

AMENDED IN ASSEMBLY MAY 10, 2004

AMENDED IN ASSEMBLY APRIL 15, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

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 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. 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, that limit would apply to a retired member who receives those additional years of service 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.

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

Vote: ²/₃ 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 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.



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

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

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

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

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

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

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

39 (2) The Superintendent of Public Instruction shall certify to the
40 Teachers' Retirement Board that the result specified in paragraph



1 (1) can be demonstrated. The certification shall include, but not be
2 limited to, the information specified in subdivision (c) of Section
3 14502.1.

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

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

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

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

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

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

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

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

35 (i) This section does not apply to any member otherwise
36 eligible if the member receives any unemployment insurance
37 payments arising out of employment with an employer subject to
38 this part during a period extending one year beyond the effective
39 date of the formal action, or if the member is not otherwise eligible
40 to retire for service.



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

3 22714.5. (a) Notwithstanding Sections 22714, 44929, and
4 87488, an additional two years of service and an additional two
5 years of age shall be credited under this part to a member of the
6 Defined Benefit Program if the following conditions exist:

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

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

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

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

38 (B) The county superintendent shall certify to the Teachers'
39 Retirement Board that the result specified in subparagraph (A) can



1 be demonstrated. The certification shall include, but not be limited
2 to, the information specified in subdivision (c) of Section 14502.1.

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

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

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

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

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

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

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

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

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



1 (b) The amount of additional service credit and additional age
2 shall each be two years regardless of credited service or age. A
3 member of the Defined Benefit Program who is credited with
4 additional age and service under this section may not be credited
5 with additional service under Section 22714.

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

10 (d) Any member of the Defined Benefit Program who retires
11 under this part for service under Chapter 27 (commencing with
12 Section 24201) with age and service credit granted under this
13 section and who takes any job with the school district, community
14 college district, or county office of education that granted the
15 member the age and service credit less than one year after
16 receiving the credit shall forfeit the ongoing benefit he or she
17 receives from the additional age and service credit granted under
18 this section.

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

26 (f) This section shall become operative on January 1, 2004, or
27 120 days after Assembly Bill No. 1207 of the 2003–04 Regular
28 Session is chaptered, whichever is later, and remain in effect only
29 until January 1, 2005, and as of that date is repealed, unless a later
30 enacted statute, that is enacted before January 1, 2005, deletes or
31 extends that date.

32 SEC. 3. Section 24216 of the Education Code is amended to
33 read:

34 24216. (a) (1) A member retired for service under this part
35 who is appointed as a trustee or administrator by the
36 Superintendent of Public Instruction pursuant to Section 41320.1,
37 or a member retired for service who is assigned by a county
38 superintendent of schools pursuant to Article 2 (commencing with
39 Section 42120) of Chapter 6 of Part 24, shall be exempt from



1 subdivisions (d) and (f) of Section 24214 for a maximum period
2 of two years.

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

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

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

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

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

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

29 (C) 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 any school
38 district, community college district, or county office of education
39 in the state.



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

5 SEC. 4. Section 84040.5 of the Education Code is amended
6 to read:

7 84040.5. (a) The board of governors, in cooperation with,
8 and upon approval by, the Department of Finance, shall prescribe
9 the statements and other information to be included in the audit
10 reports filed with the state and shall develop audit procedures for
11 carrying out the purposes of this section. The Department of
12 Finance may make audits, surveys, and reports which, in the
13 judgment of the department will serve the best interest of the state.

14 (b) A review of existing audit procedures, statements, and other
15 information required to be included in the audit reports shall be
16 conducted periodically by the board of governors, in cooperation
17 with the Department of Finance. Standards shall be updated
18 periodically.

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

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

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

26 (3) A comparison of the salary and benefits of each retiree
27 receiving the additional service credit with the salary and benefits
28 of the replacement employee, if any.

29 (4) The resulting retirement costs, including interest, if any,
30 and postretirement healthcare benefits costs, incurred by the
31 employer.

32 (d) The chancellor shall annually prepare a cost analysis, based
33 upon the information included in the audit reports for the prior
34 fiscal year, to determine the net savings or costs resulting from
35 formal actions taken by community college districts pursuant to
36 Sections 22714, 22714.5, 87488, and 87488.1, and shall report the
37 results of the cost analysis to the Governor and the Legislature by
38 April 1 of each year.

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



1 (f) At the request of the Department of Finance, each
2 community college district that elects to take formal action
3 pursuant to Sections 22714, 22714.5, 87488, and 87488.1 shall
4 reimburse the Department of Finance for any related
5 administrative costs incurred by the Department of Finance.

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

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

