

2015 Regular Session

SENATE BILL NO. 20

BY SENATOR LONG AND REPRESENTATIVE BROWN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TEACHERS RETIREMENT. Allows certain retirees to collect benefits during reemployment. (2/3 - CA10s29(F)) (6/30/15)

1 AN ACT

2 To amend and reenact R.S. 11:710, relative to employment of retirees of the Teachers'

3 Retirement System of Louisiana; to allow certain retirees reemployed in certain

4 positions to receive benefits during reemployment; to provide limitations; to provide

5 for an effective date; and to provide for related matters.

6 Notice of intention to introduce this Act has been published.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 11:710 is hereby amended and reenacted to read as follows:

9 §710. Employment of retirees

10 A. ~~For purposes of this Section, "retired teacher" shall mean any of the~~

11 ~~following:~~

12 ~~(1) A retired member who returns to active service covered by the provisions~~

13 ~~of this Chapter as a full-time or part-time classroom teacher who teaches any student~~

14 ~~in kindergarten through twelfth grade in a critical teacher shortage area. For~~

15 ~~purposes of this Paragraph, "critical shortage area" shall mean any subject area~~

16 ~~where a shortage of certified teachers exists in that subject area, subject to the~~

17 ~~provisions of Subsection F of this Section. For purposes of this Section, "classroom~~

1 ~~teacher" shall mean any employee, whose position of employment requires a valid~~  
2 ~~Louisiana teaching certificate and who is assigned the professional activities of~~  
3 ~~instructing pupils in courses in classroom situations for which daily pupil attendance~~  
4 ~~figures for the school system are kept. Such classroom situations may include~~  
5 ~~teaching in a school classroom or in other settings such as a home or hospital or other~~  
6 ~~learning situations such as cocurricular activities, which instruction may be provided~~  
7 ~~in person or through an approved medium such as television, radio, computer,~~  
8 ~~Internet, multimedia telephone, and correspondence that is delivered inside or~~  
9 ~~outside the classroom or in other teacher-student settings.~~

10 ~~(2) A retired member who returns to active service as a full-time certified~~  
11 ~~speech therapist, speech pathologist, or audiologist whose position of employment~~  
12 ~~requires a valid Louisiana ancillary certificate approved and issued by the state~~  
13 ~~Department of Education in a school district where a shortage exists.~~

14 ~~(3) A retired member who returns to active service covered by the provisions~~  
15 ~~of this Chapter on or before June 30, 2010.~~

16 ~~(4) A retired member who returns to active service covered by the provisions~~  
17 ~~of this Chapter who retired on or after May 1, 2009, and on or before June 30, 2010,~~  
18 ~~in a position requiring a valid Louisiana teaching certificate or a valid Louisiana~~  
19 ~~ancillary certificate.~~

20 ~~(5) A retired member who returns to active service covered by the provisions~~  
21 ~~of this Chapter as a substitute classroom teacher who teaches any student in pre-~~  
22 ~~kindergarten through twelfth grade. For purposes of this Paragraph "substitute~~  
23 ~~classroom teacher" shall mean a classroom teacher employed in a temporary capacity~~  
24 ~~to fill the position of another classroom teacher who is unavailable to teach for any~~  
25 ~~reason. Such substitute classroom teacher's earnings from his return to active service~~  
26 ~~shall not exceed twenty-five percent of his benefit during any fiscal year. If actual~~  
27 ~~earnings exceed this amount in any fiscal year, the benefits payable to the retiree~~  
28 ~~shall be reduced by the amount in excess of twenty-five percent of his benefit.~~

29 ~~(6) A retired member who holds an advanced degree in speech therapy,~~

1 speech pathology, or audiology.

