22714.

11 (c) Any member of the Defined Benefit Program who is
12 credited with additional age and service under this section and who
13 subsequently reinstates from retirement shall forfeit the additional
14 age and service credit granted under this section.

15 (d) Any member of the Defined Benefit Program who retires
16 under this part for service under Chapter 27 (commencing with
17 Section 24201) with age and service credit granted under this
18 section and who takes any job with the school district, community
19 college district, or county office of education that granted the
20 member the age and service credit less than one year after
21 receiving the credit shall forfeit the ongoing benefit he or she
22 receives from the additional age and service credit granted under
23 this section.

24 (e) This section is not applicable to any member otherwise
25 eligible if the member receives any unemployment insurance
26 payments arising out of employment with an employer subject to
27 this part during a period extending one year beyond the effective
28 date of the memorandum of understanding or formal action, or if
29 the member is not otherwise eligible to retire for service without
30 the additional age or service credit available under this section.

31 (f) This section shall become operative on January 1, 2004, or
32 120 days after Assembly Bill No. 1207 of the 2003–04 Regular
33 Session is chaptered, whichever is later, and remain in effect only
34 until January 1, 2005, and as of that date is repealed, unless a later
35 enacted statute, that is enacted before January 1, 2005, deletes or
36 extends that date.

37 SEC. 3. Section 24216 of the Education Code is amended to
38 read:

39 24216. (a) (1) A member retired for service under this part
40 who is appointed as a trustee or administrator by the



1 Superintendent of Public Instruction pursuant to Section 41320.1,
2 or a member retired for service who is assigned by a county
3 superintendent of schools pursuant to Article 2 (commencing with
4 Section 42120) of Chapter 6 of Part 24, shall be exempt from
5 subdivisions (d) and (f) of Section 24214 for a maximum period
6 of two years.

7 (2) The period of exemption shall commence on the date the
8 member retired for service is appointed or assigned and shall end
9 no more than two calendar years from that date, after which the
10 limitation specified in subdivisions (d) and (f) of Section 24214
11 shall apply.

12 (3) An exemption under this subdivision shall be granted by the
13 system providing that the Superintendent of Public Instruction or
14 the county superintendent of schools submits documentation
15 required by the system to substantiate the eligibility of the member
16 retired for service for an exemption under this subdivision.

17 (b) (1) A member retired for service under this part who is
18 employed by an employer to perform creditable service in an
19 emergency situation to fill a vacant administrative position
20 requiring highly specialized skills shall be exempt from the
21 provisions of subdivisions (d) and (f) of Section 24214 for
22 creditable service performed up to one-half of the full-time
23 equivalent for that position, if the vacancy occurred due to
24 circumstances beyond the control of the employer. The limitation
25 specified in subdivisions (d) and (f) of Section 24214 shall apply
26 to creditable service performed beyond the specified exemption.

27 (2) An exemption under this subdivision shall be granted by the
28 system subject to the following conditions:

29 (A) The recruitment process to fill the vacancy on a permanent
30 basis is expected to extend over several months.

31 (B) The employment is reported in a public meeting of the
32 governing body of the employer.

33 (C) The employer submits documentation required by the
34 system to substantiate the eligibility of the member retired for
35 service for an exemption under this subdivision.

36 (c) This section does not apply to any person who has received
37 additional service credit pursuant to Section 22715 or 22716.

38 (d) A person who has received additional service credit
39 pursuant to Section 22714 or 22714.5 shall be ineligible for one
40 year from the effective date of retirement for the exemption



1 provided in this section for service performed in any school
2 district, community college district, or county office of education
3 in the state.

4 (e) This section shall become operative on January 1, 2001, and
5 shall remain in effect only until January 1, 2008, and as of that date
6 is repealed, unless a later enacted statute, which is enacted before
7 January 1, 2008, deletes or extends that date.

8 *SEC. 3.5. Section 24216 of the Education Code is amended to*
9 *read:*

10 24216. (a) (1) A member retired for service under this part
11 who is appointed as a trustee or administrator by the
12 Superintendent of Public Instruction pursuant to Section 41320.1,
13 or a member retired for service who is assigned by a county
14 superintendent of schools pursuant to Article 2 (commencing with
15 Section ~~42120~~ 42122) of Chapter 6 of Part 24, shall be exempt
16 from subdivisions (d) and (f) of Section 24214 for a maximum
17 period of two years.

18 (2) The period of exemption shall commence on the date the
19 member retired for service is appointed or assigned and shall end
20 no more than two calendar years from that date, after which the
21 limitation specified in subdivisions (d) and (f) of Section 24214
22 shall apply.

