

BILL NUMBER: AB 2554 (Pavely) As amended 3/24/04

SUMMARY

AB 2554 extends the sunset date on the existing exemption from the earnings limitation for retired members who return to provide direct classroom instruction to pupils enrolled in grades K-12, and extends the exemption to include members providing instruction in special education and English language learner programs. Additionally, this bill extends the date a member must retire by to qualify for an existing exemption for retired Defined Benefit (DB) Program members who return to provide direct remedial instruction and K-12 classroom instruction and provides a two-year limit on the earnings limit exemption for postretirement employment in a vacant administrative position.

PURPOSE OF THE BILL

The author believes that districts are concerned with the possibility of certificated employees, both teachers and administrators, retiring en masse, and leaving a void for districts in filling these vacant positions, given the present shortage of “highly qualified” teachers and the requirements of the federal No Child Left Behind Act. AB 2554 extends existing exemptions and allows greater flexibility in using retired certificated employees to fill vacancies, especially in specialty credentialed areas, and additionally provides districts with flexibility in hiring and training an individual to fill an administrative position.

POSITION AND SUPPORTING ARGUMENTS

Support, the Teachers’ Retirement Board (Board) also recommends that the bill be amended to clarify the limitations for filling a vacant, administrative position. The Board has historically supported legislation that temporarily exempts members from the earnings limit, if the member is filling a position that has a demonstrated difficulty in being filled. This is also consistent with the California State Teachers’ Retirement System (CalSTRS) goal to proactively develop benefits and products that meet customer needs.

ANALYSIS

AB 2554:

- Provides a two-year limit on the earnings limit exemption for postretirement employment in a vacant administrative position;
- Extends
 - From January 1, 2000 to January 1, 2004, the date a member must retire by to qualify for the earnings exemption to provide direct classroom instruction to pupils enrolled in grades K-12;
 - The K-12 exemption to include members providing instruction in special education and English language learner programs;
 - The sunset date for this exemption from July 1, 2005 to January 1, 2008; and,
 - From July 1, 2000 to July 1, 2004, the date a member must retire by to qualify for an existing exemption for retired DB Program members who return to provide direct remedial instruction.

The provisions in AB 2554 permit districts to hire retired teachers who provide specialized instruction, such as special education, English language learning, and remedial instruction. Additionally, this bill permits districts to fill a vacant administrative position, such as a school site principal, give support to employers in the recruitment process, and re-enforces criteria that permits employers to hire an individual in an administrative capacity, in an emergency situation, and provides a two-year limit for employers to hire and fill a vacant administrative position. However, the proposed change may be interpreted to permit employers to re-hire the same retired member each year through the exemption process. CalSTRS recommends that this provision be amended to clarify that a member who is hired to fill an administrative position under an emergency situation that requires highly specialized skills, shall be hired a single time under this exemption to perform service over a limited two-year period in order to fill a vacant, administrative position.

There were approximately 8,534 retired members working under an exemption in the 2002-2003 school year out of 22,000 retired members who currently are working. For that school year, 239 members, working without an exemption, exceeded the earnings limit by more than \$4,778 for the year, and the total excess earnings for that group was \$1.1 million. If this bill does not pass, CalSTRS estimates that an additional 19 members would exceed the earnings limit annually by about \$100,000. This amount is considered an unanticipated actuarial gain to the program because the amount of benefits paid to retired members who exceed the earnings limit decreases.

LEGISLATIVE HISTORY

AB 434 (Hancock, 2003) would have extended an existing exemption from the earnings limitation for retired members of CalSTRS who return to provide direct classroom instruction to pupils in grades K-12, as specified, extended the exemption to members who retired on or before January 1, 2003, and extended the sunset date from July 1, 2005 to January 1, 2010. These provisions were deleted from the bill.

Chapter 22, Statutes of 2000 (AB 141—Knox) extends an existing exemption from the earnings limitation for retired members of CalSTRS who are employed under specified conditions to fill an administrative position vacated due to circumstances beyond the control of the employer.

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

Chapter 351, Statutes of 2000 (AB 1736—Ducheny) increases the earnings limit to \$22,000, and eliminates the postretirement earnings limitation until 2008 for members who return to work after at least one year of retirement.

Chapter 70, Statutes of 2000 (SB 1666—Alarcon) exempts from the earnings limit a member who retires for service on or before January 1, 2000, if the member returns to provide direct classroom instruction to pupils in grades K-12, as specified.

Chapter 965, Statutes of 1998 (AB 2765—Assembly PER&SS) the CalSTRS annual technical housekeeping bill that, among other things, extends the earnings exemption for class size reduction to members who retired on or before July 1, 1998, and extends the sunset date to July 1, 2003.

PROGRAM BACKGROUND

CalSTRS DB Program members who retire for service and accept employment performing creditable service in the California public school system are subject to a postretirement earnings limitation, unless they are otherwise exempt from the limit. For fiscal year July 1, 2003 through June 30, 2004, retired members can earn up to \$25,740. The earnings limit is adjusted each year on July 1, by the percentage increase in the average earnable salary of active members.

Retired members are exempt from the earnings limit if the member:

- Returns to postretirement CalSTRS-covered employment after a period of, at least 12 consecutive months without performing CalSTRS-covered service (exemption sunsets January 1, 2008);
- Retired from service on or before January 1, 2000, and returns to teach in grades K-12 or participate in certain teacher preparation programs (exemption sunsets June 30, 2005);
- Retired on or before July 1, 2000, and returns to provide direct remedial education in a classroom for grades 2 through 12; or,
- Returns to fill an administrative position for up to one-half of the full-time equivalent that is vacant because of an unanticipated situation (exemption sunsets January 1, 2008).

Retired members may accept employment in any capacity outside of the California public school system with no limitation on their earnings. They are generally prohibited from accepting employment in a classified position.

School districts must maintain accurate records and report all earnings paid to retired DB Program members, and CalSTRS monitors the information to determine if a member's earnings are approaching or exceed the approved limit. If a retiree exceeds the limit, their monthly retirement allowance is reduced dollar-for-dollar by the amount of earnings received in excess of the limit.

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 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 period of time would result in the system foregoing that actuarial gain, which has an estimated annual value of about \$100,000.

Administrative Costs/Savings – This bill will result in minor, if any, implementation costs.

SUPPORT

CalSTRS/CFT/LAUSD

OPPOSITION

None

ARGUMENTS

Pro: AB 2554 provides an important tool that districts can use when recruiting former educators and staff to meet the on-going demand for experienced, knowledgeable teachers.

Con: This bill would increase system complexity by expanding the types of service that would be exempt from the postretirement earnings limits.