Bill Number: **Senate Bill 901 (Padilla) as amended 4/18/07**

SUMMARY

This bill extends the sunset date from January 1, 2008 to June 30, 2009 for the 10 exemptions to the California State Teachers' Retirement System's (CalSTRS) post-retirement earnings limit.

PURPOSE OF PROPOSAL

Extends the current post-retirement earnings limit exemptions for one year allowing districts to continue hiring retired teachers who provide specialized instruction, such as special education, English language learning, remedial instruction and filling vacant administrative positions in emergency situations.

BOARD POSITION

Sponsor. The Teachers' Retirement Board (Board) is sponsoring this proposal because it meets the following Board policies:

1. Reduces inequities or deficiencies in plan design;
2. Improves the delivery of benefits and services and provide more effective and efficient administration of the retirement plan.

LEGISLATIVE HISTORY

AB 2970 (Pavely—2006), would have established four new employment categories under the exemption allowed for retired members who provide various services in a K-12 school, would have eliminated the requirement that the member must have retired prior to January 1, 2004 to be eligible for the K-12 service-specific exemption and replaces it with the requirement that the retirement effective date be at least 30 days prior to the date on which the retired member returns to work. AB 2970 was held in the Assembly Appropriations Committee.

SB 1124 (Torlakson—2006), would have created a new service category under the K-12 service-specific exemption to the CalSTRS post-retirement earnings limit for retired members who abstain from performing CalSTRS-covered employment for a period of 6 months and return to work to serve as a mentor in a high-priority school. SB 1124 was held in the Assembly Appropriations Committee.

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; expands 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 limitation 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 limitation for other retired members.

Chapter 40, Statutes of 1999 (AB 335—Mazzoni) extended the existing earnings limitation 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

Prior to 1974, a retired member could not return to "employed service" for at least two years after retirement. The two-year rule was amended to one year in 1975 and subsequently repealed in 1979. At that time, a limit of $5,000 per fiscal year on the amount of earnings from service that was creditable to the DB Program was established. That limit was increased each year, based upon the California Consumer Price Index.

The limitation on earnings was extended in 1997 to include compensation from service that was performed either as a contractor or as an employee of a different employer in activities that would be creditable if performed as an employee of a school district. The earnings limit was increased to $22,000 in 1998-99. This approximated 50 percent of the average full-time salary rate for a DB Program member. The earnings limit is adjusted annually by the change in the full-time salary rate for DB members in order to maintain the relationship to the full-time salaried employee.

The earnings limit in 2006-07 is $27,060 and $27,940 in 2007-08. A member who returns to work while retired must be paid at a rate that is at least equal to the minimum paid and no greater than the maximum paid to an employee performing comparable duties. Contributions are not paid by either the employee or employer on compensation paid to members who return to employment while still retired, nor do members earn any higher benefits from this post-retirement employment. (Retired members can earn higher benefits by returning to work and terminating their retirement benefit while working. If they have terminated their retirement, both the member and the employer pay contributions on the employee's compensation.)

CalSTRS maintains a post-retirement earnings limit to conform to Internal Revenue Service regulations that require a bona fide break in service for individuals who retire prior to their normal retirement age (60 years of age under the DB Program). In addition, members who retire early cause the DB Program to pay retirement benefits at an earlier age, which contributes to a reduction in the funded status of the Teachers' Retirement Fund (Fund).

Over the years, CalSTRS has allowed exemptions to the earnings limit to assist the education community in meeting classroom and teacher programs that require a large pool of additional teachers, administrators and specialized educators within California. Currently there are 10 exemptions to the earnings limit with most of the exemptions requiring that the retired member be retired on or before January 1, 2004. Two of the exemptions allow the retired member to return to work immediately after retirement in an emergency administrative position. There are some time and salary restriction features in these two types of exemptions. Also, a retired member is exempted from the earnings limit if he or she has not returned to CalSTRS covered employment for any 12 consecutive month period after retirement. Approximately 32 percent of retired members who have returned to work are employed under an earnings limit exemption.

