

ASSEMBLY BILL

No. 2275

Introduced by Assembly Member Achadjian

February 24, 2012

An act to amend Sections 24214, 24216, 24216.5, and 24216.6 of the Education Code, relating to state teachers' retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2275, as introduced, Achadjian. 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, 2012, 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 24214 of the Education Code, as amended
2 by Section 25 of Chapter 703 of the Statutes of 2011, 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, or subdivision (a) or (b) of Section 26113, as an employee
7 of an employer, as an employee of a third party, or as an
8 independent contractor within the California public school system,
9 but the member shall not make contributions to the retirement fund
10 or accrue service credit based on compensation earned from that
11 service. The employer shall maintain accurate records of the
12 earnings of the retired member and report those earnings monthly
13 to the system and retired member as described 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 shall 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 shall 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.

1 (d) A member retired for service under this part may earn
2 compensation for performing activities identified in subdivision
3 (a) or (b) of Section 22119.5 in any one school year up to the
4 limitation specified in subdivision (f) as an employee of an
5 employer, as an employee of a third party, or an independent
6 contractor, within the California public school system, without a
7 reduction in his or her retirement allowance.

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

19 (2) The postretirement compensation limitation provisions set
20 forth in this section are not applicable to compensation earned for
21 the performance of the activities described in subdivision (a) for
22 which the employer is not eligible to receive state apportionment
23 or to compensation that is not creditable pursuant to Section
24 22119.2.

25 (f) The limitation that shall apply to the compensation for
26 performance of the activities identified in subdivision (a) or (b) of
27 Section 22119.5 by a member retired for service under this part
28 either as an employee of an employer, an employee of a third party,
29 or as an independent contractor shall, in any one school year, be
30 an amount calculated by the board each July 1 equal to twenty-two
31 thousand dollars (\$22,000) adjusted by the percentage change in
32 the average compensation earnable of active members of the
33 Defined Benefit Program, as determined by the system, from the
34 1998–99 fiscal year to the fiscal year ending in the previous
35 calendar year.

36 (g) If a member retired for service under this part earns
37 compensation for performing activities identified in subdivision
38 (a) or (b) of Section 22119.5 in excess of the limitation specified
39 in subdivision (f), as an employee of an employer, as an employee
40 of a third party, or as an independent contractor, within the

1 California public school system, and if that compensation is not
2 exempt from that limitation under subdivision (e) or any other
3 provisions of law, the member's retirement allowance shall be
4 reduced by the amount of the excess compensation. The amount
5 of the reduction may be equal to the monthly allowance payable
6 but shall not exceed the amount of the annual allowance payable
7 under this part for the fiscal year in which the excess compensation
8 was earned.

9 (h) The amendments to this section enacted during the 1995–96
10 Regular Session shall be deemed to have become operative on July
11 1, 1996.

12 (i) This section shall remain in effect only until June 30, ~~2012~~
13 ~~2014~~, and shall be repealed on January 1, ~~2013~~ 2015, unless a later
14 enacted statute deletes or extends that date.

15 SEC. 2. Section 24214 of the Education Code, as amended by
16 Section 26 of Chapter 703 of the Statutes of 2011, is amended to
17 read:

18 24214. (a) A member retired for service under this part may
19 perform the activities identified in subdivision (a) or (b) of Section
20 22119.5, or subdivision (a) or (b) of Section 26113, as an employee
21 of an employer, as an employee of a third party, or as an
22 independent contractor within the California public school system,
23 but the member shall not make contributions to the retirement fund
24 or accrue service credit based on compensation earned from that
25 service. The employer shall maintain accurate records of the
26 earnings of the retired member and report those earnings monthly
27 to the system and retired member as described in Section 22461.

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

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

39 (d) A member retired for service under this part may earn
40 compensation for performing activities identified in subdivision

1 (a) or (b) of Section 22119.5 in any one school year up to the
2 limitation specified in subdivision (f) as an employee of an
3 employer, as an employee of a third party, or an independent
4 contractor, within the California public school system, without a
5 reduction in his or her retirement allowance.

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

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

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

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

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

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

1 24216. (a) (1) A member retired for service under this part
2 who is appointed as a trustee or administrator by the Superintendent
3 pursuant to Section 41320.1, or who is appointed as a trustee
4 pursuant to the Local Educational Agency Intervention provisions
5 (Article 3.1 (commencing with Section 52055.57) of Chapter 6.1
6 of Part 28 of Title 2), or a member retired for service who is
7 assigned by a county superintendent of schools pursuant to Article
8 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall
9 be exempt from subdivisions (d) and (f) of Section 24214 for a
10 maximum period of 24 consecutive months.

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

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

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

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

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

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

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

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

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

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

19 (e) This section shall remain in effect only until June 30, ~~2012~~,
20 2014, and shall be repealed on January 1, ~~2013~~, 2015, unless a
21 later enacted statute deletes or extends that date.

22 SEC. 4. Section 24216.5 of the Education Code is amended to
23 read:

24 24216.5. (a) The compensation earned by a member who
25 retired for service under this part shall be exempt from subdivisions
26 (d), (f), and (g) of Section 24214, if all of the following conditions
27 are met:

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

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

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

34 (B) Support and assessment for new teachers through the
35 Beginning Teacher Support and Assessment program authorized
36 by Section 44279.1.

37 (C) Support to individuals completing student teaching
38 assignments.

39 (D) Support to individuals participating in the following
40 programs:

1 ~~(i) Pre-Internship Teaching Program authorized pursuant to~~
2 ~~Article 5.6 (commencing with Section 44305) of Chapter 2 of Part~~
3 ~~25.~~

4 ~~(ii)~~

5 (i) Alternative certification programs authorized pursuant to
6 Article 11 (commencing with Section 44380) of Chapter 2 of Part
7 25.

8 ~~(iii)~~

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

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

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

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

33 (4) The employing school district submits documentation
34 required by the system to substantiate the eligibility of the
35 temporary employment of a member retired for service for the
36 exemption under this subdivision. The documentation 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 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~~, 2014, unless a
10 later enacted statute deletes or extends that date.

11 SEC. 5. Section 24216.6 of the Education Code is amended to
12 read:

13 24216.6. (a) The compensation earned by a member who
14 retired for service under this part shall be exempt from subdivisions
15 (d), (f), and (g) of Section 24214, if all of the following conditions
16 are met:

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

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

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

36 (4) The employing school district submits documentation
37 required by the system to substantiate the eligibility of the
38 temporary employment of a member retired for service for the
39 exemption under this subdivision. That documentation shall be on
40 a properly executed form provided by the system and shall be

1 received by the system no later than June 30 of the school year for
2 which the exemption is to apply.

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

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

12 (d) This section shall remain in effect only until June 30, ~~2012~~,
13 ~~2014~~, and shall be repealed as of January 1, ~~2013~~, ~~2015~~, unless a
14 later enacted statute deletes or extends that date.

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

19 Smaller school districts can save tens of thousands of dollars in
20 salary and benefits by utilizing retired interim employees, which
21 is critical at a time when school districts are trying very hard to
22 make ends meet while providing students the best education
23 possible. For school districts like the Fillmore Unified School
24 District in Ventura County, extension of the sunset is needed to
25 hold onto current interim superintendents who are in the process
26 of implementing vital educational reforms in the district.