

ASSEMBLY BILL

No. 2554

Introduced by Assembly Member Pavley
(Coauthor: Assembly Member Levine)
(Coauthor: Senator Karnette)

February 20, 2004

An act to amend Section 22461 of, to amend and repeal Section 24214 of, and to repeal Sections 24216, 24216.5, and 24216.6 of, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2554, as introduced, Pavley. State teachers' retirement: post-retirement earnings.

Under existing law, the service retirement allowance of a retired member of the Defined Benefit Program of the Teachers' Retirement Plan is reduced if the member's postretirement compensation from specified activities exceeds a certain dollar amount, except in specified circumstances.

This bill would eliminate that postretirement earnings limitation.

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 22461 of the Education Code is
2 amended to read:
3 22461. (a) Upon retaining the services of a retired member
4 under Section 24116, ~~24214~~, or 24215, the ~~school district,~~
5 ~~community college district, county superintendent of schools,~~

1 California State University, ~~or other employing agency~~ shall do
 2 both of the following regardless of whether the retired member
 3 performs the services as an employee of the employer, an
 4 employee of a third party, or an independent contractor:

5 (1) Advise the retired member of the earnings limitation set
 6 forth in Sections 24116, ~~24214~~, and 24215.

7 (2) Maintain accurate records of the retired member’s earnings
 8 and report those earnings monthly to the system and the retired
 9 member regardless of the method of payment or the fund from
 10 which the payments were made.

11 (b) This section ~~shall~~ *may* not be construed to make ~~any school~~
 12 ~~district, community college district, county superintendent of~~
 13 ~~schools,~~ the California State University, ~~or other employing~~
 14 ~~agency~~ liable for any amount paid to the retired member in excess
 15 of the earnings limitation under any circumstance, including the
 16 failure to inform the retired member that continuation of service
 17 would exceed the ~~limitations~~ *limitation*.

18 SEC. 2. Section 24214 of the Education Code, as amended by
 19 Section 21 of Chapter 859 of the Statutes of 2003, is amended to
 20 read:

21 24214. (a) A member retired for service under this part may
 22 perform the activities identified in paragraphs (1) to (9), inclusive,
 23 of subdivision (a), or subdivision (b), of Section 22119.5 as an
 24 employee of an employer, as an employee of a third party, or as an
 25 independent contractor within the California public school
 26 system, but the member may not make contributions ~~to~~ *to* the
 27 retirement fund or accrue service credit based on compensation
 28 earned from that service.

29 (b) The rate of pay for service performed by a member retired
 30 for service under this part as an employee of the employer may not
 31 be less than the minimum, nor exceed that paid by the employer
 32 to other employees performing comparable duties.

33 (c) A member retired for service under this part may not be
 34 required to reinstate for performing the activities identified in
 35 paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision
 36 (b), of Section 22119.5, as an employee of an employer, as an
 37 employee of a third party, or as an independent contractor within
 38 the California public school system.

39 (d) A member retired for service under this part may earn
 40 compensation for performing activities identified in paragraphs



1 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of
2 Section 22119.5 in any one school year up to the limitation
3 specified in subdivision (f) as an employee of an employer, as an
4 employee of a third party, or an independent contractor, within the
5 California public school system, without a reduction in his or her
6 retirement allowance.

7 ~~(e) The postretirement compensation limitation provisions set
8 forth in this section are not applicable to compensation earned for
9 the performance of the activities described in subdivision (a) for
10 which the employer is not eligible to receive state apportionment
11 or to compensation that is not creditable pursuant to Section
12 22119.2.~~

13 ~~(f) The limitation that shall apply to the compensation for
14 performance of the activities identified in paragraphs (1) to (9),
15 inclusive, of subdivision (a), or subdivision (b), of Section
16 22119.5 by a member retired for service under this part either as
17 an employee of an employer, an employee of a third party, or as an
18 independent contractor, shall, in any one school year, be an amount
19 calculated by the board each July 1 equal to twenty-two thousand
20 dollars (\$22,000) multiplied by the percentage increase in the
21 average compensation earnable of active members of the Defined
22 Benefit Program, as determined by the system, from the 1998-99
23 fiscal year to the fiscal year ending in the previous calendar year.~~

