

ASSEMBLY BILL

No. 2753

Introduced by Assembly Member Corbett

February 20, 2004

An act to amend Sections 22714, 22714.5, 24216, and 84040.5 of the Education Code, relating to state teachers' retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2753, as introduced, Corbett. State teachers' retirement: early retirement incentive.

(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.

This bill would make technical changes to those provisions.

(2) The Teachers' Retirement Law prescribes limits on the amount of post-retirement 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.

Under this bill, those limits would apply to a retired member who receives the additional 2 years of service credit or the additional 2 years of service and 2 years of age, with respect to service performed within one year after retirement for any school district, community college district, or county office of education in the state, and with respect to service performed within 5 years after retirement for the school district,

community college district, or county office of education from which he or she retired.

(3) The bill would declare that it would take effect immediately as an urgency statute.

Vote: ²/₃. 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 22714 of the Education Code is
2 amended to read:

3 22714. (a) Whenever the governing board of a school district
4 or a community college district or a county office of education, by
5 formal action, determines pursuant to Section 44929 or 87488 that
6 because of impending curtailment of or changes in the manner of
7 performing services, the best interests of the district or county
8 office of education would be served by encouraging certificated
9 employees or academic employees to retire for service and that the
10 retirement will result in a net savings to the district or county office
11 of education, an additional two years of service credit shall be
12 granted under this part to a member of the Defined Benefit
13 Program if all of the following conditions exist:

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

19 (2) The employer transfers to the retirement fund an amount
20 determined by the Teachers' Retirement Board to equal the
21 actuarial equivalent of the difference between the allowance the
22 member receives after receipt of service credit pursuant to this
23 section and the amount the member would have received without
24 the service credit and an amount determined by the Teachers'
25 Retirement Board to equal the actuarial equivalent of the
26 difference between the purchasing power protection supplemental
27 payment the member receives after receipt of service credit
28 pursuant to this section and the amount the member would have
29 received without the service credit. The payment for purchasing
30 power shall be deposited in the Supplemental Benefit Maintenance
31 Account established by Section 22400 and shall be subject to



1 Section 24415. The transfer to the retirement fund shall be made
2 in a manner and a time period, not to exceed eight years, that is
3 acceptable to the Teachers' Retirement Board. The employer shall
4 transfer the required amount for all eligible employees who retire
5 pursuant to this section.

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

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

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

15 (2) The county superintendent shall certify to the Teachers'
16 Retirement Board that the result specified in paragraph (1) can be
17 demonstrated. The certification shall include, but not be limited to,
18 the information specified in subdivision ~~(b)~~ (c) of Section ~~14502~~
19 *14502.1*.

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

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

27 (2) The Superintendent of Public Instruction shall certify to the
28 Teachers' Retirement Board that the result specified in paragraph
29 (1) can be demonstrated. The certification shall include, but not be
30 limited to, the information specified in subdivision ~~(b)~~ (c) of
31 Section ~~14502~~ *14502.1*.

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

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

38 (2) The chancellor shall certify to the Teachers' Retirement
39 Board that the result specified in paragraph (1) can be



1 demonstrated. The certification shall include, but not be limited to,
2 the information specified in subdivision (c) of Section 84040.5.

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

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

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

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

16 (h) Any member of the Defined Benefit Program who retires
17 under this part for service under Chapter 27 (commencing with
18 Section 24201) with service credit granted under this section and
19 who takes any job with any school district in the state less than one
20 year after receiving the credit shall forfeit the ongoing benefit he
21 or she receives from the additional service credit granted under this
22 section.

23 (i) Any member of the Defined Benefit Program who retires
24 under this part for service under Chapter 27 (commencing with
25 Section 24201) with service credit granted under this section and
26 who takes any job with the school district that granted the member
27 the service credit less than five years after receiving the credit shall
28 forfeit the ongoing benefit he or she receives from the additional
29 ~~age and~~ service credit granted under this section.

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

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

38 22714.5. (a) Notwithstanding Sections 22714, 44929, and
39 87488, an additional two years of service and an additional two



1 years of age shall be credited under this part to a member of the
2 Defined Benefit Program if the following conditions exist:

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

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

14 (3) The employer transfers to the retirement fund an amount
15 determined by the Teachers' Retirement Board to equal the
16 actuarial equivalent of the difference between the allowance the
17 member receives after receipt of service and age credit pursuant to
18 this section and the amount the member would have received
19 without the service and age credit and an amount determined by
20 the Teachers' Retirement Board to equal the actuarial equivalent
21 of the difference between the purchasing power protection
22 supplemental payment the member receives after receipt of
23 service and age credit pursuant to this section and the amount the
24 member would have received without the service and age credit.
25 The payment for purchasing power shall be deposited in the
26 Supplemental Benefit Maintenance Account established by
27 Section 22400 and shall be subject to Section 24415. The transfer
28 to the retirement fund shall be made in a manner and time period,
29 not to exceed eight years, that is acceptable to the Teachers'
30 Retirement Board.

