

ASSEMBLY BILL

No. 758

Introduced by Assembly Member Wieckowski

February 17, 2011

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 758, as introduced, Wieckowski. State teachers' retirement.

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 provides exemptions from this limit and until June 30, 2012, 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. That law also exempts from the earnings limitation, until June 30, 2012, service performed by a retired member in an emergency situation to fill a vacant administrative position, as specified. 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.

This bill would extend the operation of these provisions until June 30, 2014.

Existing law further exempts from the earnings limitation, until June 30, 2012, 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, 2009.

This bill would provide that the compensation received by a retired member providing 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, 2011. The bill would extend these provisions until June 30, 2014. The bill would also delete a reference to an obsolete program.

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 1 of Chapter 306 of the Statutes of 2009, 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

1 employer, as an employee of a third party, or an independent
2 contractor, within the California public school system, without a
3 reduction in his or her retirement allowance.

4 (e) (1) The postretirement compensation limitation provisions
5 set forth in this section are not applicable to compensation earned
6 by a member retired for service under this part who has returned
7 to work after the date of retirement and, for a period of at least 12
8 consecutive months, has not performed the activities identified in
9 subdivision (a) or (b) of Section 22119.5 as an employee of an
10 employer, as an employee of a third party, or as an independent
11 contractor within the California public school system. For the
12 purpose of this paragraph, the period of 12 consecutive months
13 shall begin no earlier than the effective date of the member's most
14 recent retirement.

15 (2) The postretirement compensation limitation provisions set
16 forth in this section are not applicable to compensation earned for
17 the performance of the activities described in subdivision (a) for
18 which the employer is not eligible to receive state apportionment
19 or to compensation that is not creditable pursuant to Section
20 22119.2.

21 (f) The limitation that shall apply to the compensation for
22 performance of the activities identified in subdivision (a) or (b) of
23 Section 22119.5 by a member retired for service under this part
24 either as an employee of an employer, an employee of a third party,
25 or as an independent contractor shall, in any one school year, be
26 an amount calculated by the board each July 1 equal to twenty-two
27 thousand dollars (\$22,000) adjusted by the percentage change in
28 the average compensation earnable of active members of the
29 Defined Benefit Program, as determined by the system, from the
30 1998–99 fiscal year to the fiscal year ending in the previous
31 calendar year.

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

1 of the reduction may be equal to the monthly allowance payable
2 but shall not exceed the amount of the annual allowance payable
3 under this part for the fiscal year in which the excess compensation
4 was earned.

5 (h) The amendments to this section enacted during the 1995–96
6 Regular Session shall be deemed to have become operative on July
7 1, 1996.

8 (i) This section shall remain in effect only until June 30, ~~2012~~
9 2014, and shall be repealed on January 1, ~~2013~~ 2015, unless a later
10 enacted statute deletes or extends that date.

11 SEC. 2. Section 24214 of the Education Code, as amended by
12 Section 2 of Chapter 306 of the Statutes of 2009, is amended to
13 read:

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

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

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

35 (d) A member retired for service under this part may earn
36 compensation for performing activities identified in subdivision
37 (a) or (b) of Section 22119.5 in any one school year up to the
38 limitation specified in subdivision (f) as an employee of an
39 employer, as an employee of a third party, or an independent

1 contractor, within the California public school system, without a
2 reduction in his or her retirement allowance.

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

9 (f) The limitation that shall apply to the compensation for
10 performance of the activities identified in subdivision (a) or (b) of
11 Section 22119.5 by a member retired for service under this part
12 either as an employee of an employer, an employee of a third party,
13 or as an independent contractor shall, in any one school year, be
14 an amount calculated by the board each July 1 equal to twenty-two
15 thousand dollars (\$22,000) adjusted by the percentage change in
16 the average compensation earnable of active members of the
17 Defined Benefit Program, as determined by the system, from the
18 1998–99 fiscal year to the fiscal year ending in the previous
19 calendar year.

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

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

35 (i) This section shall become operative on July 1, ~~2012~~ 2014.

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 Superintendent
40 pursuant to Section 41320.1, or who is appointed as a trustee

1 pursuant to the Local Educational Agency Intervention provisions
2 (Article 3.1 (commencing with Section 52055.57) of Chapter 6.1
3 of Part 28 of Title 2), or a member retired for service who is
4 assigned by a county superintendent of schools pursuant to Article
5 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall
6 be exempt from subdivisions (d) and (f) of Section 24214 for a
7 maximum period of 24 consecutive months.