24 ~~(g) If a member retired for service under this part earns
25 compensation for performing activities identified in paragraphs
26 (1) to (9), inclusive, of subdivision (a), or subdivision (b), of
27 Section 22119.5 in excess of the limitation specified in subdivision
28 (f), as an employee of an employer, as an employee of a third party,
29 or as an independent contractor, within the California public
30 school system, the member's retirement allowance shall be
31 reduced by the amount of the excess compensation. The amount
32 of the reduction may be equal to the monthly allowance payable
33 but may not exceed the amount of the annual allowance payable
34 under this part for the fiscal year in which the excess compensation
35 was earned.~~

36 ~~(h) The language of this section derived from the amendments
37 to the section of this number added by Chapter 394 of the Statutes
38 of 1995, enacted during the 1995-96 Regular Session, is deemed
39 to have become operative on July 1, 1996.~~

40 ~~(i) This section shall become operative on January 1, 2008.~~



1 SEC. 3. Section 24214 of the Education Code, as amended by
2 Section 2 of Chapter 903 of the Statutes of 2002, is repealed.

3 ~~24214. (a) A member retired for service under this part may~~
4 ~~perform the activities identified in paragraphs (1) to (9), inclusive,~~
5 ~~of subdivision (a), or subdivision (b), of Section 22119.5 as an~~
6 ~~employee of an employer, as an employee of a third party, or as an~~
7 ~~independent contractor within the California public school~~
8 ~~system, but the member may not make contributions to the~~
9 ~~retirement fund or accrue service credit based on compensation~~
10 ~~earned from that service.~~

11 ~~(b) The rate of pay for service performed by a member retired~~
12 ~~for service under this part as an employee of the employer may not~~
13 ~~be less than the minimum, nor exceed that paid by the employer~~
14 ~~to other employees performing comparable duties.~~

15 ~~(c) A member retired for service under this part may not be~~
16 ~~required to reinstate for performing the activities identified in~~
17 ~~paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision~~
18 ~~(b), of Section 22119.5, as an employee of an employer, as an~~
19 ~~employee of a third party, or as an independent contractor within~~
20 ~~the California public school system.~~

21 ~~(d) A member retired for service under this part may earn~~
22 ~~compensation for performing activities identified in paragraphs~~
23 ~~(1) to (9), inclusive, of subdivision (a), or subdivision (b), of~~
24 ~~Section 22119.5 in any one school year up to the limitation~~
25 ~~specified in subdivision (f) as an employee of an employer, as an~~
26 ~~employee of a third party, or an independent contractor, within the~~
27 ~~California public school system, without a reduction in his or her~~
28 ~~retirement allowance.~~

29 ~~(e) (1) The postretirement compensation limitation provisions~~
30 ~~set forth in this section are not applicable to compensation earned~~
31 ~~by a member retired for service under this part who has returned~~
32 ~~to work after the date of retirement and, for a period of at least 12~~
33 ~~consecutive months, has not performed the activities identified in~~
34 ~~paragraphs (1) to (9), inclusive, of subdivision (a), or subdivision~~
35 ~~(b), of Section 22119.5 as an employee of an employer, as an~~
36 ~~employee of a third party, or as an independent contractor within~~
37 ~~the California public school system.~~

38 ~~(2) The postretirement compensation limitation provisions set~~
39 ~~forth in this section are not applicable to compensation earned for~~
40 ~~the performance of the activities described in subdivision (a) for~~



1 ~~which the employer is not eligible to receive state apportionment~~
2 ~~or to compensation that is not creditable pursuant to Section~~
3 ~~22119.2.~~

