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SB-765 Teachers: retired teachers: compensation limitation. (2023-2024)

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Senate Bill No. 765

CHAPTER 885

An act to amend, add, and repeal Sections 24214, 24214.5, and 26812 of the Education Code, relating to teachers.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 765, Portantino. Teachers: retired teachers: compensation limitation.

(1) Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. Under existing law, STRS is governed by the Teachers' Retirement Board (board).

Existing law permits members retired for service from STRS to perform retired member activities without reinstatement into the system if certain conditions are met. Existing law limits the postretirement compensation of a retired member of the program, in any school year, to an amount calculated by STRS each July 1 equal to $\frac{1}{2}$ of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

This bill would modify that calculation so the limitation of postretirement compensation, in any school year, is instead an amount calculated by STRS each July 1 equal to 70% of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

Existing law establishes an additional postretirement compensation limit of \$0 during the first 180 calendar days after the most recent retirement of a retired member for the performance of retired member activities. Under existing law, if a retired member has attained normal retirement age at the time compensation is earned, this postretirement compensation limit does not apply if the appointment has been approved by the employer in a public meeting and a resolution containing certain information has been adopted by the governing body of the employer, as specified.

This bill would instead authorize a member retired from service to perform retired member activities, notwithstanding the above-mentioned 180 calendar days compensation limitation, if a request for exemption containing specified information is submitted by the Superintendent, the county superintendent of schools, or the chief executive officer of a community college to STRS, under penalty of perjury, as prescribed. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would require a written copy or copies of the completed documentation that substantiates the need for the request for exemption to be submitted to the exclusive representative of employees prior to the retired member's performance of retired member activities. The bill, among other changes, would also require the board to submit, on or before February 1, 2027, to specified committees of the Legislature a report that includes, among other things, the total number of exemption requests received by STRS from July 1, 2024, to June 30, 2026, inclusive.

(2) Existing law establishes the Cash Balance Benefit Program, administered by the board, as a separate benefit program within the State Teachers' Retirement Plan for purposes of providing a retirement plan for persons employed to perform creditable service for less than 50% of full-time equivalent service. Existing law provides that the normal retirement age for the program is 60 or 62 years of age, as applicable.

Under the program, a participant retired for service may perform retired participant activities, but prohibits the participant from making contributions to the plan or accruing service credit under the Defined Benefit Program based on compensation earned from that service. Under the program, if the retired participant performs retired participant activities, receives compensation paid in cash for those activities, and meets other specified conditions, the annuity paid to the retired participant is reduced by the amount of compensation. Existing law, however, does not require reduction of the participant's annuity if the governing body of the employer, among other things, approves the appointment of the retired participant by resolution.

This bill would instead exempt a retired participant from the annuity reduction requirement if the Superintendent, the county superintendent of schools, or the chief executive officer of a community college submits a request for exemption to STRS with certification, under penalty of perjury, of specified information. By expanding the crime of perjury, the bill would impose a state-mandated local program. This bill would require a written copy or copies of the completed documentation that substantiates the need for the request for exemption to be submitted to the exclusive representative of employees prior to the retired participant's performance of retired participant activities.

(3) This bill would make all of the above-described changes effective from only July 1, 2024, to June 30, 2026, inclusive, before reverting to existing law.

The bill would also make legislative findings and declarations in support of its provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) California's public education system was, prior to the COVID-19 pandemic, experiencing a severe educational workforce shortage, especially in regards to the recruitment and retention of teachers.

(b) The challenges California has been experiencing is not limited to California. Across the country, states and school districts have been struggling to fill vacant teaching positions.

(c) With the onset of the COVID-19 pandemic in early 2020, the state's teacher shortage has been vastly exacerbated, in large part due to a greater percentage of teachers choosing to leave the profession.

(d) According to the California State Teachers' Retirement System (CalSTRS), in the last six months of 2020, after the pandemic began, there were 5,644 teacher retirements, a 26-percent increase over the same period from the previous year.

(e) By the end of the 2020–21 school year, 12,785 teachers had retired and another 11,754 teachers retired after the 2021–22 school year.

(f) According to a February 2022 national poll conducted by the National Education Association, 90 percent of its members said that feeling burned out is a serious problem, 86 percent said they have seen more educators leaving the profession or retiring early since the start of the pandemic, and 80 percent reported that unfilled job openings led to more work obligations for those who remained teaching.

