

AMENDED IN ASSEMBLY MAY 10, 1995  
AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 948**

**Introduced by Assembly Member Gallegos**

February 22, 1995

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An act to add Section 22119.5 to, to repeal Section 24115 of, to repeal and add Sections 24114 and 24214 of, and to repeal, add, and repeal Section 24216 of, the Education Code, relating to educational employees, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 948, as amended, Gallegos. Teachers' retirement: benefits.

The State Teachers' Retirement Law authorizes service and disability retirants to earn not more than \$15,000 in any school year from a school district or other public employing agency.

This bill would make that limitation applicable only to earnings for service that would be creditable if performed by an active member *and would exempt specified retirants from the limitations.* The bill would make the allowance reduction for earnings in excess of that amount applicable regardless of when compensation is paid.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ 2/3. 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 22119.5 is added to the  
2 Education Code, to read:  
3 22119.5. (a) “Creditable service” means any of the  
4 following activities performed for an employer in a  
5 position requiring a credential, certificate, or permit  
6 pursuant to this code or under the appropriate minimum  
7 standards adopted by the Board of Governors of the  
8 California Community Colleges or under the provisions  
9 of an approved charter for the operation of a charter  
10 school for which the employer is eligible to receive state  
11 apportionment:  
12 (1) The work of teachers, instructors, district interns,  
13 and academic employees employed in the instructional  
14 program for pupils, including special programs such as  
15 adult education, regional occupation programs, child  
16 care centers, and prekindergarten programs pursuant to  
17 Section 22161.  
18 (2) Education or vocational counseling, guidance, and  
19 placement services.  
20 (3) The work of directors, coordinators, and assistant  
21 administrators who plan courses of study to be used in  
22 California public schools, or research connected with the  
23 evaluation or efficiency of the instructional program.  
24 (4) The selection, collection, preparation,  
25 classification, demonstration, or evaluation of  
26 instructional materials of any course of study for use in the  
27 development of the instructional program in California  
28 public schools, or other services related to school  
29 curriculum.  
30 (5) The examination, selection, in-service training, or  
31 assignment of teachers, principals, or other *similar*  
32 personnel involved in the instructional program.  
33 (6) School activities related to, and an outgrowth of,  
34 the instructional and guidance program of the school  
35 when performed in addition to other activities described



1 in this section within the hours considered normal on a  
2 full-time basis for full-time employees of the employer.

3 (7) The work of nurses, physicians, speech therapists,  
4 psychologists, audiometrists, audiologists, and other  
5 supervised employees in the school health program.

6 (8) Services as a school librarian.

7 (9) The work of county and district superintendents  
8 and other employees who are responsible for the  
9 supervision of persons or administration of the duties  
10 described in this section.

11 (b) The board shall have final authority for  
12 determining creditable service to cover any activities not  
13 specified.

14 SEC. 2. Section 24114 of the Education Code is  
15 repealed.

16 SEC. 3. Section 24114 is added to the Education Code,  
17 to read:

18 24114. (a) A ~~disability-retirant~~ *member retired for*  
19 *disability* may be employed or self-employed but shall not  
20 make contributions to the retirement fund or accrue  
21 service credit based on earnings from any employment.

22 (b) A ~~disability-retirant~~ *member retired for disability*  
23 may earn in any one calendar year up to the limitation  
24 specified in subdivision (c) without a reduction in his or  
25 her disability retirement allowance.

26 (c) The limitation that shall apply to a ~~disability~~  
27 ~~retirant's earnings in any one school year~~ *the earnings of*  
28 *a member retired for disability* shall be fifteen thousand  
29 dollars (\$15,000), *in any one school year*, adjusted  
30 annually by the board each July 1 by the annual amount  
31 of increase in the All Urban California Consumer Price  
32 Index using December 1989 as the base.

33 (d) If a ~~disability-retirant~~ *member retired for disability*  
34 earns in excess of the limitation specified in subdivision  
35 (c) from all employment in any calendar year, his or her  
36 retirement allowance shall be reduced by the amount of  
37 the excess earnings. The amount of the reduction may be  
38 equal to the monthly allowance payable but shall not  
39 exceed the amount of the annual allowance payable ~~by~~



1 ~~the system~~ *under this part* for the calendar year in which  
2 the excess compensation was earned.

3 (e) The earnings limitation specified in this section  
4 shall not be applicable to a ~~disability-retirant~~ *member*  
5 *retired for disability* who is participating in an approved  
6 rehabilitation program pursuant to Section 24111.

7 (f) This section shall not be applicable to a ~~disability~~  
8 ~~retirant~~ *member retired for disability* who began  
9 receiving a disability retirement allowance prior to  
10 October 16, 1992.

11 SEC. 4. Section 24115 of the Education Code is  
12 repealed.

13 SEC. 5. Section 24214 of the Education Code is  
14 repealed.

15 SEC. 6. Section 24214 is added to the Education Code,  
16 to read:

17 24214. (a) A ~~service-retirant~~ *member retired for*  
18 *service* may perform creditable service as defined in  
19 Section 22119.5 for an employer but shall not make  
20 contributions to the retirement fund or accrue service  
21 credit based on compensation earned from that service.

