

AMENDED IN ASSEMBLY APRIL 15, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2753**

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**Introduced by Assembly Member Corbett**

February 20, 2004

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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 amended, 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. Any member granted additional credit for service or service and age under those provisions forfeits that credit if he or she is reemployed within 5 years after retirement by the district from which he or she retired or within one year after retirement by any district.~~

*This bill would instead provide that any member granted additional credit for service or service and age under those provisions would forfeit that credit if he or she is reemployed within one year after retirement by the school district, community college district, or county office of education from which he or she retired.*

(2) The Teachers’ Retirement Law prescribes limits on the amount of postretirement 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. *Specifically, that limit applies to a retired member who receives 2 additional years of service credit at retirement and performs creditable service within one year after retirement for the school district from which he or she retired.*

Under this bill, ~~those limits that limit~~ would apply to a retired member who receives ~~the additional 2 years of service credit or the those additional 2 years of service and 2 years of age, with respect to service performed~~ credit at retirement and performs creditable service 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: <sup>2</sup>/<sub>3</sub>. 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



1 than 60 days, commencing no sooner than the effective date of the  
2 formal action of the employer that shall specify the period.

3 (2) The employer transfers to the retirement fund an amount  
4 determined by the Teachers' Retirement Board to equal the  
5 actuarial equivalent of the difference between the allowance the  
6 member receives after receipt of service credit pursuant to this  
7 section and the amount the member would have received without  
8 the service credit and an amount determined by the Teachers'  
9 Retirement Board to equal the actuarial equivalent of the  
10 difference between the purchasing power protection supplemental  
11 payment the member receives after receipt of service credit  
12 pursuant to this section and the amount the member would have  
13 received without the service credit. The payment for purchasing  
14 power shall be deposited in the Supplemental Benefit Maintenance  
15 Account established by Section 22400 and shall be subject to  
16 Section 24415. The transfer to the retirement fund shall be made  
17 in a manner and a time period, not to exceed eight years, that is  
18 acceptable to the Teachers' Retirement Board. The employer shall  
19 transfer the required amount for all eligible employees who retire  
20 pursuant to this section.

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

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

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

30 (2) The county superintendent shall certify to the Teachers'  
31 Retirement Board that the result specified in paragraph (1) can be  
32 demonstrated. The certification shall include, but not be limited to,  
33 the information specified in subdivision (c) of Section 14502.1.

34 (3) The school district shall reimburse the county  
35 superintendent for all costs to the county superintendent that result  
36 from the certification.

37 (c) (1) The county office of education shall demonstrate and  
38 certify to the Superintendent of Public Instruction that the formal  
39 action taken would result in a net savings to the county office of  
40 education.



1 (2) The Superintendent of Public Instruction shall certify to the  
2 Teachers' Retirement Board that the result specified in paragraph  
3 (1) can be demonstrated. The certification shall include, but not be  
4 limited to, the information specified in subdivision (c) of Section  
5 14502.1.

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

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

12 (2) The chancellor shall certify to the Teachers' Retirement  
13 Board that the result specified in paragraph (1) can be  
14 demonstrated. The certification shall include, but not be limited to,  
15 the information specified in subdivision (c) of Section 84040.5.

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

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

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

24 (g) Any member of the Defined Benefit Program who retires  
25 under this part for service under Chapter 27 (commencing with  
26 Section 24201) with service credit granted under this section and  
27 who subsequently reinstates shall forfeit the service credit granted  
28 under this section.

29 ~~(h) Any member of the Defined Benefit Program who retires~~  
30 ~~under this part for service under Chapter 27 (commencing with~~  
31 ~~Section 24201) with service credit granted under this section and~~  
32 ~~who takes any job with any school district in the state less than one~~  
33 ~~year after receiving the credit shall forfeit the ongoing benefit he~~  
34 ~~or she receives from the additional service credit granted under this~~  
35 ~~section.~~

36 ~~(i)~~

37 (h) Any member of the Defined Benefit Program who retires  
38 under this part for service under Chapter 27 (commencing with  
39 Section 24201) with service credit granted under this section and  
40 who takes any job with the school district, *community college*



1 *district, or county office of education* that granted the member the  
2 service credit less than ~~five years~~ *one year* after receiving the  
3 credit shall forfeit the ongoing benefit he or she receives from the  
4 additional service credit granted under this section.