(g) As local educational agencies continue to try to find new ways to recruit and retain talented and essential school staff, a limited duration effect may be utilized to assist in alleviating the shortage, as prior and recent state policies and significant financial investments to address the shortage are implemented.

(h) Retired teachers and staff are some of the best-equipped candidates to provide instruction and services to our students.

(i) Notwithstanding existing laws regarding postretirement employment within the first 180 calendar days after the most recent retirement of a member retired for service that require adoption of a resolution by the governing body of the employer, a temporary expedited process for local education agencies to hire critically essential retired school staff and a temporary increase

in the existing postretirement compensation limitation without jeopardizing their retiree status may assist to immediately help address the educational staffing shortages currently affecting the state's education system.

(j) In recognition of this challenge, this short-term policy is intended to address an immediately critical need in California's public education system. However, the Legislature remains mindful of, and also must balance, the potential long-term actuarial effects that this policy and prior similar policies may have as to increased financial risk to the State Teachers' Retirement System, and as to the timely achievement and success of the CalSTRS Funding Plan, in the future.

SEC. 2. Section 24214 of the Education Code is amended to read:

24214. (a) A member retired for service under this part may perform retired member activities, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the annualized rate of pay for retired member activities performed by that member shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing retired member activities.

(d) A member retired for service under this part may earn compensation for performing retired member activities in any one school year up to the limitation specified in subdivision (f) without a reduction in their retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of retired member activities that are not wholly or in part supported by state, local, or federal funds.

(f) (1) The limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member in which payment of the expenses by the member is substantiated, shall, in any one school year, be an amount calculated by the system each July 1 equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments made for the performance of retired member activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(g) If a member retired for service under this part earns compensation for performing retired member activities, in excess of the limitation specified in subdivision (f), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction in an individual month shall be no more than the monthly allowance payable in that month, and the total amount of the reduction shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (h) of Section 24214.5.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become inoperative on July 1, 2024, and shall become operative on July 1, 2026.

SEC. 3. Section 24214 is added to the Education Code, to read:

24214. (a) A member retired for service under this part may perform retired member activities, but the member shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the annualized rate of pay for retired member activities performed by that member shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part shall not be required to reinstate for performing retired member activities.

(d) A member retired for service under this part may earn compensation for performing retired member activities in any one school year up to the limitation specified in subdivision (f) without a reduction in the member's retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of retired member activities that are not wholly or in part supported by state, local, or federal funds.

(f) (1) The limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member in which payment of the expenses by the member is substantiated, shall, in any one school year, be an amount calculated by the system each July 1 equal to 70 percent of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments made for the performance of retired member activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(g) If a member retired for service under this part earns compensation for performing retired member activities, in excess of the limitation specified in subdivision (f), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction in an individual month shall be no more than the monthly allowance payable in that month, and the total amount of the reduction shall not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned after any reduction made in accordance with subdivision (h) of Section 24214.5.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on July 1, 2024. This section shall become inoperative as of July 1, 2026, and as of January 1, 2027, is repealed.

SEC. 4. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) (1) Notwithstanding subdivision (f) of Section 24214, the postretirement compensation limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member in which payment of the expenses by the member is substantiated, shall be zero dollars (\$0) during the first 180 calendar days after the most recent retirement of a member retired for service under this part.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments made for the performance of retired member activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(b) If the retired member has attained normal retirement age at the time the compensation is earned, subdivision (a) shall not apply and Section 24214 shall apply if the appointment has been approved by the governing body of the employer in a public meeting, as reflected in a resolution adopted by the governing body of the employer prior to the performance of retired member activities, expressing its intent to seek an exemption from the limitation specified in subdivision (a). Approval of the appointment may not be placed on a consent calendar. Notwithstanding any other provision of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code or any state or federal law incorporated by Section 7927.705 of the Government Code, the resolution shall be subject to disclosure by the entity adopting the resolution and the system. The resolution shall include the following specific information and findings:

(1) The nature of the employment.

(2) A finding that the appointment is necessary to fill a critically needed position before 180 calendar days have passed.

(3) A finding that the member is not ineligible for application of this subdivision pursuant to subdivision (d).

(4) A finding that the termination of employment of the retired member with the employer is not the basis for the need to acquire the services of the member.

