

AMENDED IN ASSEMBLY MARCH 30, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1733**

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**Introduced by Assembly Member Wildman**  
*(Principal coauthor: Assembly Member Shelley)*  
*(Coauthors: Assembly Members Bock, Keeley, Knox, Leach,*  
*Lempert, Strom-Martin, Washington, Wayne, and Zettel)*  
*(Coauthors: Senators Alpert, Peace, Perata, and Solis)*

January 6, 2000

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An act to amend ~~Section 24214 of~~ *Sections 22461 and 24214 of, and to repeal Sections 24216 and 24216.5 of,* the Education Code, relating to the State Teachers' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

AB 1733, as amended, Wildman. State Teachers' Retirement System: postretirement earnings.

Under the State Teachers' Retirement Law, the service retirement allowance of a retired member is generally required to be reduced if the member's postretirement compensation from specified activities exceeds a certain dollar amount.

This bill would ~~increase, with an exception, eliminate~~ the postretirement earnings limitation, ~~as specified,~~ and make related *technical changes and findings and declarations.*

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. The Legislature find and declares:

2 (a) As a result of the enactment of the Class-Size  
3 Reduction Program, over 22,000 emergency credentialed  
4 teachers are currently teaching tens of thousands of  
5 students across the state. Because many of these teachers  
6 are minimally qualified and inexperienced, the quality of  
7 instruction for these students has been adversely  
8 affected.

9 (b) The average teaching experience of retired  
10 teachers in this state is 27 years.

11 (c) Under the State Teachers' Retirement Law,  
12 postretirement earnings of retired teachers are limited,  
13 thereby creating a disincentive for retired teachers to  
14 reenter the teaching profession.

15 (d) Teachers who retired on or before July 1, 1998, who  
16 choose to reenter the teaching profession under the  
17 Class-Size Reduction Program, and who satisfy other  
18 conditions are exempt from those postretirement  
19 earnings limitations. Since the enactment of this  
20 exemption, over 1,600 retired teachers throughout the  
21 state have returned to teaching, providing approximately  
22 32,000 students with the benefits of experienced, highly  
23 qualified teachers.

24 (e) The pool of retired teachers represents a valuable  
25 resource. All California students would benefit if more  
26 retired teachers chose to return to teaching.

27 SEC. 2. *Section 22461 of the Education Code is*  
28 *amended to read:*

29 22461. (a) Upon retaining the services of a retired  
30 member under Section 24116, ~~24214~~, or 24215, the ~~school~~  
31 ~~district, community college district, county~~  
32 ~~superintendent of schools, California State University, or~~  
33 ~~other employing agency~~ shall do both of the following  
34 ~~regardless of whether the retired member performs the~~  
35 ~~services as an employee of the employer, an employee of~~  
36 ~~a third party, or an independent contractor:~~

37 (1) Advise the retired member of the earnings  
38 limitation set forth in Sections 24116, ~~24214~~, and 24215.



1 (2) Maintain accurate records of the retired member's  
2 earnings and report those earnings monthly to the system  
3 and the retired member regardless of the method of  
4 payment or the fund from which the payments were  
5 made.

6 (b) This section shall not be construed to make ~~any~~  
7 ~~school district, community college district, county~~  
8 ~~superintendent of schools,~~ the California State  
9 University, ~~or other employing agency~~ liable for any  
10 amount paid to the retired member in excess of the  
11 earnings limitation under any circumstance, including  
12 the failure to inform the retired member that  
13 continuation of service would exceed the limitations.

14 *SEC. 3.* Section 24214 of the Education Code is  
15 amended to read:

16 24214. (a) A member retired for service under this  
17 part may perform the activities identified in paragraphs  
18 (1) to (9), inclusive, of subdivision (a), or subdivision (b),  
19 of Section 22119.5 as an employee of an employer, as an  
20 employee of a third party, or as an independent  
21 contractor within the California public school system, but  
22 the member shall not make contributions to the  
23 retirement fund or accrue service credit based on  
24 compensation earned from that service.

25 (b) The rate of pay for service performed by a  
26 member retired for service under this part as an  
27 employee of the employer shall not be less than the  
28 minimum, nor exceed that paid by the employer to other  
29 employees performing comparable duties.

30 (c) A member retired for service under this part shall  
31 not be required to reinstate for performing the activities  
32 identified in paragraphs (1) to (9), inclusive, of  
33 subdivision (a), or subdivision (b), of Section 22119.5, as  
34 an employee of an employer, as an employee of a third  
35 party, or as an independent contractor within the  
36 California public school system.

37 (d) A member retired for service under this part may  
38 earn compensation for performing activities identified in  
39 paragraphs (1) to (9), inclusive, of subdivision (a), or  
40 subdivision (b), of Section 22119.5 ~~in any one school year~~



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

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

13 ~~(f) The limitation that shall apply to the compensation~~  
14 ~~for performance of the activities identified in paragraphs~~  
15 ~~(1) to (9), inclusive, of subdivision (a), or subdivision (b),~~  
16 ~~of Section 22119.5 by a member retired for service under~~  
17 ~~this part either as an employee of an employer, an~~  
18 ~~employee of a third party, or as an independent~~  
19 ~~contractor, shall be thirty-six thousand dollars (\$36,000),~~  
20 ~~in any one school year, adjusted annually by the board~~  
21 ~~each July 1 by the annual amount of increase in the All~~  
22 ~~Urban California Consumer Price Index using December~~  
23 ~~1999 as the base.~~

