

**Bill Number: Assembly Bill 2390 (Karnette) as amended June 19, 2008.**

## **SUMMARY**

AB 2390 extends the sunset date of the California State Teachers' Retirement System (CalSTRS) post-retirement earnings limit exemptions from June 30, 2009 to June 30, 2010. This bill also expands eligibility, where applicable, by one year to members who retired on or before January 1, 2007.

AB 2390 permits members retired between June 30, 2007, and December 31, 2007, to purchase service credit for service performed prior to retirement in a publicly funded educational institution outside the United States.

## **PURPOSE OF THE BILL**

AB 2390 supports the continued efforts of California's schools to provide quality educational opportunities by permitting districts to recruit former educators and staff to meet the ongoing demand for experienced, knowledgeable educators and administrative staff. Further, AB 2390 ensures that California state law conforms to federal law with the earliest possible effective date.

## **BOARD POSITION**

**Sponsor.** Extending the post-retirement earnings limit exemptions and conforming to federal law are consistent with the Teachers' Retirement Board's commitment to improve benefits and services of the retirement plan.

## **SUMMARY OF AMENDMENTS**

The amendments of [Date] permit a member retired between June 30, 2007, and December 31, 2007, to purchase service credit for service performed prior to retirement in a publicly funded educational institution outside the United States.

Additionally, these amendments double-join AB 2390 to SB 1376 (Wiggins), CalSTRS' technical housekeeping bill.

## **LEGISLATIVE HISTORY**

Chapter 513, Statutes of 2007 (SB 1432—Soto) conformed California law to federal law by allowing members of the Defined Benefit Program to purchase service credit for service performed in an educational institution that receives public funding located outside of the United States and authorizing beneficiaries other than spouses to roll over a benefit distribution.

Chapter 353, Statutes of 2007 (SB 901—Padilla) extended the sunset date of existing post-retirement earnings limit exemptions by 18 months to June 30, 2009 and pushed-back the eligibility date for extensions, where applicable, to include all members retired for service on or before January 1, 2006.

Chapter 934, Statutes of 2004 (AB 2554—Pavley), extended the sunset date on the existing K-12 service-specific exemption to January 1, 2008 and extended the date a member must retire by to qualify for this exemption to January 1, 2004; expanded the K-12 exemption to include members

providing instruction in special education and English language learner programs; provided a two-year limit on the emergency administrator or trustee exemption.

Chapter 22, Statutes of 2000 (AB 141—Knox), extended the current exemption from the earnings limit for retired members who are employed to fill an administrative position vacated due to circumstances beyond the control of the employer.

Chapter 70, Statutes of 2000 (SB 1666—Alarcon), expanded the K-12 direct classroom instruction exemption to the post-retirement earnings limit to include supporting teachers participating in a teacher preparation program; required members to retire on or before January 1, 2000; extended the exemption to July 1, 2005.

Chapter 351, Statutes of 2000 (AB 1736—Ducheny), exempted from the earnings limit members who retired before July 1, 2000 and return to service to provide direct remedial instruction in grades 2-12, inclusive.

Chapter 896, Statutes of 2000 (AB 1733—Wildman), temporarily eliminated the earnings limit exemption for members who return to work more than one year after retirement and increased the limit for other retired members.

Chapter 40, Statutes of 1999 (AB 335—Mazzoni), extended the existing earnings limit exemption for retired teachers who returned to the classroom as a result of the K-3 Class Size Reduction Program to include the recently authorized Grade 9 class size reduction program and future expansions of the class size reduction programs authorized by Part 28 of the Education Code.

Chapter 965, Statutes of 1998 (AB 2765—PER&SS), extended the exemption for class size reduction to members who retired on or before July 1, 1998 and extended the sunset date to July 1, 2002.

Chapter 1, Statutes of 1997 (AB 18—Mazzoni), retroactively made operative the provisions of Chapter 948, Statutes of 1996 (AB 1068—Mazzoni). These bills exempted from the earnings limit members who retired on or before July 1, 1996 and were subsequently hired to alleviate the teacher shortage caused by the passage of the Class Size Reduction Program in Grades K-3.

Chapter 948, Statutes of 1996 (AB 1068—Mazzoni), created an exemption to the post-retirement earnings limit for a member who retires on or before July 1, 1996, and returns to work to provide direct instruction to pupils in K-12; effective July 1, 1996 through July 1, 1999.