(c) Subdivision (b) shall not apply to a retired member whose termination of employment with the employer is the basis for the need to acquire the services of the member.

(d) Subdivision (b) shall not apply if the retired member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature's intent to make subdivision (b) inapplicable to members if the member received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

(e) The Superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system to substantiate the eligibility of the retired member for application of subdivision (b), including, but not limited to, the resolution adopted pursuant to that subdivision.

(f) The documentation required by this section shall be received by the system prior to the retired member's performance of retired member activities.

(g) Within 30 calendar days after the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (b), and the retired member whether the compensation paid to the member will be subject to the limitation specified in subdivision (a).

(h) If a member retired for service under this part earns compensation for performing retired member activities in excess of the limitation specified in subdivision (a), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction in an individual month shall be no more than the monthly allowance payable in that month, and the total amount of the reduction shall not exceed the amount of the allowance payable during the first 180 calendar days, after a member retired for service under this part.

(i) The amendments to this section enacted during the first year of the 2013–14 Regular Session shall apply to compensation paid on or after January 1, 2014.

(j) This section shall become inoperative on July 1, 2024, and shall become operative on July 1, 2026.

SEC. 5. Section 24214.5 is added to the Education Code, to read:

24214.5. (a) (1) Notwithstanding subdivision (f) of Section 24214, the postretirement compensation limitation that shall apply to the compensation paid in cash to the retired member for performance of retired member activities, excluding reimbursements paid by an employer for expenses incurred by the member in which payment of the expenses by the member is substantiated, shall be zero dollars (\$0) during the first 180 calendar days after the most recent retirement of a member retired for service under this part.

(2) For written agreements pertaining to the performance of retired member activities entered into, extended, renewed, or amended on or after January 1, 2014, the limitation in paragraph (1) shall also apply to payments made for the performance of retired member activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(b) Subdivision (a) shall not apply and Section 24214 shall apply if the Superintendent, the county superintendent of schools, or the chief executive officer of a community college submits a request for exemption to the system with certification, under penalty of perjury, of the following:

(1) The nature of the employment.

(2) That the appointment is necessary to fill a critically needed position before 180 calendar days have passed.

(3) That the member is not ineligible for application of this subdivision pursuant to subdivision (d).

(4) That the termination of employment of the retired member with the employer is not the basis for the need to acquire the services of the member.

(5) That the employer did not have a reduction-in-force layoff pursuant to Section 45117, 44955, or 44955.5, or pursuant to any other similar state law authorizing the termination of its employees, within the prior 18 months.

(c) The Superintendent, a county superintendent of schools, or a chief executive officer of a community college district shall provide a written copy or written copies of the completed documentation required by this section submitted to the system pursuant to subdivision (b) that substantiates the need for the exemption to the exclusive representative of employees prior to the retired member's performance of retired member activities.

(d) Subdivision (b) shall not apply to a retired member if any of the following conditions exist:

(1) The member has not attained normal retirement age at the time the compensation is earned.

(2) The member's termination of employment with the employer is the basis for the need to acquire the services of the member.

(3) The member received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the member retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this paragraph to further the Legislature's intent to make subdivision (b) inapplicable to members if the member received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

(e) The completed documentation required by this section shall be received by the system prior to the retired member's performance of retired member activities.

(f) Within 30 calendar days after the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (b), and the retired member whether the compensation paid to the member will be subject to the limitation specified in subdivision (a).

(g) If a member retired for service under this part earns compensation for performing retired member activities in excess of the limitation specified in subdivision (a), the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction in an individual month shall be no more than the monthly allowance payable in that month, and the total amount of the reduction shall not exceed the amount of the allowance payable during the first 180 calendar days, after a member retired for service under this part.

(h) On or before February 1, 2027, the board shall submit to the Assembly Committee on Public Employment and Retirement and the Senate Committee on Labor, Public Employment and Retirement a report that includes, but is not limited to, the following information by school year:

(1) The total number of requests received by the system from the Superintendent, a county superintendent, or a chief executive officer of a community college for the exemption pursuant to subdivision (b) from July 1, 2024, to June 30, 2026, inclusive.

(2) The total number of retired members who performed retired member activities with an exemption pursuant to subdivision (b) from July 1, 2024, to June 30, 2026, inclusive.