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

34 (B) The county superintendent shall certify to the Teachers'
35 Retirement Board that the result specified in subparagraph (A) can
36 be demonstrated. The certification shall include, but not be limited
37 to, the information specified in subdivision ~~(b)~~ (c) of Section
38 ~~14502~~ 14502.1.



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

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

8 (B) The Superintendent of Public Instruction shall certify to the
9 Teachers' Retirement Board that the result specified in
10 subparagraph (A) can be demonstrated. The certification shall
11 include, but not be limited to, the information specified in
12 subdivision ~~(b)~~ (c) of Section ~~14502~~ 14502.1.

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

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

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

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

26 (7) This section has been made applicable to the employer and
27 the member pursuant to a memorandum of understanding between
28 the employer and the representative employee organization or, for
29 members who are not represented by a representative employee
30 organization, this section has been made applicable to all of the
31 members employed by the school district, community college
32 district, or county office of education, pursuant to a formal action
33 of the governing board. The employer shall transfer the required
34 amount for all eligible employees who retire pursuant to this
35 section.

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

39 (b) The amount of additional service credit and additional age
40 shall each be two years regardless of credited service or age. A



1 member of the Defined Benefit Program who is credited with
2 additional age and service under this section may not be credited
3 with additional service under Section 22714.

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

8 (d) Any member of the Defined Benefit Program who retires
9 under this part for service under Chapter 27 (commencing with
10 Section 24201) with age and service credit granted under this
11 section and who takes any job with any school district in the state
12 less than one year after receiving the credit shall forfeit the
13 ongoing benefit he or she receives from the additional age and
14 service credit granted under this section.

15 (e) Any member of the Defined Benefit Program who retires
16 under this part for service under Chapter 27 (commencing with
17 Section 24201) with age and service credit granted under this
18 section and who takes any job with the school district that granted
19 the member the age and service credit less than five years after
20 receiving the credit shall forfeit the ongoing benefit he or she
21 receives from the additional age and service credit granted under
22 this section.

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

30 (g) This section shall become operative on January 1, 2004, or
31 120 days after Assembly Bill No. 1207 of the 2003–04 Regular
32 Session is chaptered, whichever is later, and remain in effect only
33 until January 1, 2005, and as of that date is repealed, unless a later
34 enacted statute, that is enacted before January 1, 2005, deletes or
35 extends that date.

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

38 24216. (a) (1) A member retired for service under this part
39 who is appointed as a trustee or administrator by the
40 Superintendent of Public Instruction pursuant to Section 41320.1,



1 or a member retired for service who is assigned by a county
2 superintendent of schools pursuant to Article 2 (commencing with
3 Section 42120) of Chapter 6 of Part 24, shall be exempt from
4 subdivisions (d) and (f) of Section 24214 for a maximum period
5 of two years.

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

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

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

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

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

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

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

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

37 (d) (1) A person who has received additional service credit
38 pursuant to Section 22714 or 22714.5 shall be ineligible for one
39 year from the effective date of retirement for the exemption
40 provided in this section for service performed in ~~the district from~~



1 ~~which he or she retired~~ any school district, community college
2 district, or county office of education in the state.

3 (2) A person who has received additional service credit
4 pursuant to Section 22714 or 22714.5 shall be ineligible for five
5 years from the effective date of retirement for the exemption
6 provided in this section for service performed in the school district,
7 community college district, or county office of education from
8 which he or she retired.

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

13 SEC. 4. Section 84040.5 of the Education Code is amended
14 to read:

15 84040.5. (a) The board of governors, in cooperation with,
16 and upon approval by, the Department of Finance, shall prescribe
17 the statements and other information to be included in the audit
18 reports filed with the state and shall develop audit procedures for
19 carrying out the purposes of this section. The Department of
20 Finance may make audits, surveys, and reports which, in the
21 judgment of the department will serve the best interest of the state.

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

27 (c) For the audit of community colleges electing to take formal
28 action pursuant to Sections 22714 ~~and~~, 22714.5, 87488, and
29 87488.1, the audit standards shall require ~~such~~ any information as
30 is prescribed by the chancellor, including, but not limited to, the
31 following:

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

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

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

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



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

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

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

15 SEC. 5. This act is an urgency statute necessary for the
 16 immediate preservation of the public peace, health, or safety
 17 within the meaning of Article IV of the Constitution and shall go
 18 into immediate effect. The facts constituting the necessity are:

19 In order to facilitate the efficient and consistent administration
 20 of retirement incentives for school employees, it is necessary that
 21 this act take effect immediately.

