

AMENDED IN SENATE JULY 27, 2004
AMENDED IN SENATE JULY 21, 2004
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 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.

This bill would incorporate additional changes to Section 24216 of the Education Code proposed by AB 2753, contingent upon the prior enactment of that bill.

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~~ 42120) of Chapter 6 of Part 24, shall be exempt
 9 from subdivisions (d) and (f) of Section 24214 for a maximum
 10 period of two years.



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

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

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

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

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

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

28 (B) A member retired for service under this part who is
29 employed to fill the vacancy shall be employed to fill the vacancy
30 for no more than a single two-year term under this exemption.

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

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

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

38 (d) A person who has received additional service credit
39 pursuant to Section 22714 or 22714.5 shall be ineligible for one
40 year from the effective date of retirement for the exemption



1 provided in this section for service performed in the district from
2 which he or she retired.

3 (e) This section shall remain in effect only until January 1,
4 2008, and as of that date is repealed, unless a later enacted statute,
5 which is enacted before January 1, 2008, deletes or extends that
6 date.

7 *SEC. 1.5. Section 24216 of the Education Code is amended to*
8 *read:*

9 24216. (a) (1) A member retired for service under this part
10 who is appointed as a trustee or administrator by the
11 Superintendent of Public Instruction pursuant to Section 41320.1,
12 or a member retired for service who is assigned by a county
13 superintendent of schools pursuant to Article 2 (commencing with
14 Section 42120) of Chapter 6 of Part 24, shall be exempt from
15 subdivisions (d) and (f) of Section 24214 for a maximum period
16 of two years.

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

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

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

35 (2) *The period of exemption shall commence on the date the*
36 *member retired for service is appointed or assigned and shall end*
37 *no more than two calendar years from that date, after which the*
38 *limitation specified in subdivisions (d) and (f) of Section 24214*
39 *shall apply to creditable service performed beyond the specified*
40 *exemption.*



1 ~~(2)~~

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

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

6 (B) *A member retired for service under this part who is*
7 *employed to fill the vacancy shall be employed to fill the vacancy*
8 *for no more than a single two-year term under this exemption.*

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

11 ~~(E)~~

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

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

17 (d) A person who has received additional service credit
18 pursuant to Section 22714 or 22714.5 shall be ineligible for one
19 year from the effective date of retirement for the exemption
20 provided in this section for service performed in ~~the district from~~
21 ~~which he or she retired~~ *any school district, community college*
22 *district, or county office of education in the state.*

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

27 SEC. 2. Section 24216.5 of the Education Code is amended
28 to read:

29 24216.5. (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, 2004.

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

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



1 (B) Support and assessment for new teachers through the
2 Beginning Teacher Support and Assessment program authorized
3 by Section 44279.1.
4 (C) Support to individuals completing student teaching
5 assignments.
6 (D) Support to individuals participating in the following
7 programs:
8 (i) Pre-Internship Teaching Program authorized pursuant to
9 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
10 25.
11 (ii) Alternative certification programs authorized pursuant to
12 Article 11 (commencing with Section 44380) of Chapter 2 of Part
13 25.
14 (iii) School Paraprofessional Teacher Training Program
15 established pursuant to Article 12 (commencing with Section
16 44390) of Chapter 2 of Part 25.
17 (E) Instruction and pupil services provided to pupils enrolled
18 in special education programs authorized pursuant to Part 30
19 (commencing with Section 56000) of Division 4 of Title 2.
20 (F) Instruction to pupils enrolled in English language learner
21 programs authorized pursuant to Chapter 3 (commencing with
22 Section 300), Chapter 4 (commencing with Section 400), and
23 Chapter 6 (commencing with Section 430) of Part 1 of Division 1.
24 (3) All members retired for service whose employment with a
25 school district meets the conditions specified in this section shall
26 be treated as a distinct class of temporary employees within the
27 existing bargaining unit whose service may not be included in
28 computing the service required as a prerequisite to attainment of
29 or eligibility for classification as a permanent employee of a school
30 district. The compensation for service performed by this class of
31 employees shall be established in accordance with subdivision (b)
32 of Section 24214 and agreed to in the collective bargaining
33 agreement between the employing school district and the
34 exclusive representative for the existing bargaining unit within
35 which these temporary employees of the school district are treated
36 as a distinct class.
37 (4) The employing school district submits documentation
38 required by the system to substantiate the eligibility of the
39 temporary employment of a member retired for service for the
40 exemption under this subdivision.



1 (b) A school district that employs a member retired for service
2 pursuant to this section shall maintain accurate records of the
3 retired member's compensation earned and shall report that
4 compensation monthly to the system regardless of the method of
5 payment or the source of funds from which the compensation is
6 paid.

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

10 (d) This section shall remain in effect only until January 1,
11 2008, and as of that date is repealed unless a later enacted statute
12 which is enacted before January 1, 2008, deletes or extends that
13 date.

14 SEC. 3. Section 24216.6 of the Education Code is amended
15 to read:

16 24216.6. (a) The compensation earned by a member who
17 retired for service under this part shall be exempt from
18 subdivisions (d), (f), and (g) of Section 24214, if all of the
19 following conditions are met:

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

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

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

39 (4) The employing school district submits documentation
40 required by the system to substantiate the eligibility of the



1 temporary employment of a member retired for service for the
2 exemption under this subdivision.

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

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

12 *SEC. 4. Section 1.5 of this bill incorporates amendments to*
13 *Section 24216 of the Education Code proposed by both this bill*
14 *and AB 2753. It shall only become operative if (1) both bills are*
15 *enacted and become effective on or before January 1, 2005, (2)*
16 *each bill amends Section 24216 of the Education Code, and (3)*
17 *this bill is enacted after AB 2753, in which case Section 1 of this*
18 *bill shall not become operative.*