(3) The total number of retired members who performed retired member activities from July 1, 2024, to June 30, 2026, inclusive.

(4) The total number of retired members who exceeded the limitation in paragraph (1) of subdivision (f) of Section 24214 that is operative from July 1, 2024, to June 30, 2026, inclusive.

(5) The compensation or remuneration paid to each retired member who performed retired member activities from July 1, 2024, to June 30, 2026, inclusive.

(i) The amendments to this section enacted during the first year of the 2013–14 Regular Session shall apply to compensation paid on or after January 1, 2014.

(j) This section shall become operative on July 1, 2024. This section shall become inoperative as of July 1, 2026, and as of January 1, 2027, is repealed.

SEC. 6. Section 26812 of the Education Code is amended to read:

26812. (a) A participant retired for service under this part may perform retired participant activities, but the participant shall not make contributions to the plan or accrue service credit under the Defined Benefit Program based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired participant and report those earnings monthly to the system and retired participant.

(b) If a participant is retired for service under this part, the annualized rate of pay for retired participant activities performed by that participant shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A participant retired for service under this part shall not be required to reinstate for performing retired participant activities.

(d) (1) If all of the following apply to a participant retired for service under this part, the participant's annuity shall be reduced by the amount of the compensation:

(A) The participant is receiving an annuity under the Cash Balance Benefit Program.

(B) The participant is below normal retirement age or retired on or after January 1, 2014.

(C) The participant earns compensation paid in cash for performing retired participant activities, excluding reimbursements paid by an employer for expenses incurred by the participant in which payment of the expenses by the participant is substantiated.

(2) The reduction in paragraph (1) shall only be made for compensation paid in cash during the first 180 calendar days after a participant retired for service under this part. The amount of the reduction in an individual month shall be no more than the monthly annuity payable in that month, and the total amount of the reduction shall not exceed the amount of the annuity payable during the first 180 calendar days after a participant retired for service under this part. For written agreements pertaining to the performance of retired participant activities entered into, extended, renewed, or amended on or after January 1, 2014, the reduction in paragraph (1) shall also be made for payments made for the performance of retired participant activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(3) Subject to the limitation described in paragraph (4), if all of the following apply to a participant retired for service under this part, the participant's application for the retirement benefit shall automatically be canceled:

(A) The participant is anticipated to receive the retirement benefit in the form of a lump-sum payment.

(B) The participant earns compensation for performing creditable service within 180 calendar days following the date of termination of employment.

(4) Paragraph (3) does not apply if the participant has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A participant who has reached that age shall receive a distribution commencing on the earlier of the date that the participant has met the conditions of subdivision (b) of Section 26806 or the conditions of subdivision (c) of Section 26004.

(e) If the participant has attained normal retirement age at the time the compensation is earned, subdivision (d) shall not apply if the appointment has been approved by the governing body of the employer in a public meeting, as reflected in a resolution adopted by the governing body of the employer prior to the performance of retired participant activities, expressing its intent to seek an exemption from the limitation specified in subdivision (d). Approval of the appointment shall not be placed on a consent calendar. Notwithstanding any other provision of Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code or any state or federal law incorporated by Section 7927.705 of the Government Code, the resolution shall be subject to disclosure by the entity adopting the resolution and the system. The resolution shall include the following specific information and findings:

(1) The nature of the employment.

(2) A finding that the appointment is necessary to fill a critically needed position before 180 calendar days have passed.

(3) A finding that the participant is not ineligible for application of this subdivision pursuant to subdivision (g).

(4) A finding that the termination of employment of the retired participant with the employer is not the basis for the need to acquire the services of the participant.

(f) Subdivision (e) shall not apply to a retired participant whose termination of employment with the employer is the basis for the need to acquire the services of the participant.

(g) Subdivision (e) shall not apply if the participant received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the participant, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date

or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this subdivision to further the Legislature's intent to make subdivision (e) inapplicable to participants if the participant received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

(h) The superintendent, the county superintendent of schools, or the chief executive officer of a community college shall submit all documentation required by the system to substantiate the eligibility of the retired participant for application of subdivision (e), including, but not limited to, the resolution adopted pursuant to that subdivision.

(i) The documentation required by this section shall be received by the system prior to the retired participant's performance of retired participant activities.

(j) Within 30 calendar days of the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (e) and the retired participant whether the compensation paid to the participant will be subject to the limitation specified in subdivision (d).