The Defined Benefit (DB) Program currently provides K-12 service specific exemptions to the earnings limit, until January 1, 2008, for members who retired on or before January 1, 2004 and who meet any of the following criteria:

- Provide direct K-12 classroom instruction;

- Support the Beginning Teacher Support and Assessment Program;

- Support student teachers in the Pre-Internship Teaching Program, or an alternative certification program, or the School Paraprofessional Teacher Training Program;

- Provide instruction or pupil services in a special education program; or

- Provide instruction in an English language learner program,

In addition, the DB Program exempts from the earnings limit members who:

- Abstain from performing CalSTRS-covered employment for a period of at least 12 months after retiring,

- Are appointed as a trustee or administrator by a superintendent of public instruction, or who fill an administrative position left vacant due to emergency for up to one-half of the full-time position,

- Retired on or before January 1, 2004 and are hired to provide direct 2-12 remedial instruction,

CalSTRS processes all of the above post-retirement earnings exemptions and is responsible for establishing receivables for non-exempt retired members who exceed the earnings limitation. A considerable portion of this workload requires manual intervention, e.g., contact with employers and members, evaluation of exemption eligibility, processing certification forms and establishing receivables on the CalSTRS corporate database.

CalSTRS currently generates two letters (an initial letter and mid-way letter) informing retired members of the post-retirement earnings limitation. Both letters instruct them to contact their employers or to consult the *Member Handbook* if they believe they are eligible for an earnings exemption. CalSTRS automatically exempts from the earnings limitation retired members whose employer-reported information reflects a break in service of a period of at least 12 consecutive months following their most recent retirement.

For retired members who return to work without waiting 12 consecutive months and who believe they should otherwise be exempt from the earnings limitation, employers must submit certification of their eligibility for an exemption. Certification is good for only one fiscal year, so employers must submit a new certification for each year that a retired member qualifies for the particular exemption. CalSTRS staff evaluate whether an employer's certification satisfies the eligibility requirements. However, the exemptions can sometimes be confusing for both members and employers.

The retirement allowance of members who exceed the earnings limitation and are not employed under an exemption is reduced dollar-for-dollar by an amount equal to the excess earnings. In these situations, CalSTRS manually establishes receivables on their accounts and send 30-day notice letters informing them of the amount they owe to CalSTRS. Due in large part to the delay in employer reporting, this process does not typically occur until the October or November following the fiscal year in which the retired member exceeded the earnings limitation. This lag-time results in the retired member owing back several months of benefit overpayments.

The table below indicates the number of members from K-12 districts, community colleges and county offices of education receiving different types of exemptions, or who are working after retirement without an exemption:

K-12					
Year	Direct Classroom	Emergency Exemption	12 Month	Remedial	No Exemption
2003-04	658	89	5,716	93	12,707
2004-05	616	93	6,297	74	13,661
Community College					
Year	Direct Classroom	Emergency Exemption	12 Month	Remedial	No Exemption
2003-04	40	16	644	4	2,548
2004-05	39	17	715	3	2,850
County Office of Education					
Year	Direct Classroom	Emergency Exemption	12 Month	Remedial	No Exemption
2003-04	21	15	267	10	867
2004-05	18	8	313	9	1,064

SUMMARY OF AMENDMENTS

The amendments to SB 901 of April 18, 2007 specifically:

- Deletes the proposed requirement that employers contribute 8.25 percent of the compensation earned by any retired member;

- Deletes the proposed extension of the current post-retirement earnings limit exemptions until June 30, 2008;

- Deletes the proposed exemption to the post-retirement earnings limit for retired members who either (1) are at least 60 years of age or (2) abstain from performing service creditable to CalSTRS for at least 12 consecutive months after retirement, regardless of age, effective July 1, 2008; and

- Extends the current exemptions on post-retirement earnings limit until June 30, 2009 and repeals them on January 1, 2010.

ANALYSIS

Specifically, SB 901:

Extends the current post-retirement earnings limit exemptions for one year allowing districts to continue hiring retired teachers who provide specialized instruction, such as special education, English language learning, remedial instruction and filling vacant administrative positions in emergency situations.

FISCAL IMPACT

Program Costs/Savings: 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.

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

SUPPORT

CalSTRS (Co-Sponsor)
Los Angeles Unified School District (Co-Sponsor)
California Association of School Board Administrators
California Teachers Association
Faculty Association of California Community Colleges
United Teachers Los Angeles

OPPOSITION

None known

ARGUMENTS

Pro:

- Continues the pool of highly-qualified educators available to serve in public schools
- Provides an important too that districts can use when recruiting former educators and staff to meet the on-going demand of experienced, knowledgeable teachers.

Con:

- Administering individual exemptions can create administrative complexity for CalSTRS and create perceived inequity among members.

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