4 ~~(f) The limitation that shall apply to the compensation for~~
5 ~~performance of the activities identified in paragraphs (1) to (9),~~
6 ~~inclusive, of subdivision (a), or subdivision (b), of Section~~
7 ~~22119.5 by a member retired for service under this part either as~~
8 ~~an employee of an employer, an employee of a third party, or as an~~
9 ~~independent contractor, shall, in any one school year, be an amount~~
10 ~~calculated by the board each July 1 equal to twenty-two thousand~~
11 ~~dollars (\$22,000) multiplied by the percentage increase in the~~
12 ~~average earnable salary of active members of the Defined Benefit~~
13 ~~Program, as determined by the system, from the 1998-99 fiscal~~
14 ~~year to the fiscal year ending in the previous calendar year.~~

15 ~~(g) If a member retired for service under this part earns~~
16 ~~compensation for performing activities identified in paragraphs~~
17 ~~(1) to (9), inclusive, of subdivision (a), or subdivision (b), of~~
18 ~~Section 22119.5 in excess of the limitation specified in subdivision~~
19 ~~(f), as an employee of an employer, as an employee of a third party,~~
20 ~~or as an independent contractor, within the California public~~
21 ~~school system, and if that compensation is not exempt from that~~
22 ~~limitation under subdivision (e) or any other provisions of law, the~~
23 ~~member's retirement allowance shall be reduced by the amount of~~
24 ~~the excess compensation. The amount of the reduction may be~~
25 ~~equal to the monthly allowance payable but shall not exceed the~~
26 ~~amount of the annual allowance payable under this part for the~~
27 ~~fiscal year in which the excess compensation was earned.~~

28 ~~(h) The amendments to this section enacted during the 1995-96~~
29 ~~Regular Session shall be deemed to have become operative on July~~
30 ~~1, 1996.~~

31 ~~(i) This section shall be repealed on January 1, 2008, unless~~
32 ~~later enacted legislation extends or deletes that date.~~

33 SEC. 4. Section 24216 of the Education Code is repealed.

34 24216. (a) (1) A member retired for service under this part
35 who is appointed as a trustee or administrator by the
36 Superintendent of Public Instruction pursuant to Section 41320.1,
37 or a member retired for service who is assigned by a county
38 superintendent of schools pursuant to Article 2 (commencing with
39 Section 42120) of Chapter 6 of Part 24, shall be exempt from



1 subdivisions (d) and (f) of Section 24214 for a maximum period
2 of two years.

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

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

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

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

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

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

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

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

34 (d) A person who has received additional service credit
35 pursuant to Section 22714 or 22714.5 shall be ineligible for one
36 year from the effective date of retirement for the exemption
37 provided in this section for service performed in the district from
38 which he or she retired.

39 (e) This section shall become operative on January 1, 2001, and
40 shall remain in effect only until January 1, 2008, and as of that date



1 is repealed, unless a later enacted statute, which is enacted before
2 January 1, 2008, deletes or extends that date.

3 SEC. 5. Section 24216.5 of the Education Code is repealed.

4 24216.5. (a) The compensation earned by a member who
5 retired for service under this part shall be exempt from
6 subdivisions (d), (f), and (g) of Section 24214, if all of the
7 following conditions are met:

8 (1) The member retired for service with an effective date on or
9 before January 1, 2000.

10 (2) The member retired for service is employed by a school
11 district to provide any of the following:

12 (A) Direct classroom instruction to pupils enrolled in
13 kindergarten or any grades 1 to 12, inclusive.

14 (B) Support and assessment for new teachers through the
15 Beginning Teacher Support and Assessment program authorized
16 by Section 44279.1.

17 (C) Support to individuals completing student teaching
18 assignments.

19 (D) Support to individuals participating in the following
20 programs:

21 (i) Pre-Internship Teaching Program authorized pursuant to
22 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
23 25.

24 (ii) Alternative certification programs authorized pursuant to
25 Article 11 (commencing with Section 44380) of Chapter 2 of Part
26 25.