24 ~~(g) If a member retired for service under this part~~  
25 ~~earns compensation for performing activities identified~~  
26 ~~in paragraphs (1) to (9), inclusive, of subdivision (a), or~~  
27 ~~subdivision (b), of Section 22119.5 in excess of the~~  
28 ~~limitation specified in subdivision (f), as an employee of~~  
29 ~~an employer, as an employee of a third party, or as an~~  
30 ~~independent contractor, within the California public~~  
31 ~~school system, the member's retirement allowance shall~~  
32 ~~be reduced by the amount of the excess compensation.~~  
33 ~~The amount of the reduction may be equal to the monthly~~  
34 ~~allowance payable but shall not exceed the amount of the~~  
35 ~~annual allowance payable under this part for the fiscal~~  
36 ~~year in which the excess compensation was earned.~~

37 ~~(h)~~

38 ~~(f) The amendments to this section enacted during~~  
39 ~~the 1995-96 Regular Session shall be deemed to have~~  
40 ~~become operative on July 1, 1996.~~



1 *SEC. 4. Section 24216 of the Education Code is*  
2 *repealed.*

3 ~~24216. (a) (1) A member retired for service under~~  
4 ~~this part who is appointed as a trustee or administrator by~~  
5 ~~the Superintendent of Public Instruction pursuant to~~  
6 ~~Section 41320.1, or a member retired for service who is~~  
7 ~~assigned by a county superintendent of schools pursuant~~  
8 ~~to Article 2 (commencing with Section 42120) of Chapter~~  
9 ~~6 of Part 24, shall be exempt from subdivisions (d), (e),~~  
10 ~~and (f) of Section 24214 for a maximum period of two~~  
11 ~~years.~~

12 ~~(2) The period of exemption shall commence on the~~  
13 ~~date the member retired for service is appointed or~~  
14 ~~assigned and shall end no more than two calendar years~~  
15 ~~from that date, after which the limitation specified in~~  
16 ~~subdivisions (d), (e), and (f) of Section 24214 shall apply.~~

17 ~~(3) An exemption under this subdivision shall be~~  
18 ~~granted by the system providing that the Superintendent~~  
19 ~~of Public Instruction or the county superintendent of~~  
20 ~~schools submits documentation required by the system to~~  
21 ~~substantiate the eligibility of the member retired for~~  
22 ~~service for an exemption under this subdivision.~~

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

35 ~~(2) An exemption under this subdivision shall be~~  
36 ~~granted by the system subject to the following conditions:~~

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



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

3 ~~(C) The employer submits documentation required~~  
4 ~~by the system to substantiate the eligibility of the~~  
5 ~~member retired for service for an exemption under this~~  
6 ~~subdivision.~~

7 ~~(e) This section shall not apply to any person who has~~  
8 ~~received additional service credit pursuant to Section~~  
9 ~~22715 or 22716.~~

10 ~~(d) A person who has received additional service~~  
11 ~~credit pursuant to Section 22714 shall be ineligible for one~~  
12 ~~year from the effective date of retirement for the~~  
13 ~~exemption provided in this section for service performed~~  
14 ~~in the district from which he or she retired.~~

15 ~~(e) This section shall become operative on July 1, 1995,~~  
16 ~~and shall remain in effect only until July 1, 2003, and as of~~  
17 ~~that date is repealed, unless a later enacted statute, which~~  
18 ~~is enacted before July 1, 2003, deletes or extends that date.~~

19 *SEC. 5. Section 24216.5 of the Education Code is*  
20 *repealed.*

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

25 ~~(1) The member retired for service with an effective~~  
26 ~~date on or before July 1, 1998.~~

27 ~~(2) The member retired for service is employed by a~~  
28 ~~school district to provide either one of the following:~~

29 ~~(A) Direct classroom instruction to students in~~  
30 ~~classrooms that were created to meet the objectives of a~~  
31 ~~program to reduce class sizes pursuant to Part 28~~  
32 ~~(commencing with Section 51000).~~

33 ~~(B) Is temporarily filling a position that was vacated~~  
34 ~~due to a teacher transferring to a classroom within the~~  
35 ~~same district that was created to meet the objectives of a~~  
36 ~~program to reduce class sizes pursuant to Part 28~~  
37 ~~(commencing with Section 51000).~~

38 ~~(3) All members retired for service whose~~  
39 ~~employment with a school district meets the conditions~~  
40 ~~specified in this section shall be treated as a distinct class~~



1 of temporary employees within the existing bargaining  
2 unit whose service shall not be included in computing the  
3 service required as a prerequisite to attainment of or  
4 eligibility for classification as a permanent employee of a  
5 school district. The compensation for service performed  
6 by this class of employees shall be established in  
7 accordance with subdivision (b) of Section 24214 and  
8 agreed to in the collective bargaining agreement  
9 between the employing school district and the exclusive  
10 representative for the existing bargaining unit within  
11 which these temporary employees of the school district  
12 are treated as a distinct class.

13 (4) The employing school district submits  
14 documentation required by the system to substantiate  
15 the eligibility of the temporary employment of a member  
16 retired for service for the exemption under this  
17 subdivision.

18 (b) A school district that employs a member retired  
19 for service pursuant to this section shall maintain  
20 accurate records of the retired member's compensation  
21 earned and shall report that compensation monthly to the  
22 system regardless of the method of payment or the source  
23 of funds from which the compensation is paid.

24 (e) This section shall not apply to the compensation  
25 earned for creditable service performed by a member  
26 retired for service for a county office of education or a  
27 community college district.

28 (d) The amendments made to this section by an act  
29 enacted in the first year of the 1999-2000 Regular Session  
30 shall apply to the 1999-2000 school year and all  
31 subsequent school years.

32 (e) This section shall remain in effect only until July 1,  
33 2002, and as of that date is repealed unless a later enacted  
34 statute which is enacted before July 1, 2002, deletes or  
35 extends that date.