Chapter 394, Statutes of 1995 (AB 948—Gallegos), created an exemption to the post-retirement earnings limit for a retired member appointed as a trustee or administrator by the superintendent of public instruction or who fills an administrative position left vacant due to emergency; effective July 1, 1995 through July 1, 2000.

## **PROGRAM BACKGROUND**

### California's Education Workforce and Retired Members

California faces an immediate and growing need for experienced professional educators to enable districts to continue providing quality education to California's students. California's educational workforce is aging, and as one recent report by the Center for the Future of Teaching

and Learning indicated, nearly one third of California’s K-12 teachers are or will become eligible to retire over the next decade.

According to a 2007 report by the Center for the Future of Teaching and Learning, one in 20 public school teachers are ‘underprepared’ for their duties, and over the past two years, the number of new teaching credentials issued annually has dropped by over 15 percent. At the same time, the entire teaching workforce has been graying – around 100,000 of California’s 309,000 K-12 teachers, for example, are over age 50, and more than 56,000 are over age 55. With nearly one third of California’s K-12 teachers at or approaching retirement age within the next five to ten years, the need to retain and replace this population is immediate.

Generally, a retired CalSTRS member may not return to work full-time in CalSTRS-covered employment unless the member is willing to ‘reinstate’ as an active member. Historically, the Legislature has created exemptions to this rule for specific programs to assist school districts, community college districts, and county offices of education to meet their need for experienced educators by hiring retired members.

CalSTRS Post-Retirement Earnings Limit

A CalSTRS member retired for service who returns to work performing creditable service may not earn more than the annual post-retirement earnings limit set by law; CalSTRS reduces a member’s benefit dollar-for-dollar by the amount of excessive earnings. The limit—\$27,940 for fiscal year 2007-08—was initially set in fiscal year 1998-99 to approximate one-half of the average member’s full-time salary, and it is adjusted annually to reflect any change in this statistic.

There are several exemptions to the post-retirement earnings limit. Any member who has a 12-month break in all creditable compensation is exempt from the limit. Additionally, there are several specific exemptions to address specific needs within the California public education system:

Retirement Date	Exempt Activity
On or before January 1, 2006	Providing direct remedial education in a classroom for grades two through 12
	Providing direct instruction in a K-12 classroom
	Supporting or assessing new teachers in certain programs
	Supporting individuals who are completing student-teaching assignments or pre-internship or paraprofessional programs
	Providing direct instruction in Special Education or English Language Learner programs
Any date	Working as a trustee or administrator for either a financially insolvent employer or under the Immediate Intervention/Underperforming Schools Program or the High Priority Schools Grant Program. (Limited to a maximum two-year term.)
	In an emergency situation, working in an administrative position that

	requires highly specialized skills. (One-half of the full-time salary is exempt for a maximum two-year term).
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Of the nearly 26,000 retired members who reported some creditable compensation during fiscal year 2006-07, approximately one third were working under an earnings limit exemption. However, of those earners with an exemption granted for fiscal year 2006-07, only 12 percent in fact exceeded the earnings limit. Approximately 710 retired members exceeded the earnings limit:

**Members Retired for Service with Reported Creditable Earnings in Fiscal Year 2006-07:**

Exemption	Total earners	Earners in excess of limit
12-Month break in service	8,577	814
Direct remedial education exemption	49	30
Direct instruction, new teacher support and assessment, student-teacher/pre-internship/paraprofessional programs support, and special education or English learner programs exemptions	478	187
Trustee/administrator limited-term exemption	0	0
Emergency administrator limited-term exemption	95	80
No exemption	16,789	710
<b>Total:</b>	<b>25,988</b>	<b>1,821</b>

CalSTRS automatically processes the 12-month break in service exemption and manually processes applications submitted by employers on behalf of employees working under other exemptions. CalSTRS sends two letters to retired members informing them of the post-retirement earnings limitation: one when they begin accruing creditable earnings and one when the member is mid-way to the earning limit. Both letters instruct members to contact their employers or to consult the Member Handbook if they believe they are eligible for an earnings limit exemption. CalSTRS staff annually review retired members' reported creditable earnings and set-up collection accounts for any excessive earnings. This process usually takes place in late fall to ensure employers have time to complete reporting for the fiscal year.

Purchasing Foreign Service Credit at CalSTRS

On August 17, 2006, the President signed the Pension Protection Act (PPA) of 2006. The main focus of this pension legislation was to change the funding rules for private, single-employer defined benefit plans. The PPA also contained certain provisions that affect governmental plans, such as CalSTRS, by allowing the purchase of foreign service credit.

