

AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 280

Introduced by Senator Calderon

February 24, 2009

An act to amend Section 22714 of, *and to add Section 24616.5 to*, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 280, as amended, Calderon. State teachers' retirement.

~~The~~

(1) *The State Teachers' Retirement 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 if certain conditions are satisfied and the member retires for service within a designated period. Under that law, a member granted additional credit for service under these provisions forfeits that credit if he or she is reemployed within 5 years after retirement by the district from which he or she retired.

This bill would require the State Teachers' Retirement System, upon discovering that a member who has received additional service credit, as described above, is working as a teacher less than 5 years after receiving the credit, in violation of provisions imposed as a condition of receiving that credit, to provide certain notifications to the member in writing by first-class mail, return receipt requested. The bill would provide that a member who is in violation of these provisions would not forfeit the benefits arising from the additional credit if he or she terminates employment with the employer providing the additional service credit, as specified, and provides the system an affidavit, made

under penalty of perjury, stating that, among other things, he or she was unaware of the prohibition and returned to teach at the request of the employer. By expanding the definition of the crime of perjury, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would provide that a member shall not forfeit his or her additional credit for service under these provisions if he or she is, on or after January 1, 2004, reemployed within 5 years after retirement as a substitute teacher by a school district from which he or she retired.~~

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

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

1 SECTION 1. Section 22714 of the Education Code is amended
2 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,
5 by formal action, determines pursuant to Section 44929 or 87488
6 that, because of impending curtailment of, or changes in, the
7 manner of performing services, the best interests of the district or
8 county office of education would be served by encouraging
9 certificated employees or academic employees to retire for service
10 and that the retirement will result in a net savings to the district or
11 county office of education, an additional two years of service credit
12 shall be 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
16 Section 24201) during a period of not more than 120 days or less
17 than 60 days, commencing no sooner than the effective date of the
18 formal action of the employer that shall specify the period.

19 (2) The employer transfers to the retirement fund an amount
20 determined by the Teachers' Retirement Board to equal the
21 actuarial equivalent of the difference between the allowance the

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

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

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

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

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

29 (3) The school district shall reimburse the county superintendent
30 for all costs to the county superintendent that result from the
31 certification.

32 (c) (1) The county office of education shall demonstrate and
33 certify to the Superintendent of Public Instruction that the formal
34 action taken would result in a net savings to the county office of
35 education.

36 (2) The Superintendent of Public Instruction shall certify to the
37 Teachers' Retirement Board that the result specified in paragraph
38 (1) can be demonstrated. The certification shall include, but is not
39 limited to, the information specified in subdivision (c) of Section
40 14502.1.

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

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

7 (2) The chancellor shall certify to the Teachers' Retirement
8 Board that the result specified in paragraph (1) can be
9 demonstrated. The certification shall include, but is not limited to,
10 the information specified in subdivision (c) of Section 84040.5.

11 (3) The chancellor may request reimbursement from the
12 community college district for all administrative costs that result
13 from the certification.

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

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

19 (g) A member of the Defined Benefit Program who retires under
20 this part for service under Chapter 27 (commencing with Section
21 24201) with service credit granted under this section and who
22 subsequently reinstates shall forfeit the service credit granted under
23 this section.

24 (h) ~~(1) Except as described in paragraph (2)~~ *Except as described*
25 *in Section 24616.5*, a member of the Defined Benefit Program who
26 retires under this part for service under Chapter 27 (commencing
27 with Section 24201) with service credit granted under this section
28 and who takes any job with the school district, community college
29 district, or county office of education that granted the member the
30 service credit less than five years after receiving the credit shall
31 forfeit the ongoing benefit he or she receives from the additional
32 service credit granted under this section.

33 ~~(2) This subdivision shall not apply to a member described in~~
34 ~~paragraph (1) who, on or after January 1, 2004, takes a job with~~
35 ~~the school district as a substitute teacher.~~

36 (i) This section does not apply to a member otherwise eligible
37 if the member receives any unemployment insurance payments
38 arising out of employment with an employer subject to this part
39 within one year following the effective date of the formal action

1 under subdivision (a), or if the member is not otherwise eligible
2 to retire for service.

3 *SEC. 2. Section 24616.5 is added to the Education Code, to*
4 *read:*

5 *24616.5. (a) Upon discovering that a member who has received*
6 *additional service credit pursuant to Section 22714 is working as*
7 *a teacher less than five years after receiving the credit in violation*
8 *of subdivision (h) of Section 22714, the system shall notify the*
9 *member in writing by first-class mail, return receipt requested,*
10 *that he or she is in violation of the conditions under which he or*
11 *she received the additional credit. The system shall further notify*
12 *the member that he or she will forfeit the benefit resulting from*
13 *any additional service credit, and will be liable for restitution of*
14 *any overpayment, unless all of the following occur:*

15 *(1) The member terminates employment with the employer*
16 *providing the additional service credit on or before 30 days after*
17 *receipt of the notice from the system.*

18 *(2) The member provides the system on or before 30 days after*
19 *receipt of the notice an affidavit, made under penalty of perjury,*
20 *stating that:*

21 *(A) The member was unaware of the prohibition on employment*
22 *with the employer granting the additional service credit described*
23 *in subdivision (h) of Section 22714.*

24 *(B) The member was invited to return to employment as a*
25 *teacher by the employer granting the additional service credit.*

26 *(C) The member's employment with the employer granting the*
27 *additional service credit has terminated, or will terminate, within*
28 *the period required by this section.*

29 *(b) If, on or before 30 days after receipt of the notice required*
30 *in subdivision (a), a member terminates employment with the*
31 *employer granting the additional service credit and, within that*
32 *time, also provides the system the affidavit described in subdivision*
33 *(a), then the member shall not forfeit the benefit resulting from the*
34 *additional service credit and the system shall not attempt to recover*
35 *any payments made in this connection, absent evidence of fraud*
36 *or intentional misrepresentation of facts.*

37 *(c) If a member, prior to January 1, 2010, has forfeited a benefit*
38 *resulting from additional service credit received pursuant to*
39 *Section 22714, and the forfeit was a result of work as a teacher*
40 *entered at the request of the employer that granted the additional*

1 *service credit, the member shall have that benefit restored, and*
2 *all deductions or payments made in this connection returned, if*
3 *all of the following occur:*

4 *(1) The member has terminated employment with the employer*
5 *granting the additional service credit.*

6 *(2) The member provides the system on or before January 31,*
7 *2010, an affidavit, made under penalty of perjury, stating that:*

8 *(A) The member was unaware of the prohibition on employment*
9 *with the employer granting the additional service credit described*
10 *by subdivision (h) of Section 22714.*

11 *(B) The member was invited to return to employment as a*
12 *teacher by the employer granting the additional service credit.*

13 *(C) The member has terminated employment with the employer*
14 *granting the additional service credit.*

15 *SEC. 3. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *the only costs that may be incurred by a local agency or school*
18 *district will be incurred because this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the penalty*
20 *for a crime or infraction, within the meaning of Section 17556 of*
21 *the Government Code, or changes the definition of a crime within*
22 *the meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*