

AMENDED IN ASSEMBLY MARCH 18, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 506

Introduced by Assembly Member Furutani

February 24, 2009

An act to amend Sections 24214, 24216, 24216.5, and 24216.6 of the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 506, as amended, Furutani. State teachers' retirement: postretirement earnings.

(1) The State Teachers' Retirement Law limits the amount of postretirement compensation that may be earned in specified types of employment by a retired member of the Defined Benefit Program without a reduction in the retirement benefits of the member. That law, operative until June 30, 2010, provides exemptions from this limit and specifies that the limitation provisions do not apply to compensation earned by a member retired for service who has returned to work after retirement and, for at least 12 consecutive months, has not performed specified activities.

This bill would, as of July 1, 2010, apply a limitation of \$0 to the compensation for performance of specified activities as an employee of an employer, an employee of a third party, or as an independent contractor during the first six calendar months after a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned. This bill would also extend the operation of these provisions until June 30, 2012.

(2) Under that law, operative until June 30, 2010, the service retirement allowance of a retired member of the Defined Benefit

Program is exempt from a reduction if the retired member is appointed as a trustee or administrator by the Superintendent of Public Instruction for a maximum period of 2 years, as specified. That law also exempts from the earnings limitation, until June 30, 2010, ~~any specified types of service performed by members who retired for service on or before January 1, 2006, if certain conditions are met~~ *service performed by a retired member in an emergency situation to fill a vacant administrative position, as specified. The law requires the employing school district to submit documentation to substantiate the eligibility of the temporary employment of the retired member for these exemptions.*

This bill would *provide that these exemptions would end no more than 24 consecutive months, rather than 2 years, from the date the exemption commenced. The bill would prohibit an exemption under that the latter provision from being granted to a member retired for service whose termination of employment with the employer is the basis for the vacant administrative position. This bill would require the documentation to be received by the system no later than June 30 of the school year for which the exemption is to apply. The bill would extend these provisions until June 30, 2012. The bill would instead provide that specified types of service performed by members who retired for service with an effective date on or before January 1, 2009, are exempt from the earnings limitation, if certain conditions are met.*

(3) That law further exempts from the earnings limitation, *until June 30, 2010, compensation received by a retired member providing specified types of services, including direct remedial instruction, as specified, if that retired member retired on or before January 1, 2007. That law requires a school district that employs the retired member to submit documentation to the retirement system that substantiates the eligibility of the retired member for temporary employment under these provisions of the retired member for this exemption.*

This bill would provide that the compensation received by a retired member providing ~~direct remedial instruction, who those specified types of services is exempt from the earnings limitation if the member retired for service with an effective date on or before January 1, 2009, shall be exempt from the earning limitation only.~~ *The bill would require the documentation to be received by the system no later than June 30 of the school year for which the exemption is to apply. The bill would extend these provisions until June 30, 2012.*

(4) This bill would also make technical, nonsubstantive changes to these provisions.

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 24214 of the Education Code, as amended
2 by Section 5 of Chapter 494 of the Statutes of 2008, is amended
3 to read:

4 24214. (a) A member retired for service under this part may
5 perform the activities identified in subdivision (a) or (b) of Section
6 22119.5 as an employee of an employer, as an employee of a third
7 party, or as an independent contractor within the California public
8 school system, but the member may not make contributions to the
9 retirement fund or accrue service credit based on compensation
10 earned from that service. The employer shall maintain accurate
11 records of the earnings of the retired member and report those
12 earnings monthly to the system and retired member as described
13 in Section 22461.

14 (b) If a member is retired for service under this part, the rate of
15 pay for service performed by that member as an employee of the
16 employer, as an employee of a third party, or as an independent
17 contractor may not be less than the minimum, nor exceed that paid
18 by the employer to other employees performing comparable duties.

19 (c) A member retired for service under this part may not be
20 required to reinstate for performing the activities identified in
21 subdivision (a) or (b) of Section 22119.5 as an employee of an
22 employer, as an employee of a third party, or as an independent
23 contractor within the California public school system.

24 (d) A member retired for service under this part may earn
25 compensation for performing activities identified in subdivision
26 (a) or (b) of Section 22119.5 in any one school year up to the
27 limitation specified in subdivision (f) as an employee of an
28 employer, as an employee of a third party, or an independent
29 contractor, within the California public school system, without a
30 reduction in his or her retirement allowance.

31 (e) (1) The postretirement compensation limitation provisions
32 set forth in this section are not applicable to compensation earned
33 by a member retired for service under this part who has returned
34 to work after the date of retirement and, for a period of at least 12
35 consecutive months, has not performed the activities identified in

1 subdivision (a) or (b) of Section 22119.5 as an employee of an
2 employer, as an employee of a third party, or as an independent
3 contractor within the California public school system. For the
4 purpose of this paragraph, the period of 12 consecutive months
5 shall begin no earlier than the effective date of the member's most
6 recent retirement.