Foreign service credit is a type of permissive service credit, which means CalSTRS includes credit for this service in determining whether a member receives final compensation based on the highest one- or three- years of earnings; whether a member is eligible for a longevity bonus; and whether a member receives a career factor adjustment in his or her benefit calculation.

## **ANALYSIS:**

### **Existing Law:**

#### Post-Retirement Earnings Limit

Several factors drive the existing structure of CalSTRS' post-retirement earnings limit:

First, Internal Revenue Service rules prohibit paying a pension to a person under normal retirement age unless that person has made a 'bona fide termination of the employment' that brought about that pension. (The normal CalSTRS retirement age is 60 years old.) By requiring a member to cease all covered employment for 12 consecutive months, to reduce their level of employment to within the earnings limit, or to meet an eligibility requirement, CalSTRS assures that members retiring before turning age sixty do not violate IRS restrictions.

Second, the Legislature has recognized the need for high-quality, experienced educators cannot be filled by the existing available workforce, and therefore has created program-specific and curriculum-specific exemptions to CalSTRS' post-retirement earnings limit.

Finally, CalSTRS recognizes that permitting members to work after retirement may provide the member an important source of income while simultaneously increasing the pool of experienced, knowledgeable educators and administrators to California's schools.

Existing law provides that all exemptions to the post-retirement earnings limit expire on June 30, 2009. Further, for those exemptions with an eligibility date, members must be retired for service on or before January 1, 2006, to qualify.

#### Purchasing Foreign Service Credit at CalSTRS

In response to the PPA of 2006, in 2007, the Board sponsored conforming legislation, AB 1432 (Soto). Among other things, this legislation allows active members of the Defined Benefit (DB) Program to purchase credit for service performed in an educational institution located in a foreign country that receives at least a portion of its funding from public sources, and service performed in a Department of State school that receives funding from the Department of State under Title 22 of United States Code Section 2701. The bill originally included an urgency clause so it would take effect immediately upon the Governor's signature; CalSTRS intended for the bill to be passed in the first half of 2007 so members who were preparing to retire could take advantage of the PPA before retiring. However, the urgency clause was removed from the bill in May 2007 for reasons unrelated to this provision of the bill, making it impossible for those members planning to retire in 2007 to be eligible for foreign service credit purchases because the bill did not take effect until January 1, 2008. (Under current State law, CalSTRS members must complete the purchase of service credit before their retirement.)

**This bill:**

AB 2390 does not change the structure of the existing post-retirement earnings limit exemptions. Rather it simply extends the sunset date by one year, to June 30, 2010, and moves forward the eligibility date for some exemptions to encompass those members retired for service as of January 1, 2007.

Additionally, AB 2390 provides a 180-day window period during which those members who retired between June 1, 2007, and December 31, 2007, may purchase foreign service credit for service performed prior to retirement. This group of retirees constitutes those who missed the opportunity after the urgency clause was removed from AB 1432, to purchase foreign service credit prior to retiring. This seven month period of time represents the time between when AB 1432 could have been enacted, had the urgency clause not been removed, and when it actually took affect.

AB 2390 is double-joined to SB 1376 (Wiggins), CalSTRS' technical housekeeping bill, which includes technical changes to several sections of the Education Code that create exemptions to the post-retirement earnings limit.

**OTHER STATES' INFORMATION**

As of a 2003 survey by the National Education Association, all fifty states allow retired teachers to return to part-time work without losing their pensions. States' restrictions on post-retirement work vary, including restrictions on the type of positions, a cap on the number of days or hours a person may work, or an earnings limit. As of November 2003, thirty-four states allowed some or all retired teachers to return to full-time work.

**FISCAL IMPACT**

Benefit Program Cost – This bill will have no actuarial impact on the system because the valuation of the DB Program assumes that members do not work beyond the earnings limit. To the extent that members can earn compensation in excess of the limit, the resulting reduction in CalSTRS benefits could result in an unanticipated actuarial gain to the program. Extending the earnings limit exemption for a limited 1 year period of time would result in the system foregoing that actuarial gain.

The cost of purchasing additional service credit—including foreign service credit—is calculated using a formula designed to ensure CalSTRS sees no net cost effect when members purchase additional service credit.

Administrative Costs/Savings – Minor, if any. The cost of implementing changes for any additional members that take advantage of the existing exemptions' extension will be absorbed by existing program resources, and CalSTRS staff will manually process the purchase of foreign service credit by retired members.

**SUPPORT**

CalSTRS (sponsor).

**OPPOSITION**

None known.

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