

AMENDED IN SENATE JULY 19, 2004

AMENDED IN SENATE JUNE 15, 2004

AMENDED IN ASSEMBLY MARCH 24, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2554

Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Chavez and Levine)
(Coauthors: Senators Karnette and Kuehl)

February 20, 2004

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.

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 $\frac{1}{2}$ 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 July 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 24216 of the Education Code is
2 amended to read:

3 24216. (a) (1) A member retired for service under this part
4 who is appointed as a trustee or administrator by the
5 Superintendent of Public Instruction pursuant to Section 41320.1,
6 or a member retired for service who is assigned by a county
7 superintendent of schools pursuant to Article 2 (commencing with
8 Section 42122) of Chapter 6 of Part 24, shall be exempt from
9 subdivisions (d) and (f) of Section 24214 for a maximum period
10 of two years.

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

16 (3) An exemption under this subdivision shall be granted by the
17 system providing that the Superintendent of Public Instruction or
18 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) *A member retired for service under this part who is*
23 *employed to fill the vacancy shall be employed to the fill the*
24 *vacancy for no more than a single two-year term under this*
25 *exemption.*

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

28 ~~(C)~~

29 (D) 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 (c) 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 remain in effect only until January 1,
40 2008, and as of that date is repealed, unless a later enacted statute,



1 which is enacted before January 1, 2008, deletes or extends that
2 date.

3 SEC. 2. Section 24216.5 of the Education Code is amended
4 to read:

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

9 (1) The member retired for service with an effective date on or
10 before July 1, 2004.

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

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

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

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

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

22 (i) Pre-Internship Teaching Program authorized pursuant to
23 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
24 25.

25 (ii) Alternative certification programs authorized pursuant to
26 Article 11 (commencing with Section 44380) of Chapter 2 of Part
27 25.

28 (iii) School Paraprofessional Teacher Training Program
29 established pursuant to Article 12 (commencing with Section
30 44390) of Chapter 2 of Part 25.

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

34 (F) Instruction to pupils enrolled in English language learner
35 programs authorized pursuant to Chapter 3 (commencing with
36 Section 300), Chapter 4 (commencing with Section 400), and
37 Chapter 6 (commencing with Section 430) of Part 1 of Division 1.

38 (3) All members retired for service whose employment with a
39 school district meets the conditions specified in this section shall
40 be treated as a distinct class of temporary employees within the



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

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

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

21 (c) This section does not apply to the compensation earned for
22 creditable service performed by a member retired for service for
23 a community college district.

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

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

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

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

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



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

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

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

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