7 (2) The postretirement compensation limitation provisions set
8 forth in this section are not applicable to compensation earned for
9 the performance of the activities described in subdivision (a) for
10 which the employer is not eligible to receive state apportionment
11 or to compensation that is not creditable pursuant to Section
12 22119.2.

13 (f) The limitation that shall apply to the compensation for
14 performance of the activities identified in subdivision (a) or (b) of
15 Section 22119.5 by a member retired for service under this part
16 either as an employee of an employer, an employee of a third party,
17 or as an independent contractor shall, in any one school year, be
18 an amount calculated by the board each July 1 equal to twenty-two
19 thousand dollars (\$22,000) adjusted by the percentage change in
20 the average compensation earnable of active members of the
21 Defined Benefit Program, as determined by the system, from the
22 1998–99 fiscal year to the fiscal year ending in the previous
23 calendar year. Notwithstanding the preceding sentence, as of July
24 1, 2010, the limitation that shall apply to the compensation for
25 performance of the activities identified in subdivision (a) or (b) of
26 Section 22119.5 either as an employee of an employer, an
27 employee of a third party, or as an independent contractor shall
28 be zero dollars (\$0) during the first six calendar months after a
29 member retired for service under this part, if the member is below
30 normal retirement age at the time the compensation is earned.

31 (g) If a member retired for service under this part earns
32 compensation for performing activities identified in subdivision
33 (a) or (b) of Section 22119.5 in excess of the limitation specified
34 in subdivision (f), as an employee of an employer, as an employee
35 of a third party, or as an independent contractor, within the
36 California public school system, and if that compensation is not
37 exempt from that limitation under subdivision (e) or any other
38 provisions of law, the member's retirement allowance shall be
39 reduced by the amount of the excess compensation. The amount
40 of the reduction may be equal to the monthly allowance payable

1 but shall not exceed the amount of the annual allowance payable
2 under this part for the fiscal year in which the excess compensation
3 was earned.

4 (h) The amendments to this section enacted during the 1995–96
5 Regular Session shall be deemed to have become operative on July
6 1, 1996.

7 (i) This section shall remain in effect only until June 30, 2012,
8 and shall be repealed on January 1, 2013, unless a later enacted
9 statute deletes or extends that date.

10 SEC. 2. Section 24214 of the Education Code, as amended by
11 Section 6 of Chapter 494 of the Statutes of 2008, is amended to
12 read:

13 24214. (a) A member retired for service under this part may
14 perform the activities identified in subdivision (a) or (b) of Section
15 22119.5 as an employee of an employer, as an employee of a third
16 party, or as an independent contractor within the California public
17 school system, but the member may not make contributions to the
18 retirement fund or accrue service credit based on compensation
19 earned from that service. The employer shall maintain accurate
20 records of the earnings of the retired member and report those
21 earnings monthly to the system and retired member as described
22 in Section 22461.

23 (b) If a member is retired for service under this part, the rate of
24 pay for service performed by that member as an employee of the
25 employer, as an employee of a third party, or as an independent
26 contractor within the California public school system may not be
27 less than the minimum, nor exceed that paid by the employer to
28 other employees performing comparable duties.

29 (c) A member retired for service under this part may not be
30 required to reinstate for performing the activities identified in
31 subdivision (a) or (b) of Section 22119.5 as an employee of an
32 employer, as an employee of a third party, or as an independent
33 contractor within the California public school system.

34 (d) A member retired for service under this part may earn
35 compensation for performing activities identified in subdivision
36 (a) or (b) of Section 22119.5 in any one school year up to the
37 limitation specified in subdivision (f) as an employee of an
38 employer, as an employee of a third party, or an independent
39 contractor, within the California public school system, without a
40 reduction in his or her retirement allowance.

1 (e) The postretirement compensation limitation provisions set
2 forth in this section are not applicable to compensation earned for
3 the performance of the activities described in subdivision (a) for
4 which the employer is not eligible to receive state apportionment
5 or to compensation that is not creditable pursuant to Section
6 22119.2.

7 (f) The limitation that shall apply to the compensation for
8 performance of the activities identified in subdivision (a) or (b) of
9 Section 22119.5 by a member retired for service under this part
10 either as an employee of an employer, an employee of a third party,
11 or as an independent contractor shall, in any one school year, be
12 an amount calculated by the board each July 1 equal to twenty-two
13 thousand dollars (\$22,000) adjusted by the percentage change in
14 the average compensation earnable of active members of the
15 Defined Benefit Program, as determined by the system, from the
16 1998–99 fiscal year to the fiscal year ending in the previous
17 calendar year. Notwithstanding the preceding sentence, the
18 limitation that shall apply to the compensation for performance of
19 the activities identified in subdivision (a) or (b) of Section 22119.5
20 either as an employee of an employer, an employee of a third party,
21 or as an independent contractor shall be zero dollars (\$0) during
22 the first six calendar months after a member retired for service
23 under this part, if the member is below normal retirement age at
24 the time the compensation is earned.

