

AMENDED IN ASSEMBLY MARCH 24, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

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~~ *An act to amend* Sections 24216, 24216.5, and 24216.6 of; the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2554, as amended, Pavley. State teachers' retirement: postretirement 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.~~

Existing law exempts from that earnings limitation, until January 1, 2008, service performed in an emergency situation in certain vacant administrative positions for up to 1/2 of the full-time equivalent for that position, if certain conditions are met.

This bill would limit the period of that exemption to not more than 2 years after the date the retired member is appointed or assigned to that position.

Existing law also exempts from the earnings limitation, until July 1, 2005, any of a list of specified types of service performed by members who retired for service on or before January 1, 2000, if certain conditions were met.

This bill would extend that exemption until January 1, 2008, would expand it to apply to service performed by members who retired for service on or before January 1, 2004, and would expand the list of types of service subject to the exemption to include instruction and services provided to pupils in special education programs and English language learner programs.

Existing law also exempts from the earnings limitation direct remedial instruction, as specified, performed by retired members who retired for service on or before July 1, 2000.

This bill would expand that exemption to apply to those services performed by members who retired for service on or before July 1, 2004.

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 *SECTION 1. Section 24216 of the Education Code is*
- 3 *amended to read:*
- 4 24216. (a) (1) A member retired for service under this part
- 5 who is appointed as a trustee or administrator by the
- 6 Superintendent of Public Instruction pursuant to Section 41320.1,
- 7 or a member retired for service who is assigned by a county
- 8 superintendent of schools pursuant to Article 2 (commencing with
- 9 ~~Section 42120~~ 42122) of Chapter 6 of Part 24, shall be exempt
- 10 from subdivisions (d) and (f) of Section 24214 for a maximum
- 11 period of two years.
- 12 (2) The period of exemption shall commence on the date the
- 13 member retired for service is appointed or assigned and shall end
- 14 no more than two calendar years from that date, after which the
- 15 limitation specified in subdivisions (d) and (f) of Section 24214
- 16 shall apply.
- 17 (3) An exemption under this subdivision shall be granted by the
- 18 system providing that the Superintendent of Public Instruction or
- 19 the county superintendent of schools submits documentation



1 required by the system to substantiate the eligibility of the member
2 retired for service for an exemption under this subdivision.

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

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

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

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

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

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

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

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

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

38 *SEC. 2. Section 24216.5 of the Education Code is amended to*
39 *read:*



1 24216.5. (a) The compensation earned by a member who
2 retired for service under this part shall be exempt from
3 subdivisions (d), (f), and (g) of Section 24214, if all of the
4 following conditions are met:

5 (1) The member retired for service with an effective date on or
6 before January 1, ~~2000~~ 2004.

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

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

11 (B) Support and assessment for new teachers through the
12 Beginning Teacher Support and Assessment program authorized
13 by Section 44279.1.

14 (C) Support to individuals completing student teaching
15 assignments.

16 (D) Support to individuals participating in the following
17 programs:

18 (i) Pre-Internship Teaching Program authorized pursuant to
19 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
20 25.

21 (ii) Alternative certification programs authorized pursuant to
22 Article 11 (commencing with Section 44380) of Chapter 2 of Part
23 25.

24 (iii) School Paraprofessional Teacher Training Program
25 established pursuant to Article 12 (commencing with Section
26 44390) of Chapter 2 of Part 25.

27 (E) *Instruction and pupil services provided to pupils enrolled*
28 *in special education programs authorized pursuant to Part 30*
29 *(commencing with Section 56000) of Division 4 of Title 2.*

30 (F) *Instruction to pupils enrolled in English language learner*
31 *programs authorized pursuant to Chapter 3 (commencing with*
32 *Section 300), Chapter 4 (commencing with Section 400), and*
33 *Chapter 6 (commencing with Section 430) of Part 1 of Division 1.*

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



1 class of employees shall be established in accordance with
2 subdivision (b) of Section 24214 and agreed to in the collective
3 bargaining agreement between the employing school district and
4 the exclusive representative for the existing bargaining unit within
5 which these temporary employees of the school district are treated
6 as a distinct class.

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

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

17 (c) This section ~~shall~~ *does* not apply to the compensation
18 earned for creditable service performed by a member retired for
19 service for a community college district.

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

23 (e) ~~This section shall remain in effect only until July 1, 2005~~
24 ~~January 1, 2008, and as of that date is repealed unless a later~~
25 ~~enacted statute which is enacted before July 1, 2005 January 1,~~
26 ~~2008, deletes or extends that date.~~

27 *SEC. 3. Section 24216.6 of the Education Code is amended to*
28 *read:*

29 24216.6. (a) The compensation earned by a member who
30 retired for service under this part shall be exempt from
31 subdivisions (d), (f), and (g) of Section 24214, if all of the
32 following conditions are met:

33 (1) The member retired for service with an effective date on or
34 before July 1, ~~2000~~ 2004.

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

39 (3) All members retired for service whose employment with a
40 school district meets the conditions specified in this section shall



1 be treated as a distinct class of temporary employees within the
 2 existing bargaining unit whose service may not be included in
 3 computing the service required as a prerequisite to attainment of
 4 or eligibility for classification as a permanent employee of a school
 5 district. The compensation for service performed by this class of
 6 employees shall be established in accordance with subdivision (b)
 7 of Section 24214 and agreed to in the collective bargaining
 8 agreement between the employing school district and the
 9 exclusive representative for the existing bargaining unit within
 10 which these temporary employees of the school district are treated
 11 as a distinct class.

12 (4) The employing school district submits documentation
 13 required by the system to substantiate the eligibility of the
 14 temporary employment of a member retired for service for the
 15 exemption under this subdivision.

16 (b) A school district that employs a member retired for service
 17 pursuant to this section shall maintain accurate records of the
 18 retired member's compensation earned and shall report that
 19 compensation monthly to the system regardless of the method of
 20 payment or the source of funds from which the compensation is
 21 paid.

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

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**All matter omitted in this version of the
 bill appears in the bill as introduced in the
 Assembly, February 20, 2004 (JR 11)**