23 (3) An exemption under this subdivision shall be granted by the
24 system providing that the Superintendent of Public Instruction or
25 the county superintendent of schools submits documentation
26 required by the system to substantiate the eligibility of the member
27 retired for service for an exemption under this subdivision.

28 (b) (1) A member retired for service under this part who is
29 employed by an employer to perform creditable service in an
30 emergency situation to fill a vacant administrative position
31 requiring highly specialized skills shall be exempt from the
32 provisions of subdivisions (d) and (f) of Section 24214 for
33 creditable service performed up to one-half of the full-time
34 equivalent for that position, if the vacancy occurred due to
35 circumstances beyond the control of the employer. The limitation
36 specified in subdivisions (d) and (f) of Section 24214 shall apply
37 to creditable service performed beyond the specified exemption.

38 (2) *The period of exemption shall commence on the date the*
39 *member retired for service is appointed or assigned and shall end*
40 *no more than two calendar years from that date, after which the*



1 *limitation specified in subdivisions (d) and (f) of Section 24214*
2 *shall apply.*

3 (3) An exemption under this subdivision shall be granted by the
4 system subject to the following conditions:

5 (A) The recruitment process to fill the vacancy on a permanent
6 basis is expected to extend over several months.

7 (B) The employment is reported in a public meeting of the
8 governing body of the employer.

9 (C) The employer submits documentation required by the
10 system to substantiate the eligibility of the member retired for
11 service for an exemption under this subdivision.

12 (c) This section does not apply to any person who has received
13 additional service credit pursuant to Section 22715 or 22716.

14 (d) A person who has received additional service credit
15 pursuant to Section 22714 or 22714.5 shall be ineligible for one
16 year from the effective date of retirement for the exemption
17 provided in this section for service performed in ~~the district from~~
18 ~~which he or she retired~~ *any school district, community college*
19 *district, or county office of education in the state.*

20 (e) ~~This section shall become operative on January 1, 2001, and~~
21 ~~shall remain in effect only until January 1, 2008, and as of that date~~
22 ~~is repealed, unless a later enacted statute, which is enacted before~~
23 ~~January 1, 2008, deletes or extends that date.~~

24 SEC. 4. Section 84040.5 of the Education Code is amended
25 to read:

26 84040.5. (a) The board of governors, in cooperation with,
27 and upon approval by, the Department of Finance, shall prescribe
28 the statements and other information to be included in the audit
29 reports filed with the state and shall develop audit procedures for
30 carrying out the purposes of this section. The Department of
31 Finance may make audits, surveys, and reports which, in the
32 judgment of the department will serve the best interest of the state.

33 (b) A review of existing audit procedures, statements, and other
34 information required to be included in the audit reports shall be
35 conducted periodically by the board of governors, in cooperation
36 with the Department of Finance. Standards shall be updated
37 periodically.

38 (c) For the audit of community colleges electing to take formal
39 action pursuant to Sections 22714, 22714.5, 87488, and 87488.1,



1 the audit standards shall require any information as is prescribed
2 by the chancellor, including, but not limited to, the following:

3 (1) The number and type of positions being vacated.

4 (2) The age and service credit of the retirees receiving the
5 additional service credit provided by Sections 22714 and 87488.

6 (3) A comparison of the salary and benefits of each retiree
7 receiving the additional service credit with the salary and benefits
8 of the replacement employee, if any.

9 (4) The resulting retirement costs, including interest, if any,
10 and postretirement healthcare benefits costs, incurred by the
11 employer.

12 (d) The chancellor shall annually prepare a cost analysis, based
13 upon the information included in the audit reports for the prior
14 fiscal year, to determine the net savings or costs resulting from
15 formal actions taken by community college districts pursuant to
16 Sections 22714, 22714.5, 87488, and 87488.1, and shall report the
17 results of the cost analysis to the Governor and the Legislature by
18 April 1 of each year.

19 (e) All costs incurred by the board of governors to implement
20 subdivision (c) shall be absorbed by the board of governors.

21 (f) At the request of the Department of Finance, each
22 community college district that elects to take formal action
23 pursuant to Sections 22714, 22714.5, 87488, and 87488.1 shall
24 reimburse the Department of Finance for any related
25 administrative costs incurred by the Department of Finance.

26 *SEC. 5. Section 3.5 of this bill incorporates amendments to*
27 *Section 24216 of the Education Code proposed by both this bill*
28 *and AB 2554. It shall only become operative if (1) both bills are*
29 *enacted and become effective on or before January 1, 2005, (2)*
30 *each bill amends Section 24216 of the Education Code, and (3)*
31 *this bill is enacted after AB 2554, in which case Section 3 of this*
32 *bill shall not become operative.*