25 (g) If a member retired for service under this part earns
26 compensation for performing activities identified in subdivision
27 (a) or (b) of Section 22119.5 in excess of the limitation specified
28 in subdivision (f), as an employee of an employer, as an employee
29 of a third party, or as an independent contractor, within the
30 California public school system, the member's retirement
31 allowance shall be reduced by the amount of the excess
32 compensation. The amount of the reduction may be equal to the
33 monthly allowance payable but may not exceed the amount of the
34 annual allowance payable under this part for the fiscal year in
35 which the excess compensation was earned.

36 (h) The language of this section derived from the amendments
37 to the section of this number added by Chapter 394 of the Statutes
38 of 1995, enacted during the 1995–96 Regular Session, is deemed
39 to have become operative on July 1, 1996.

40 (i) This section shall become operative on July 1, 2012.

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

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent pursuant to Section 41320.1, or who is appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28) or the High Priority Schools Grant Program (Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28), or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of ~~two years~~ *24 consecutive months*.

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

(3) An exemption under this subdivision shall be granted by the system providing that the Superintendent or the county superintendent of schools submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision. *The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.*

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

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

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

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

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

7 (C) The employer submits documentation required by the system
8 to substantiate the eligibility of the member retired for service for
9 an exemption under this subdivision. *The documentation shall be*
10 *received by the system no later than June 30 of the school year for*
11 *which the exemption is to apply.*

12 (4) An exemption under this subdivision shall not be granted
13 to a member retired for service whose termination of employment
14 with the employer is the basis for the vacant administrative
15 position.

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

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

23 (e) This section shall remain in effect only until June 30, 2012,
24 and shall be repealed on January 1, 2013, unless a later enacted
25 statute deletes or extends that date.

26 SEC. 4. Section 24216.5 of the Education Code is amended to
27 read:

28 24216.5. (a) The compensation earned by a member who
29 retired for service under this part shall be exempt from subdivisions
30 (d), (f), and (g) of Section 24214, if all of the following conditions
31 are met:

32 (1) The member retired for service with an effective date on or
33 before January 1, 2009.

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

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

38 (B) Support and assessment for new teachers through the
39 Beginning Teacher Support and Assessment program authorized
40 by Section 44279.1.

1 (C) Support to individuals completing student teaching
2 assignments.

3 (D) Support to individuals participating in the following
4 programs:

5 (i) Pre-Internship Teaching Program authorized pursuant to
6 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
7 25.

8 (ii) Alternative certification programs authorized pursuant to
9 Article 11 (commencing with Section 44380) of Chapter 2 of Part
10 25.

11 (iii) School Paraprofessional Teacher Training Program
12 established pursuant to Article 12 (commencing with Section
13 44390) of Chapter 2 of Part 25.

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

17 (F) Instruction to pupils enrolled in English language learner
18 programs authorized pursuant to Chapter 3 (commencing with
19 Section 300), Chapter 4 (commencing with Section 400), and
20 Chapter 6 (commencing with Section 430) of Part 1 of Division
21 1.

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

35 (4) The employing school district submits documentation
36 required by the system to substantiate the eligibility of the
37 temporary employment of a member retired for service for the
38 exemption under this subdivision. *The documentation shall be*
39 *received by the system no later than June 30 of the school year for*
40 *which the exemption is to apply.*

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 June 30, 2012,
11 and shall be repealed as of January 1, 2013, unless a later enacted
12 statute deletes or extends that date.

13 SEC. 5. Section 24216.6 of the Education Code is amended to
14 read:

15 24216.6. (a) The compensation earned by a member who
16 retired for service under this part shall be exempt from subdivisions
17 (d), (f), and (g) of Section 24214, if all of the following conditions
18 are met:

19 (1) The member retired for service with an effective date on or
20 before January 1, 2009.

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

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

38 (4) The employing school district submits documentation
39 required by the system to substantiate the eligibility of the
40 temporary employment of a member retired for service for the

1 exemption under this subdivision. That documentation shall be on
2 a properly executed form provided by the system *and shall be*
3 *received by the system no later than June 30 of the school year for*
4 *which the exemption is to apply.*

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

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

14 (d) This section shall remain in effect only until June 30, 2012,
15 and shall be repealed as of January 1, 2013, unless a later enacted
16 statute deletes or extends that date.