2 ~~(7) A retired member who has a valid Louisiana teaching certificate who~~  
3 ~~returns to active service covered by the provisions of this Chapter who is assigned~~  
4 ~~the professional activities of instructing adults through an adult education or literacy~~  
5 ~~program administered through a public institution of elementary or secondary~~  
6 ~~education. Such individual's earnings from his return to active service shall not~~  
7 ~~exceed twenty-five percent of his benefit during any fiscal year. If actual earnings~~  
8 ~~exceed this amount in any fiscal year, the benefits payable to the retiree shall be~~  
9 ~~reduced by the amount in excess of twenty-five percent of his benefit.~~

10 ~~(8) A retired member who returns to active service covered by the provisions~~  
11 ~~of this Chapter as an adjunct professor. For purposes of this Paragraph "adjunct~~  
12 ~~professor" shall mean part-time faculty, including instructors, assistant professors,~~  
13 ~~associate professors, and professors, assigned the professional activities of~~  
14 ~~instructing pupils or conducting research at a public institution of postsecondary~~  
15 ~~education. Such instruction may be provided in person or through an approved~~  
16 ~~medium such as television, radio, computer, Internet, multimedia telephone, or~~  
17 ~~correspondence and may be delivered inside or outside the classroom or in other~~  
18 ~~teacher-student settings. Such an adjunct professor's earnings from his return to~~  
19 ~~active service shall not exceed twenty-five percent of his benefit during any fiscal~~  
20 ~~year. If actual earnings exceed this amount in any fiscal year, the benefits payable~~  
21 ~~to the retiree shall be reduced by the amount in excess of twenty-five percent of his~~  
22 ~~benefit.~~ **Definitions.**

23 **As used in this Section, the following words and phrases shall have the**  
24 **following meanings, unless a different meaning is clearly required by the**  
25 **context:**

26 **(1) "Adjunct professor" means any part-time faculty, including any**  
27 **instructor, assistant professor, associate professor, or professor, assigned the**  
28 **professional activities of instructing pupils or conducting research at a public**  
29 **institution of postsecondary education. Instruction may be provided in person**

1 or through an approved medium such as television, radio, computer, Internet,  
2 multimedia telephone, or correspondence and may be delivered inside or  
3 outside the classroom or in other teacher-student settings.

4 (2) "Classroom teacher" means any employee, whose position of  
5 employment requires a valid Louisiana teaching certificate and who is assigned  
6 the professional activities of instructing pupils in courses in classroom situations  
7 for which daily pupil attendance figures for the school system are kept or is  
8 assigned to proctor admission, evaluation, or assessment testing; however, such  
9 proctoring shall not be considered a subject area for the purposes of  
10 Subparagraph (3) of this Paragraph. Such classroom situations may include  
11 teaching in school classrooms or in other settings such as homes or hospitals or  
12 other learning situations including cocurricular activities. Instruction may be  
13 provided in person or through an approved medium such as television, radio,  
14 computer, Internet, multimedia telephone, or correspondence and may be  
15 delivered inside or outside the classroom or in other teacher-student settings.

16 (3) "Critical shortage" means any situation where there exists a shortage  
17 of certified teachers in a certain subject area or a shortage of certified speech  
18 therapists, speech pathologists, audiologists, or school counselors, as further  
19 provided in this Section.

20 (4) "Reemployment-eligible critical shortage position" or "critical  
21 shortage position" means any of the following:

22 (a) A position for a full-time or part-time classroom teacher who teaches  
23 any student in kindergarten through twelfth grade in a school where a critical  
24 shortage exists.

25 (b) A position for a full-time certified speech therapist, speech  
26 pathologist, audiologist, or school counselor whose position of employment  
27 requires a valid Louisiana ancillary certificate approved and issued by the state  
28 Department of Education in a school district where a critical shortage exists.

29 (5) "Reemployment-eligible position" means any of the following:

1                    **(a) A position for a substitute classroom teacher who teaches any student**  
2                    **in pre-kindergarten through twelfth grade.**

3                    **(b) A position assigned to the professional activities of instructing adults**  
4                    **through an adult education or literacy program administered through a public**  
5                    **institution of elementary or secondary education, provided the retiree has a**  
6                    **valid Louisiana teaching certificate.**

7                    **(c) A position for an adjunct professor.**

8                    **(6) "Reemployment-eligible retiree" means any of the following:**

9                    **(a) A member who was retired on or before June 30, 2010.**

10                  **(b) A retiree who holds an advanced degree in speech therapy, speech**  
11                  **pathology, or audiology.**