(k) This section shall become inoperative on July 1, 2024, and shall become operative on July 1, 2026.

SEC. 7. Section 26812 is added to the Education Code, to read:

26812. (a) A participant retired for service under this part may perform retired participant activities, but the participant shall not make contributions to the plan or accrue service credit under the Defined Benefit Program based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired participant and report those earnings monthly to the system and retired participant.

(b) If a participant is retired for service under this part, the annualized rate of pay for retired participant activities performed by that participant shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties.

(c) A participant retired for service under this part shall not be required to reinstate for performing retired participant activities.

(d) (1) If all of the following apply to a participant retired for service under this part, the participant's annuity shall be reduced by the amount of the compensation:

(A) The participant is receiving an annuity under the Cash Balance Benefit Program.

(B) The participant is below normal retirement age or retired on or after January 1, 2014.

(C) The participant earns compensation paid in cash for performing retired participant activities, excluding reimbursements paid by an employer for expenses incurred by the participant in which payment of the expenses by the participant is substantiated.

(2) The reduction in paragraph (1) shall only be made for compensation paid in cash during the first 180 calendar days after a participant retired for service under this part. The amount of the reduction in an individual month shall be no more than the monthly annuity payable in that month, and the total amount of the reduction shall not exceed the amount of the annuity payable during the first 180 calendar days after a participant retired for service under this part. For written agreements pertaining to the performance of retired participant activities entered into, extended, renewed, or amended on or after January 1, 2014, the reduction in paragraph (1) shall also be made for payments made for the performance of retired participant activities, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(3) Subject to the limitation described in paragraph (4), if all of the following apply to a participant retired for service under this part, the participant's application for the retirement benefit shall automatically be canceled:

(A) The participant is anticipated to receive the retirement benefit in the form of a lump-sum payment.

(B) The participant earns compensation for performing creditable service within 180 calendar days following the date of termination of employment.

(4) Paragraph (3) does not apply if the participant has reached that age at which the Internal Revenue Code of 1986 requires a distribution of benefits. A participant who has reached that age shall receive a distribution commencing on the earlier of the date that the participant has met the conditions of subdivision (b) of Section 26806 or the conditions of subdivision (c) of Section 26004.

(e) Subdivision (d) shall not apply if the Superintendent, the county superintendent of schools, or the chief executive officer of a community college submits a request for exemption to the system with certification, under penalty of perjury, of the following:

(1) The nature of the employment.

(2) That the appointment is necessary to fill a critically needed position before 180 calendar days have passed.

(3) That the participant is not ineligible for application of this subdivision pursuant to subdivision (g).

(4) That the termination of employment of the retired participant with the employer is not the basis for the need to acquire the services of the participant.

(5) That the employer did not have a reduction-in-force layoff pursuant to Section 45117, 44955, or 44955.5, or pursuant to any other similar state law authorizing the termination of its employees, within the prior 18 months.

(f) The Superintendent, a county superintendent of schools, or a chief executive officer of a community college district shall provide a written copy or written copies of the completed documentation required by this section submitted to the system pursuant to subdivision (e) that substantiates the need for the exemption to the exclusive representative of employees prior to the retired participant's performance of retired participant activities.

(g) Subdivision (e) shall not apply to a retired participant if any of the following conditions exist:

(1) The participant has not attained normal retirement age at the time the compensation is earned.

(2) The participant's termination of employment with the employer is the basis for the need to acquire the services of the participant.

(3) The participant received additional service credit pursuant to Section 22714 or 22715 or received from any public employer any financial inducement to retire. For purposes of this section, "financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the participant, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered. The system shall liberally interpret this paragraph to further the Legislature's intent to make subdivision (e) inapplicable to participants if the participant received a financial incentive from any public employer to retire or otherwise terminate employment with a public employer.

(h) The completed documentation required by this section shall be received by the system prior to the retired participant's performance of retired participant activities.

(i) Within 30 calendar days of the receipt of all documentation required by the system pursuant to this section, the system shall inform the entity seeking application of the exemption specified in subdivision (e) and the retired participant whether the compensation paid to the participant will be subject to the limitation specified in subdivision (d).

(j) This section shall become operative on July 1, 2024. This section shall become inoperative as of July 1, 2026, and as of January 1, 2027, is repealed.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.