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

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

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

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

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

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

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

39 (C) The employer submits documentation required by the system
40 to substantiate the eligibility of the member retired for service for

1 an exemption under this subdivision. The documentation shall be
2 received by the system no later than June 30 of the school year for
3 which the exemption is to apply.

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

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

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

15 (e) This section shall remain in effect only until June 30, ~~2012~~
16 ~~2014~~, and shall be repealed on January 1, ~~2013~~ 2015, unless a later
17 enacted statute deletes or extends that date.

18 SEC. 4. Section 24216.5 of the Education Code is amended to
19 read:

20 24216.5. (a) The compensation earned by a member who
21 retired for service under this part shall be exempt from subdivisions
22 (d), (f), and (g) of Section 24214, if all of the following conditions
23 are met:

24 (1) The member retired for service with an effective date on or
25 before January 1, ~~2009~~ 2011.

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

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

30 (B) Support and assessment for new teachers through the
31 Beginning Teacher Support and Assessment program authorized
32 by Section 44279.1.

33 (C) Support to individuals completing student teaching
34 assignments.

35 (D) Support to individuals participating in the following
36 programs:

37 ~~(i) Pre-Internship Teaching Program authorized pursuant to~~
38 ~~Article 5.6 (commencing with Section 44305) of Chapter 2 of Part~~
39 ~~25.~~

40 (ii)

1 (i) Alternative certification programs authorized pursuant to
2 Article 11 (commencing with Section 44380) of Chapter 2 of Part
3 25.

4 (iii)

5 (ii) School Paraprofessional Teacher Training Program
6 established pursuant to Article 12 (commencing with Section
7 44390) of Chapter 2 of Part 25.

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

11 (F) Instruction to pupils enrolled in English language learner
12 programs authorized pursuant to Chapter 3 (commencing with
13 Section 300), Chapter 4 (commencing with Section 400), and
14 Chapter 6 (commencing with Section 430) of Part 1 of Division
15 1.

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

29 (4) The employing school district submits documentation
30 required by the system to substantiate the eligibility of the
31 temporary employment of a member retired for service for the
32 exemption under this subdivision. The documentation shall be
33 received by the system no later than June 30 of the school year for
34 which the exemption is to apply.

35 (b) A school district that employs a member retired for service
36 pursuant to this section shall maintain accurate records of the
37 retired member's compensation earned and shall report that
38 compensation monthly to the system regardless of the method of
39 payment or the source of funds from which the compensation is
40 paid.

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

4 (d) This section shall remain in effect only until June 30, ~~2012~~
5 2014, and shall be repealed as of January 1, ~~2013~~ 2014, unless a
6 later enacted statute deletes or extends that date.

7 SEC. 5. Section 24216.6 of the Education Code is amended to
8 read:

9 24216.6. (a) The compensation earned by a member who
10 retired for service under this part shall be exempt from subdivisions
11 (d), (f), and (g) of Section 24214, if all of the following conditions
12 are met:

13 (1) The member retired for service with an effective date on or
14 before January 1, ~~2009~~ 2011.

15 (2) The member retired for service is employed by a school
16 district to provide direct remedial instruction to pupils in grades
17 2 to 12, inclusive. "Remedial instruction" means the programs
18 specified in Sections 37252 and 37252.2.

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

32 (4) The employing school district submits documentation
33 required by the system to substantiate the eligibility of the
34 temporary employment of a member retired for service for the
35 exemption under this subdivision. That documentation shall be on
36 a properly executed form provided by the system and shall be
37 received by the system no later than June 30 of the school year for
38 which the exemption is to apply.

39 (b) A school district that employs a member retired for service
40 pursuant to this section shall maintain accurate records of the

1 retired member's compensation earned and shall report that
2 compensation monthly to the system regardless of the method of
3 payment or the source of funds from which the compensation is
4 paid.

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

8 (d) This section shall remain in effect only until June 30, ~~2012~~
9 ~~2014~~, and shall be repealed as of January 1, ~~2013~~ ~~2015~~, unless a
10 later enacted statute deletes or extends that date.