12                  **(7) "Retired teacher" means any of the following:**

13                  **(a) A person reemployed in a reemployment-eligible position as defined**  
14                  **in Paragraph (4) or (5) of this Subsection.**

15                  **(b) A reemployment-eligible retiree as defined in Paragraph (6) of this**  
16                  **Subsection.**

17                  **(8) "Substitute classroom teacher" means any classroom teacher**  
18                  **employed in a temporary capacity to fill the position of another classroom**  
19                  **teacher who is unavailable to teach or to proctor tests for any reason.**

20                  B.(1)(a) Any retired teacher who returns to active service covered by the  
21                  provisions of this Chapter within the twelve-month period immediately following the  
22                  effective date of such retirement shall have his retirement benefits suspended for the  
23                  duration of such active service or the lapse of twelve months from the effective date  
24                  of his retirement, whichever occurs first, even if such service is based on  
25                  employment by contract or corporate contract. ~~If any retired member returns to~~  
26                  ~~active service in a position qualifying him as a retired teacher retiree under more~~  
27                  ~~than one provision of this Section providing for earning limitations, the most~~  
28                  ~~restrictive earnings limitation shall apply to the total earnings of the retired teacher~~  
29                  ~~retiree for all such positions in a fiscal year.~~

1           (b) The earnings of any retiree returning to active service in a  
2 reemployment-eligible position shall not exceed twenty-five percent of his  
3 benefit during any fiscal year. If actual earnings exceed this amount in any  
4 fiscal year, the benefits payable to the retiree shall be reduced by the amount  
5 in excess of twenty-five percent of his benefit.

6           (c) If any retiree returns to active service in a position defined in more  
7 than one Subparagraph of Paragraph (A)(5) of this Section providing for  
8 earnings limitations, the most restrictive earnings limitation shall apply to the  
9 total earnings of the retiree for all such positions in a fiscal year.

10           (d) If the reemployment of a retired teacher is based on an agreement  
11 between the retired teacher and his employer where such agreement was perfected  
12 prior to ~~such teacher's~~ the retiree's effective date of retirement and where the  
13 agreement allows for ~~such a teacher~~ the retiree to become reemployed within twelve  
14 months immediately following the effective date of ~~the teacher's~~ his retirement, ~~such~~  
15 ~~teacher~~ the retiree shall not be eligible to receive retirement benefits for the twelve-  
16 month period immediately following the effective date of such reemployment,  
17 regardless of whether such agreement is express or implied. The provisions of this  
18 Subparagraph shall be applied prospectively beginning on July 1, 2001.

19           ~~(c) The twelve-month period immediately following the effective date of a~~  
20 ~~retired teacher's retirement shall be known as the "waiting period".~~

21           (2) ~~Any retired teacher~~ No person who retires based on a disability shall ~~not~~  
22 be authorized to return to service pursuant to the provisions of this Section.  
23 Disability retirees shall be covered by the provisions of this Chapter applicable to  
24 disability retirees.

25           C.(1) During the period of his return to active service, the retired teacher and  
26 his employer shall make contributions to the retirement system as provided by this  
27 Chapter, but ~~such teacher~~ the retiree shall receive no additional service credit ~~nor~~  
28 and shall not accrue any additional retirement benefits in the retirement system.  
29 Upon termination of ~~such~~ active service, the retired teacher shall, upon application,

1 be refunded the employee contributions paid since reemployment. The refund shall  
2 be without interest. The retirement system shall retain the employer contributions.

3 (2) Any retired member not considered a retired teacher as defined in  
4 ~~Subsection A~~ **Paragraph (A)(7)** of this Section **who returns to active service with**  
5 **an employer covered by the provisions of this Chapter** shall have his benefit  
6 suspended for the duration of his period of reemployment ~~in such position~~ even if  
7 such reemployment is based on employment by contract or corporate contract. ~~Such~~  
8 ~~member~~ **The retiree** and his employer shall not make contributions to the system  
9 during such time, and he shall receive no additional service credit ~~nor~~ **and shall not**  
10 accrue any additional retirement benefits.

