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NEW LIMITATIONS AND EXEMPTION EXTENSIONS FOR POST-RETIREMENT EARNINGS LIMIT UNDER CALSTRS

On October 11, 2009, Governor Arnold Schwarzenegger signed Assembly Bill 506 ("AB 506") (Ch. 306, Stats. 2009), which amends Education Code sections related to post-retirement earnings for employees who retire into the California State Teachers Retirement System ("CalSTRS"). Specifically, the bill extends several current exemptions from post retirement earnings limitations and imposes a new limitation on CalSTRS members who retire below the normal retirement age. The latter change could have an effect on mid-year retirement incentive programs used by school districts.

Extension of Post-Retirement Earnings Limitations

The State Teachers Retirement Law currently imposes an earnings limitation of \$30,580 for members who retire and subsequently return to performing services that constitute creditable services during the 2009-2010 fiscal year. However, there are exemptions from the post-retirement earnings limitations for a member who meets any of the following criteria:

1. Has had at least a 12 month break in service;
2. Returns to work as a trustee or administrator for a financially insolvent employer;
3. Is employed under emergency circumstances in an administrative position requiring highly specialized skills; or
4. Provides specified services under Education Code section 24216.5, such as direct instruction, instruction to students enrolled in special education or English language learner programs, and support and assessment for new teachers.

The exemptions to the post-retirement earning limit were scheduled to expire on June 30, 2010; however, AB 506 extends these exemptions to June 30, 2012.

AB 506 also provides that the period of exemption for a member who returns to work as a trustee or administrator for a financially insolvent employer or is employed under emergency circumstances (exemptions 2 and 3 above) commences on the date the member is appointed or assigned to the position and ends no more than 24 consecutive months from the date the exemption commenced. AB 506 also requires that the documentation to substantiate those exemptions be provided to CalSTRS by June 30 of the school year for which the exemption

applies. AB 506 adds a limitation on the exemption based on employment under emergency circumstances (exemption 3) by disallowing the exemption for a member whose termination from employment is the basis for the vacant administrative position. AB 506 also extends eligibility for the exemptions under Education Code section 24216.5 to employees retired on or before January 1, 2009.

Earnings Limitation for CalSTRS Retirees Below the Normal Retirement Age

AB 506 adds section 24214.5 to the Education Code to prohibit, effective July 1, 2010, a member from working in any CalSTRS related service for the first six calendar months after the CalSTRS member retires if the member is below normal retirement age.

This earnings limitation for members who retire before normal retirement age may impact the effectiveness of mid-year retirement incentive programs that are frequently used by school districts.

If you have any questions regarding the earnings limitations or new requirements for retirees, or about offering retirement incentives programs for employees, please contact any one of our seven statewide offices.

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.



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