

BILL NUMBER: Assembly Bill 506 (Furutani) as amended June 25, 2009

SUMMARY

As of July 1, 2010, this bill would prohibit retirees under age 60 from working in any CalSTRS-related service for the first six calendar months after they retire. After this break-in-service, they would be able to return to work under the existing earnings limit. This bill also would extend the sunset dates for the post-retirement earnings limit exemptions from June 30, 2010, to June 30, 2012, and would expand eligibility, where applicable, by two years to members who retired on or before January 1, 2009. In addition, it would state that the vacant administrative position emergency exemption shall not apply to a retiree whose retirement is the basis for the vacant administrator position.

BOARD POSITION

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

PURPOSE OF THE BILL

This bill ensures compliance with recent IRS regulations that further clarify existing regulations, case law, and IRS rulings, stating that "retirement" is not merely a reduction in hours. This bill also 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, this bill also limits the potential abuse that could occur if an individual creates an emergency administrative vacancy by retiring and then returns to work in the same position under the related exemption.

SUMMARY OF AMENDMENTS

The technical amendments correct a drafting error that would have allowed the existing earnings limit exemptions to exempt retirees from the six-month break, as well, which was not the intention of this legislation.

LEGISLATIVE HISTORY

Chapter 494, Statutes of 2008 (AB 2390 – Karnette) extended the sunset date of the existing post-retirement earnings limit exemptions by one year to June 30, 2010; expanded eligibility for the exemptions, where applicable, by one year to members who retired on or before January 1, 2007; and permitted members who retired between June 30, 2007, and December 31, 2007, to purchase service credit for service performed in a publicly funded educational institution outside the United States.

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 exemptions, 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; and 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, to be eligible; and 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.

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 December 2008 report by the Center for the Future of Teaching and Learning, roughly one in 20 public school teachers in 2007-08 were "underprepared" for their duties, and between 2003-04 and 2006-07, the number of new preliminary teaching credentials issued declined by 25 percent. At the same time, the entire teaching workforce has been graying – nearly 99,000 of California's approximately 310,000 K-12 teachers, for example, are over age 50, and nearly 58,000 are over age 55. With nearly one-third of California's K-12 teachers at or approaching retirement age within the next decade, 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 "reinstated" 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 also has queried its members to determine why they return to work after retirement. Of the more than 400 members who responded to a Web site survey, 25 percent returned to work due to a desire to stay active in education, 20 percent returned to work to earn extra income to

pay for health care costs, and 40 percent returned to work to earn extra money for travel or other expenses or to increase savings.

In addition, more than 1,660 CalSTRS members responded to an email survey that was sent to 5,800 members with email addresses who had a least one day of post-retirement earnings from July 1, 2003, through July 1, 2005. Of those responding, 33 percent had returned to work because of a need or desire to remain active, 18 percent had returned to work because of a request by their employer, 17 percent returned to work to supplement their retirement income, and seven percent returned to work because of health care expenses.

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 excess earnings. The limit – \$29,700 for fiscal year 2008-09 – was initially set in fiscal year 1998-99 to approximate one-half of the average active 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, 2007	Providing direct instruction in a K-12 classroom. <hr/> Supporting and assessing new teachers in certain programs. <hr/> Supporting student teachers. <hr/> Supporting individuals participating in pre-internship, alternative certification, or paraprofessional programs. <hr/> Providing instruction and services to special education students. <hr/> Instructing students in English language learner programs. <hr/> Providing direct remedial education in a classroom for grades 2-12.
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.) <hr/> In an emergency situation, filling an administrative position that requires highly specialized skills. (One-half of the full-time salary is exempt for a maximum two-year term.)

Of the more than 26,000 retired members who reported some creditable compensation during fiscal year 2006-07, approximately 35 percent were working under an earnings limit exemption. Of those earners with an exemption granted for fiscal year 2006-07, only about 12 percent in fact

exceeded the earnings limit. Approximately 715 retired members with no exemption exceeded the earnings limit.

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 reviews retired members’ reported creditable earnings and sets 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.

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

(as of June 30, 2008)

Exemption	Total earners	Earners in excess of limit
12-Month break in service	8,756	851
Direct remedial education exemption	47	29
Direct instruction, new teacher support and assessment, student-teacher/pre-internship/paraprofessional programs support, and special education or English learner programs exemptions	371	181
Trustee/administrator limited-term exemption	0	0
Emergency administrator limited-term exemption	96	81
No exemption	16,985	715
Total:	26,255	1,857

ANALYSIS:

Existing Law:

In May 2007, the IRS issued final regulations providing guidance to help plans determine the acceptability of a “normal retirement age.” These regulations also further clarified existing regulations, case law, and IRS rulings and included a strengthened definition of retirement that has contributed to a reassessment of CalSTRS’ current post-retirement employment provisions. Specifically, the regulations set forth that “retirement does not include a mere reduction in the number of hours that an employee works.” The regulations go on to state that “accordingly, benefits may not be distributed prior to normal retirement age solely due to a reduction in the number of hours that an employee works.” As a result, CalSTRS must establish additional controls to prevent those members who currently work under the earnings limit from receiving what may be considered an in-service distribution.

In addition, various factors drive the existing structure of CalSTRS’ post-retirement earnings limit. For example, the Legislature has recognized that 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. CalSTRS also 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 available to California's schools.

Existing law provides that all exemptions to the post-retirement earnings limit expire on June 30, 2010. Further, for those exemptions with an eligibility date, members must be retired for service on or before January 1, 2007, to qualify.

This bill:

As of July 1, 2010, this bill would prohibit retirees under age 60 from working in any CalSTRS-related service for the first six calendar months after they retire. After this break-in-service, they would be able to return to work under the existing earnings limit.

This bill would not change the structure of the existing post-retirement earnings limit exemptions. Rather, it would extend their sunset dates by two years, to June 30, 2012, and would move forward the eligibility date for some exemptions to encompass those members retired for service as of January 1, 2009. It also would clarify that the vacant administrative position emergency exemption cannot be applied to a retiree whose retirement is the basis for the vacancy.

OTHER STATES' INFORMATION

As of a 2003 survey by the National Education Association, all fifty states allowed retired teachers to return to part-time work without losing their pensions. States' restrictions on post-retirement work varied, 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, 34 states allowed some or all retired teachers to return to full-time work.

FISCAL IMPACT

Benefit Program Cost – This bill would have no actuarial impact on the system because the valuation of the Defined Benefit (DB) Program does not assume that any member will work in excess of any earnings limit. The resulting reduction in a member's benefit as a result of earnings in excess of the earnings limit would be an actuarial gain to the DB Program. Extending the earnings limit exemptions for a limited 2 year period of time would result in the system foregoing that actuarial gain.

Administrative Costs/Savings – Minor, if any. The cost of implementing changes for any additional members that take advantage of the existing exemptions' extension would be absorbed by existing program resources.

SUPPORT

CalSTRS (sponsor)
Association of California School Administrators (ACSA)
California Association of School Business Officials (CASBO) (support if amended)
California Federation of Teachers (CFT)
California Teachers Association (CTA)
Los Angeles County Office of Education
Los Angeles Unified School District (LAUSD)

OPPOSITION

None known.

SUPPORTING ARGUMENTS

Ensures compliance with recent IRS regulations that further clarify existing regulations, case law, and IRS rulings and state that “retirement” is not merely a reduction in hours.

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.

Works to limit the potential abuse that could occur if an individual creates an emergency administrative vacancy by retiring and then returns to work in the same position under the related exemption.

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