11 ~~(3) The provisions of this Subsection shall not apply to any retiree~~  
12 ~~reemployed in a part-time position with the Louisiana High School Athletic~~  
13 ~~Association on June 27, 2003.~~

14 D. When any retiree returns to active service with an employer covered by  
15 the provisions of this Chapter, the employing agency shall, within thirty days  
16 thereafter, notify the board of trustees in writing of such employment, the date on  
17 which employment commenced, and a determination by the employer as to whether  
18 such person is a "retired teacher" pursuant to ~~Subsection A~~ **Paragraph (A)(7)** of this  
19 Section. Upon termination, the agency shall provide the same notice. In addition,  
20 the employing agency shall also report to the retirement system within forty-five  
21 days after June thirtieth of each year, the ~~name~~ **names** of all persons being paid by  
22 the employing agency and all persons having received a benefit pursuant to the  
23 provisions of this Section, along with such individuals' social security numbers, their  
24 positions, their ~~designation~~ **designations** as part-time or full-time, and the amount  
25 of their earnings during the previous fiscal year ending on June thirtieth of the  
26 reporting year. Additionally, the employing agency shall transmit a monthly  
27 contributions report pursuant to R.S. 11:888(A). Such monthly reports shall be  
28 transmitted within thirty days of the last day of each month and shall include the  
29 salary paid to ~~all individuals~~ **each individual** identified as a "retired teacher"

1           pursuant to Subsection A of this Section. Should failure to give notice of return to  
2           active service or failure to report any other information required by this Section  
3           result in any payment being made in violation of this Section, the employing agency  
4           shall be liable to the system for the repayment of such amounts.

5           E.(1) The salary of any retired teacher who is reemployed pursuant to the  
6           provisions of this Section shall be based on the salary schedule which accounts for  
7           all prior years of teaching service and pertinent experience.

8           (2) The status of any retired teacher who is reemployed pursuant to the  
9           provisions of this Section shall be the same as a full-time active employee and shall  
10          be governed by the applicable rules, procedures, policies, and statutes that apply to  
11          all such full-time active employees.

12          F. ~~No "retired teacher" as defined in Paragraph (A)(1) of this Section shall~~  
13          ~~receive a benefit during the period of his reemployment as provided in this Section~~  
14          ~~unless and until the superintendent and personnel director of his employing school~~  
15          ~~have certified to the Board of Elementary and Secondary Education and the board~~  
16          ~~of trustees of this system that a shortage of teachers exists in the critical shortage~~  
17          ~~area in which the retired teacher was hired to teach. Prior to making such~~  
18          ~~certification for any full-time teaching position, the employer shall cause to be~~  
19          ~~advertised in the official journal of the employer's governing authority, on two~~  
20          ~~separate occasions, notice that a shortage of certified teachers exists and the positions~~  
21          ~~sought to be filled. If a certified applicant who is not a retiree applies for an~~  
22          ~~advertised position, such person shall be hired before any certified retired teacher is~~  
23          ~~employed, unless fewer than three teachers have applied for the position each of~~  
24          ~~whom are certified in the critical shortage area being filled.~~

25          G. ~~No "retired teacher" as defined in Paragraph (A)(2) of this Section shall~~  
26          ~~receive a benefit during the period of his reemployment as provided in this Section~~  
27          ~~unless and until the employing school board has certified to the Board of Elementary~~  
28          ~~and Secondary Education and the board of trustees of this system that a shortage of~~  
29          ~~speech therapists, speech pathologists or audiologists exists in the school district~~



1        ~~where reemployed.~~ **A retiree who is employed in a critical shortage position shall**  
2        **not receive a benefit during the period of his reemployment as provided in this**  
3        **Section unless and until the Board of Elementary and Secondary Education and**  
4        **the board of trustees of this system have received certification that a critical**  
5        **shortage exists. Prior to making such certification for any full-time critical**  
6        **shortage position, the employer shall cause to be advertised in the official**  
7        **journal of the employer's governing authority, on two separate occasions, notice**  
8        **that a shortage of certified teachers exists and the positions sought to be filled.**  
9        **If a certified applicant who is not a retiree applies for an advertised position,**  
10       **such person shall be hired before any certified retiree is employed, unless fewer**  
11       **than three applicants have applied for the position each of whom is certified in**  
12       **the critical shortage area being filled.**

