

Recently Signed Bill Affects Post-Retirement Earnings Limitation for STRS Retirees

On July 17, 2012, Governor Brown signed into law Assembly Bill (AB) 178, which extends important exemptions to the post-retirement earnings limitation under the State Teachers Retirement System (STRS). The bill may affect how school districts hire retired employees.

State law limits the amount of post-retirement earnings that a STRS retiree can earn while performing creditable service, such as teaching, without experiencing a reduction in benefits. Previous exemptions to the earnings limitation expired on June 30, 2012.

AB 178 modifies how the limitation on post-retirement earnings is calculated, changing the earnings limitation on creditable service performed by STRS retirees to one-half of the median compensation of all members who retired during the fiscal year that ends in the previous calendar year. As a result of this change, the earnings limitation increases from \$31,020 in 2011-2012 to \$40,011 for 2012-2013.

AB 178 eliminates one exemption to the earnings limitation that applied to STRS retirees who did not perform creditable service for 12 consecutive months. The bill extends certain other exemptions until June 30, 2013, but imposes strict conditions on them.

AB 178 provides that the earnings limitation does not apply to a STRS retiree who serves as a trustee, administrator or fiscal adviser. However, the bill places restrictions on this exemption, allowing it only if the retired member is appointed by the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, or the county superintendent of schools in response to an academic or financial weakness, as defined by applicable law.

Further, this exemption is effective only if: (1) the position was first advertised to current active and inactive STRS members who were qualified for the position, and none of them was available to be appointed; (2) the employer made a good faith effort to hire a retired member who would return to active status for the salary first offered; and (3) the appointing authority failed in both of the above tasks and hired a retired STRS member at the salary first offered. The amended exemption also states that this appointment must be terminated on or before June 30, 2013 and that the salary ultimately paid to the STRS retiree cannot exceed the salary offered to current active members for the position.

The bill clarifies another exemption to the earnings limitation for STRS retirees working for third parties that provide services to a STRS participating employer. This exemption is available only when the STRS retiree is performing a limited-term assignment that does not involve activities normally performed by school employees. This exemption may be used only if the third-party employer is not part of the California public pension system.

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AB 178's other significant change to prior law is that STRS retirees no longer have to wait one year before their service retirement allowance becomes effective if they reinstate to active status and then retire again. Under previous law, STRS retirees would have to wait one year from the termination of their employment for their service retirement allowance to become effective. Finally, for those who retire within one year of reinstatement, AB 178 mandates that the individual must choose the same benefit option and the same beneficiaries as he or she had before reinstatement.

AB 178 continues and modifies certain existing exemptions to the post-retirement earnings limitation, allowing school districts flexibility in hiring STRS retirees. However, it is also important to note that the bill imposes conditions on these exemptions and maintains a limitation on how much STRS retirees can earn before seeing a reduction in benefits. If you have any questions regarding the hiring of STRS retirees, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#) or follow Lozano Smith on [Facebook](#).

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