22 (b) The rate of pay for service performed by a ~~retirant~~  
23 *member retired for service* shall not be less than the  
24 minimum, nor exceed that paid by the employer to other  
25 employees performing comparable duties.

26 (c) A ~~service-retirant~~ *member retired for service* shall  
27 not be required to reinstate for performing creditable  
28 service.

29 (d) A ~~service-retirant~~ *member retired for service* may  
30 earn compensation for creditable service in any one  
31 school year up to the limitation specified in subdivision  
32 (e) without a reduction in his or her retirement  
33 allowance.

34 (e) The limitation that shall apply to a ~~service~~  
35 ~~retirant's~~ *the earnings from creditable service in any one*  
36 ~~school year of a member retired for service~~ shall be fifteen  
37 thousand dollars (\$15,000), *in any one school year,*  
38 adjusted annually by the board each July 1 by the annual  
39 amount of increase in the All Urban California Consumer  
40 Price Index using December 1989 as the base.



1 (f) If a ~~service-retirant~~ *member retired for service*  
2 earns compensation for creditable service in excess of the  
3 limitation specified in subdivision (e), his or her  
4 retirement allowance shall be reduced by the amount of  
5 the excess compensation. The amount of the reduction  
6 may be equal to the monthly allowance payable but shall  
7 not exceed the amount of the annual allowance payable  
8 ~~by the system under this part~~ for the fiscal year in which  
9 the excess compensation was earned.

10 SEC. 7. Section 24216 of the Education Code is  
11 repealed.

12 SEC. 8. Section 24216 is added to the Education Code,  
13 to read:

14 24216. (a) (1) A ~~service-retirant~~ *member retired for*  
15 *service* who is appointed as a trustee or administrator by  
16 the Superintendent of Public Instruction pursuant to  
17 Section 41320.1, or a ~~service-retirant~~ *member retired for*  
18 *service who is* assigned by a county superintendent of  
19 schools pursuant to Article 2 (commencing with Section  
20 42120) of Chapter 6 of Part 24, shall be exempt from  
21 subdivisions (d), (e) and (f) of Section 24214 for a  
22 maximum period of two years.

23 (2) The period of exemption shall commence on the  
24 date the ~~retirant~~ *member retired for service* is appointed  
25 or assigned and shall end no more than two calendar years  
26 from that date, after which the limitation specified in  
27 subdivisions (d), (e) and (f) of Section 24214 shall apply.

28 (3) An exemption under this subdivision shall be  
29 granted by the system providing that the Superintendent  
30 of Public Instruction or the county superintendent of  
31 schools submits documentation required by the system to  
32 substantiate the ~~retirant's—eligibility~~ *eligibility of the*  
33 *member retired for service* for an exemption under this  
34 subdivision.

35 (b) (1) A ~~service-retirant~~ *member retired for service*  
36 who is employed to perform creditable service in an  
37 emergency situation ~~resulting from circumstances~~  
38 ~~beyond the control of the employer to fill a vacancy in a~~  
39 ~~highly specialized administrative position to fill a vacant~~  
40 *administrative position requiring highly specialized skills*



1 shall be exempt from the provisions of subdivisions (d),  
2 (e) and (f) of Section 24214 for creditable service  
3 performed up to one-half of the full-time equivalent for  
4 that position, ~~after which the~~ *if the vacancy occurred due*  
5 *to circumstances beyond the control of the employer.*  
6 *The limitation specified in subdivisions (d), (e) and (f)*  
7 *of Section 24214 shall apply to creditable service*  
8 *performed beyond the specified exemption.*

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

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

14 (B) The employment is reported in a public meeting  
15 of the governing body.

16 (C) The employer submits documentation required  
17 by the system to substantiate the ~~retirant's eligibility~~  
18 *eligibility of the member retired for service* for an  
19 exemption under this subdivision.

20 (c) *This section shall not apply to any person who has*  
21 *received additional service credit pursuant to Section*  
22 *22714, 22715, or 22716.*

23 (d) *This section shall become operative on July 1, 1995,*  
24 *and shall remain in effect only until July 1, 2000, and as of*  
25 *that date is repealed, unless a later enacted statute, which*  
26 *is enacted before July 1, 2000, deletes or extends that date.*

27 *SEC. 9. This act is an urgency statute necessary for the*  
28 *immediate preservation of the public peace, health, or*  
29 *safety within the meaning of Article IV of the*  
30 *Constitution and shall go into immediate effect. The facts*  
31 *constituting the necessity are:*

32 *In order to ensure that this act takes effect in a timely*  
33 *enough manner to provide crucial benefits to members*  
34 *of the teaching profession and preserve continuity in the*  
35 *state's system of public instruction, it is necessary that this*  
36 *act take effect immediately.*