27 (iii) School Paraprofessional Teacher Training Program
28 established pursuant to Article 12 (commencing with Section
29 44390) of Chapter 2 of Part 25.

30 (3) All members retired for service whose employment with a
31 school district meets the conditions specified in this section shall
32 be treated as a distinct class of temporary employees within the
33 existing bargaining unit whose service shall not be included in
34 computing the service required as a prerequisite to attainment of
35 or eligibility for classification as a permanent employee of a school
36 district. The compensation for service performed by this class of
37 employees shall be established in accordance with subdivision (b)
38 of Section 24214 and agreed to in the collective bargaining
39 agreement between the employing school district and the
40 exclusive representative for the existing bargaining unit within



1 which these temporary employees of the school district are treated
2 as a distinct class.

3 ~~(4) The employing school district submits documentation~~
4 ~~required by the system to substantiate the eligibility of the~~
5 ~~temporary employment of a member retired for service for the~~
6 ~~exemption under this subdivision.~~

7 ~~(b) A school district that employs a member retired for service~~
8 ~~pursuant to this section shall maintain accurate records of the~~
9 ~~retired member's compensation earned and shall report that~~
10 ~~compensation monthly to the system regardless of the method of~~
11 ~~payment or the source of funds from which the compensation is~~
12 ~~paid.~~

13 ~~(c) This section shall not apply to the compensation earned for~~
14 ~~creditable service performed by a member retired for service for~~
15 ~~a community college district.~~

16 ~~(d) The amendments made to this section by an act enacted in~~
17 ~~the second year of the 1999-2000 Regular Session shall apply to~~
18 ~~the 2000-01 school year and all subsequent school years.~~

19 ~~(e) This section shall remain in effect only until July 1, 2005,~~
20 ~~and as of that date is repealed unless a later enacted statute which~~
21 ~~is enacted before July 1, 2005, deletes or extends that date.~~

22 SEC. 6. Section 24216.6 of the Education Code is repealed.

23 ~~24216.6. (a) The compensation earned by a member who~~
24 ~~retired for service under this part shall be exempt from~~
25 ~~subdivisions (d), (f), and (g) of Section 24214, if all of the~~
26 ~~following conditions are met:~~

27 ~~(1) The member retired for service with an effective date on or~~
28 ~~before July 1, 2000.~~

29 ~~(2) The member retired for service is employed by a school~~
30 ~~district to provide direct remedial instruction to pupils in grades 2~~
31 ~~to 12, inclusive. "Remedial instruction" means the programs~~
32 ~~specified in Sections 37252 and 37252.2.~~

33 ~~(3) All members retired for service whose employment with a~~
34 ~~school district meets the conditions specified in this section shall~~
35 ~~be treated as a distinct class of temporary employees within the~~
36 ~~existing bargaining unit whose service may not be included in~~
37 ~~computing the service required as a prerequisite to attainment of~~
38 ~~or eligibility for classification as a permanent employee of a school~~
39 ~~district. The compensation for service performed by this class of~~
40 ~~employees shall be established in accordance with subdivision (b)~~



1 of Section 24214 and agreed to in the collective bargaining
2 agreement between the employing school district and the
3 exclusive representative for the existing bargaining unit within
4 which these temporary employees of the school district are treated
5 as a distinct class.

6 ~~(4) The employing school district submits documentation~~
7 ~~required by the system to substantiate the eligibility of the~~
8 ~~temporary employment of a member retired for service for the~~
9 ~~exemption under this subdivision.~~

10 (b) A school district that employs a member retired for service
11 pursuant to this section shall maintain accurate records of the
12 retired member's compensation earned and shall report that
13 compensation monthly to the system regardless of the method of
14 payment or the source of funds from which the compensation is
15 paid.

16 (c) This section does not apply to the compensation earned for
17 creditable service performed by a member retired for service for
18 a county office of education or a community college district.