13                **(1) The superintendent and personnel director of the school employing**  
14                **a retiree who returns to active service as defined in Subparagraph (A)(4)(a) of**  
15                **this Section shall certify a critical shortage area to the Board of Elementary and**  
16                **Secondary Education and the board of trustees of this system.**

17                **(2) The employing school board for a retiree who returns to active**  
18                **service as defined in Subparagraph (A)(4)(b) of this Section shall certify to the**  
19                **Board of Elementary and Secondary Education and the board of trustees of this**  
20                **system that a critical shortage of speech therapists, speech pathologists,**  
21                **audiologists, or school counselors exists in the school district.**

22        Section 2. The cost of this Act, if any, shall be funded with additional employer  
23        contributions in compliance with Article X, Section 29(F) of the Constitution of Louisiana.

24        Section 3. This Act shall become effective on June 30, 2015; if vetoed by the  
25        governor and subsequently approved by the legislature, this Act shall become effective on  
26        June 30, 2015, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

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## DIGEST

SB 20 Engrossed

2015 Regular Session

Long

Present law requires suspension of benefits of a retiree reemployed in a position covered by Teachers' Retirement System of Louisiana (TRSL) for the duration of reemployment, with certain exceptions. Provides for suspension of benefits during reemployment in a TRSL-covered position in the first 12 months following retirement regardless of retirement date, position filled, or credentials held. Allows certain retirees to avoid suspension of benefits after this 12-month period based on retirement date, position filled, or credentials held.

Proposed law retains present law and provides for additional retirees to avoid suspension.

Present law provides that after the 12-month mandatory suspension period, there shall be no further suspension of benefits for:

- (1) Retirees who return to active service on or before June 30, 2010.
- (2) Retirees who retired on or after May 1, 2009, and on or before June 30, 2010, who return to active service in a TRSL-covered position requiring a valid Louisiana teaching certificate or valid Louisiana ancillary certificate.
- (3) Retirees holding advanced degrees in speech therapy, speech pathology, or audiology.

Proposed law retains present law for those in (3) above and further provides that any member who retired on or before June 30, 2010, shall have no suspension of benefits during his reemployment period following the first 12 months of retirement regardless of when he returned to active service or whether the position requires a certificate. Defines these retirees as "reemployment-eligible retirees".

Present law provides that, following the 12-month mandatory suspension period, a full-time certified speech therapist, speech pathologist, or audiologist in a position requiring a valid Louisiana ancillary certificate shall have no further suspension of benefits during his reemployment period when a critical shortage has been certified as provided in present law. Provides that, following the 12-month mandatory suspension period, full-time or part-time classroom teachers reemployed in a school where a critical shortage has been certified as provided in present law, shall have no further suspension of benefits.

Proposed law retains present law and adds school counselors to the list of positions covered by present law. Defines these positions as "reemployment-eligible critical shortage positions".

Present law provides that, after the 12-month mandatory suspension period, the benefit suspension does not apply unless earnings from the reemployment exceed the limitation of 25% of the person's benefit during any fiscal year for the following retirees who are reemployed in TRSL-covered positions:

- (1) Substitute classroom teachers.
- (2) Adult education or literacy instructors.
- (3) Adjunct professors.

Proposed law retains present law and defines these positions as "reemployment-eligible

positions".

Proposed law includes in the definition of "classroom teacher" employees assigned to proctor admission, evaluation, or assessment testing. Adds test proctoring to the list of duties a substitute teacher may perform.

Present law provides that the earnings limitations shall not apply to any retiree reemployed in a part-time position with the Louisiana High School Athletic Association on June 27, 2003.

Proposed law removes this obsolete provision.

Effective June 30, 2015.

(Amends R.S. 11:710)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Retirement to the original bill

1. Defines "classroom teacher" to include employees assigned to proctor admission, evaluation, or assessment testing.
2. Specifies that such proctoring shall not be considered a subject area for the purposes of critical shortage.
3. Adds test proctoring to the list of duties a substitute classroom teacher may perform.