

## Assembly Bill No. 1852

### CHAPTER 935

An act to amend Sections 22714, 22714.5, 24216, 24221, and 84040.5 of the Education Code, relating to state teachers' retirement, and making an appropriation therefor.

[Approved by Governor September 29, 2004. Filed with Secretary of State September 30, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1852, Mullin. State teachers' retirement.

(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 two years after retirement by any other district.

This bill would instead provide that any member granted additional credit for service or service and age under those provisions would not forfeit that credit if he or she is reemployed at any time after retirement by any other district.

(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) Existing law authorizes members of the Defined Benefit Program of the State Teachers' Retirement Plan who retire prior to January 1, 2011, at a specified age or at a specified age with 30 years of service, to



elect to receive a specified lump-sum payment upon retirement and an actuarially reduced monthly allowance.

This bill would authorize any member who retires prior to that date to make that election. The bill would also specify the method to be used by the Teachers' Retirement Board to calculate the member's actuarially reduced monthly allowance, that results in no net actuarial impact to the program.

(4) 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.

(5) The bill would appropriate \$53,000 from the Teachers' Retirement Fund to the Teachers' Retirement Board to implement a specified provision.

Appropriation: yes.

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

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

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

(1) The member is credited with five or more years of service credit and retires for service under Chapter 27 (commencing with Section 24201) during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the employer that shall specify the period.

(2) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection



supplemental payment the member receives after receipt of service credit pursuant to this section and the amount the member would have received without the service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund shall be made in a manner and a time period, not to exceed eight years, that is acceptable to the Teachers' Retirement Board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

(i) This section does not apply to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the effective date of the formal action, or if the member is not otherwise eligible to retire for service.

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

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

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

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

(3) The employer transfers to the retirement fund an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the allowance the member receives after receipt of service and age credit pursuant to this section and the amount the member would have received without the service and age



credit and an amount determined by the Teachers' Retirement Board to equal the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of service and age credit pursuant to this section and the amount the member would have received without the service and age credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund shall be made in a manner and time period, not to exceed eight years, that is acceptable to the Teachers' Retirement Board.

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

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

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

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

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

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

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

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

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

(7) This section has been made applicable to the employer and the member pursuant to a memorandum of understanding between the employer and the representative employee organization or, for members who are not represented by a representative employee organization, this



section has been made applicable to all of the members employed by the school district, community college district, or county office of education, pursuant to a formal action of the governing board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.

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

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

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

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

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

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

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

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent of Public Instruction pursuant to Section 41320.1, or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42120) of Chapter 6 of Part 24,



shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of two years.

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

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

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

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

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

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

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

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

(d) A person who has received additional service credit pursuant to Section 22714 or 22714.5 shall be ineligible for one year from the effective date of retirement for the exemption provided in this section for service performed in any school district, community college district, or county office of education in the state.

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

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

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



Instruction pursuant to Section 41320.1, or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of two years.

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

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

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

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

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

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

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

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

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

(d) A person who has received additional service credit pursuant to Section 22714 or 22714.5 shall be ineligible for one year from the effective date of retirement for the exemption provided in this section for service performed in any school district, community college district, or county office of education in the state.



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

SEC. 4. Section 24221 of the Education Code is amended to read:

24221. (a) A member who retires for service prior to January 1, 2011, may elect, on a form prescribed by the system, to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to this section in lieu of the monthly unmodified allowance that would otherwise be payable to the member pursuant to this chapter. The election under this section shall be made at the time the member files his or her application for service retirement allowance as provided in Section 24204.

(b) A member who makes the election described in subdivision (a) shall receive a one-time, lump-sum payment in an amount that equals or does not exceed the lesser of the following amounts:

(1) The actuarial present value of the amount by which (A) the monthly unmodified allowance payable to the member pursuant to this chapter exceeds (B) an amount equal to 2 percent of the member's final compensation multiplied by the number of years of credited service and divided by 12.

(2) Fifteen percent of the actuarial present value of the monthly unmodified allowance payable to the member under this chapter.

(c) Notwithstanding any other provision of this part, a member who makes the election described in subdivision (a) shall receive a monthly unmodified allowance, pursuant to this chapter, that shall be actuarially reduced to reflect the lump-sum amount paid under subdivision (b). The actuarial reduced unmodified allowance may be modified pursuant to Section 24300.

(d) A member may not apply a lump-sum payment made pursuant to this section for the purposes of redepositing previously refunded retirement contributions pursuant to Chapter 19 (commencing with Section 23200) or purchasing service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820) or Chapter 14.5 (commencing with Section 22850). The Legislature hereby finds and declares that if a member who elects to receive a partial lump-sum payment also elects to redeposit previously refunded retirement contributions or purchase service credit as a result of the receipt of the lump-sum payment, the Defined Benefit Program may experience a net actuarial impact.

(e) An election pursuant to subdivision (a) may have no net actuarial impact to the Defined Benefit Program. The board shall adopt present value factors to establish a corresponding actuarially reduced monthly allowance, that results in no net actuarial impact to the Defined Benefit



Program. The Legislature reserves the right to modify the provisions of this section to further the objective of permitting eligible members to receive a lump-sum distribution of a portion of their benefits, with a corresponding actuarial reduction in their monthly allowance, so that there is no net actuarial impact to the Defined Benefit Program.

SEC. 5. Section 84040.5 of the Education Code is amended to read:

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

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

(c) For the audit of community colleges electing to take formal action pursuant to Sections 22714, 22714.5, 87488, and 87488.1, the audit standards shall require any information as is prescribed by the chancellor, including, but not limited to, the following:

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

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

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

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

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

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

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



SEC. 6. Section 3.5 of this bill incorporates amendments to Section 24216 of the Education Code proposed by both this bill and AB 2554. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 24216 of the Education Code, and (3) this bill is enacted after AB 2554, in which case Section 3 of this bill shall not become operative.

SEC. 7. The sum of fifty-three thousand dollars (\$53,000) is hereby appropriated from the Teachers' Retirement Fund to the Teachers' Retirement Board to implement Section 4 of this act.