5 (j)

6 (i) This section does not apply to any member otherwise  
7 eligible if the member receives any unemployment insurance  
8 payments arising out of employment with an employer subject to  
9 this part during a period extending one year beyond the effective  
10 date of the formal action, or if the member is not otherwise eligible  
11 to retire for service.

12 SEC. 2. Section 22714.5 of the Education Code is amended  
13 to read:

14 22714.5. (a) Notwithstanding Sections 22714, 44929, and  
15 87488, an additional two years of service and an additional two  
16 years of age shall be credited under this part to a member of the  
17 Defined Benefit Program if the following conditions exist:

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

23 (2) The employer determines that the best interests of the  
24 school district, community college district, or county office of  
25 education would be served by encouraging certificated or  
26 academic employees to retire for service and that the retirement  
27 will result in a net savings to the district or county office of  
28 education.

29 (3) The employer transfers to the retirement fund an amount  
30 determined by the Teachers' Retirement Board to equal the  
31 actuarial equivalent of the difference between the allowance the  
32 member receives after receipt of service and age credit pursuant to  
33 this section and the amount the member would have received  
34 without the service and age credit and an amount determined by  
35 the Teachers' Retirement Board to equal the actuarial equivalent  
36 of the difference between the purchasing power protection  
37 supplemental payment the member receives after receipt of  
38 service and age credit pursuant to this section and the amount the  
39 member would have received without the service and age credit.  
40 The payment for purchasing power shall be deposited in the



1 Supplemental Benefit Maintenance Account established by  
2 Section 22400 and shall be subject to Section 24415. The transfer  
3 to the retirement fund shall be made in a manner and time period,  
4 not to exceed eight years, that is acceptable to the Teachers'  
5 Retirement Board.

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

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

13 (C) The school district shall reimburse that county  
14 superintendent for all costs to the county superintendent that result  
15 from the certification.

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

20 (B) The Superintendent of Public Instruction shall certify to the  
21 Teachers' Retirement Board that the result specified in  
22 subparagraph (A) can be demonstrated. The certification shall  
23 include, but not be limited to, the information specified in  
24 subdivision (c) of Section 14502.1.

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

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

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

35 (C) The chancellor may request reimbursement from the  
36 community college district for all administrative costs that result  
37 from the certification.

38 (7) This section has been made applicable to the employer and  
39 the member pursuant to a memorandum of understanding between  
40 the employer and the representative employee organization or, for



1 members who are not represented by a representative employee  
2 organization, this section has been made applicable to all of the  
3 members employed by the school district, community college  
4 district, or county office of education, pursuant to a formal action  
5 of the governing board. The employer shall transfer the required  
6 amount for all eligible employees who retire pursuant to this  
7 section.

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

11 (b) The amount of additional service credit and additional age  
12 shall each be two years regardless of credited service or age. A  
13 member of the Defined Benefit Program who is credited with  
14 additional age and service under this section may not be credited  
15 with additional service under Section 22714.

16 (c) Any member of the Defined Benefit Program who is  
17 credited with additional age and service under this section and who  
18 subsequently reinstates from retirement shall forfeit the additional  
19 age and service credit granted under this section.

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

27 ~~(e)~~

28 (d) Any member of the Defined Benefit Program who retires  
29 under this part for service under Chapter 27 (commencing with  
30 Section 24201) with age and service credit granted under this  
31 section and who takes any job with the school district, *community*  
32 *college district, or county office of education* that granted the  
33 member the age and service credit less than ~~five years~~ *one year*  
34 after receiving the credit shall forfeit the ongoing benefit he or she  
35 receives from the additional age and service credit granted under  
36 this section.

37 ~~(f)~~

38 (e) This section is not applicable to any member otherwise  
39 eligible if the member receives any unemployment insurance  
40 payments arising out of employment with an employer subject to



1 this part during a period extending one year beyond the effective  
2 date of the memorandum of understanding or formal action, or if  
3 the member is not otherwise eligible to retire for service without  
4 the additional age or service credit available under this section.

5 ~~(g)~~

6 (f) This section shall become operative on January 1, 2004, or  
7 120 days after Assembly Bill No. 1207 of the 2003–04 Regular  
8 Session is chaptered, whichever is later, and remain in effect only  
9 until January 1, 2005, and as of that date is repealed, unless a later  
10 enacted statute, that is enacted before January 1, 2005, deletes or  
11 extends that date.

12 SEC. 3. Section 24216 of the Education Code is amended to  
13 read:

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

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

27 (3) An exemption under this subdivision shall be granted by the  
28 system providing that the Superintendent of Public Instruction or  
29 the county superintendent of schools submits documentation  
30 required by the system to substantiate the eligibility of the member  
31 retired for service for an exemption under this subdivision.

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



1 specified in subdivisions (d) and (f) of Section 24214 shall apply  
2 to creditable service performed beyond the specified exemption.

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

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

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

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

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

14 (d) ~~(1)~~—A person who has received additional service credit  
15 pursuant to Section 22714 or 22714.5 shall be ineligible for one  
16 year from the effective date of retirement for the exemption  
17 provided in this section for service performed in any school  
18 district, community college district, or county office of education  
19 in the state.

20 ~~(2) A person who has received additional service credit~~  
21 ~~pursuant to Section 22714 or 22714.5 shall be ineligible for five~~  
22 ~~years from the effective date of retirement for the exemption~~  
23 ~~provided in this section for service performed in the school district,~~  
24 ~~community college district, or county office of education from~~  
25 ~~which he or she retired.~~

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

30 SEC. 4. Section 84040.5 of the Education Code is amended  
31 to read:

32 84040.5. (a) The board of governors, in cooperation with,  
33 and upon approval by, the Department of Finance, shall prescribe  
34 the statements and other information to be included in the audit  
35 reports filed with the state and shall develop audit procedures for  
36 carrying out the purposes of this section. The Department of  
37 Finance may make audits, surveys, and reports which, in the  
38 judgment of the department will serve the best interest of the state.

39 (b) A review of existing audit procedures, statements, and other  
40 information required to be included in the audit reports shall be



1 conducted periodically by the board of governors, in cooperation  
2 with the Department of Finance. Standards shall be updated  
3 periodically.

4 (c) For the audit of community colleges electing to take formal  
5 action pursuant to Sections 22714 , 22714.5, 87488, and 87488.1,  
6 the audit standards shall require any information as is prescribed  
7 by the chancellor, including, but not limited to, the following:

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

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

11 (3) A comparison of the salary and benefits of each retiree  
12 receiving the additional service credit with the salary and benefits  
13 of the replacement employee, if any.

14 (4) The resulting retirement costs, including interest, if any,  
15 and postretirement healthcare benefits costs, incurred by the  
16 employer.

17 (d) The chancellor shall annually prepare a cost analysis, based  
18 upon the information included in the audit reports for the prior  
19 fiscal year, to determine the net savings or costs resulting from  
20 formal actions taken by community college districts pursuant to  
21 Sections 22714, 22714.5, 87488, and 87488.1, and shall report the  
22 results of the cost analysis to the Governor and the Legislature by  
23 April 1 of each year.

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

26 (f) At the request of the Department of Finance, each  
27 community college district that elects to take formal action  
28 pursuant to Sections 22714, 22714.5, 87488, and 87488.1 shall  
29 reimburse the Department of Finance for any related  
30 administrative costs incurred by the Department of Finance.

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

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



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2 CORRECTIONS  
3 Text — Page 9.  
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