

2022 Regular Session

SENATE BILL NO. 434

BY SENATORS FIELDS, ABRAHAM, BERNARD, BOUIE, CARTER, CATHEY, CONNICK, CORTEZ, FESI, FOIL, HARRIS, JACKSON, LAMBERT, LUNEAU, FRED MILLS, ROBERT MILLS, MIZELL, MORRIS, PEACOCK, POPE, PRICE, SMITH, STINE, TALBOT, WARD AND WOMACK

TEACHERS RETIREMENT. Provides relative to the reemployment of retirees to meet critical shortage needs. (2/3 - CA10s29(F)) (gov sig)

1 AN ACT

2 To amend and reenact R.S. 11:710(F)(1) and (G) and the introductory paragraph of R.S.  
3 11:710.1(A) and to enact R.S. 11:710(H), 710.1(F), and 710.2, relative to critical  
4 teacher shortages; to provide for employment of retirees of the Teachers' Retirement  
5 System of Louisiana; to allow a retiree to return to work without suspension or  
6 reduction of benefit in certain circumstances; to provide for application; to provide  
7 for determinations and reporting; to provide for an effective date; and to provide for  
8 related matters.

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 11:710(F)(1) and (G) and the introductory paragraph of R.S.  
12 11:710.1(A) are hereby amended and reenacted and R.S. 11:710(H), 710.1(F), and 710.2 are  
13 hereby enacted to read as follows:

14 §710. Employment of retirees

15 \* \* \*

16 F.(1)(a) A retiree who is employed in a critical shortage position shall not  
17 receive a benefit during the period of his reemployment as provided in this Section

1 unless and until the Board of Elementary and Secondary Education and the board of  
2 trustees of this system have received certification that a critical shortage exists. Prior  
3 to making such certification for any full-time critical shortage position, the employer  
4 shall cause to be advertised in the official journal of the employer's governing  
5 authority, on two separate occasions, notice that a shortage of certified teachers  
6 exists and the positions sought to be filled. Additionally, the employer shall cause  
7 notice to be posted at the career development office, or similar such entity, of every  
8 post-secondary institution within a one hundred twenty-mile radius of the employer's  
9 governing authority. If a certified applicant who is not a retiree applies for an  
10 advertised position, such person shall be hired before any certified retiree is  
11 employed, unless fewer than three applicants have applied for the position each of  
12 whom is certified ~~in the critical shortage area being filled.~~

13 **(b) Notwithstanding any provision of Subparagraph (a) of this**  
14 **Paragraph to the contrary, for any position sought to be filled before July 1,**  
15 **2027, by employment of a retiree, the advertising and posting requirements of**  
16 **Subparagraph (a) of this Paragraph shall be considered fulfilled if the employer**  
17 **complies with all of the following:**

18 **(i) Posts with the designated career development entities of the**  
19 **postsecondary institutions within a one hundred twenty-mile radius of the**  
20 **employer's governing authority at the beginning of each semester a general**  
21 **statement that the employer is soliciting applications for future employment of**  
22 **certified teachers.**

23 **(ii) Advertises at least once per month in the official journal of the**  
24 **employer's governing authority that the employer is soliciting applications for**  
25 **future employment of certified teachers.**

26 **(iii) Prominently displays a listing of positions that are unfilled or that**  
27 **are filled by reemployed retirees on the website of the employer's governing**  
28 **authority and of the employer, if the employer maintains a separate website.**

29 \* \* \*

1           G.(1) A retiree of this system who has been retired for at least twelve  
2           months and who did not retire based on a disability may be directly reemployed  
3           without suspension or reduction in benefit if either of the following apply:

4           (a) The retiree is certified to teach mathematics, science, English  
5           language arts, or special education excluding gifted and talented and is  
6           reemployed to fill a position in the area of certification.

7           (b) The retiree is reemployed to fill a vacancy created because a teacher  
8           is on maternity leave pursuant to R.S. 17:1211, military leave pursuant to R.S.  
9           17:1215, sabbatical leave pursuant to R.S. 17:1171, or extended sick leave  
10           pursuant to R.S. 17:1202.

11           (2) The provisions of this Subsection shall not apply to anyone  
12           reemployed by contract or corporate contract and shall terminate July 1, 2027.

13           H. Notwithstanding any other provision of law to the contrary, the provisions  
14           of this Section shall be applicable only to a retiree who ~~returns to active service with~~  
15           ~~an employer covered by the provisions of this Chapter~~ **retired** on or before June 30,  
16           2020, ~~and any retiree covered under Subparagraph (A)(6)(a) of this Section.~~

17           §710.1. Employment of retirees on or after July 1, 2020

18           A. Except as otherwise provided in this Section, any retiree who returns to  
19           active service with an employer covered by the provisions of this Chapter **and who**  
20           **retired** on or after July 1, 2020, shall for that period of employment choose one of  
21           the following irrevocable options, which shall be made in writing and filed with the  
22           appropriate officer of the employer:

23                           \*           \*           \*

24           F. Any retiree who retired on or before June 30, 2020, and who returned  
25           to active service under the provisions of this Section may elect to be reemployed  
26           pursuant to the provisions of R.S. 11:710. The retiree shall submit to his  
27           employer a form provided by the system noting his decision to have his  
28           reemployment covered by the provisions of R.S. 11:710. After the termination  
29           of R.S. 11:710(G), the retiree may elect to be covered by the provisions of this

1 Section as provided in Subsection B of this Section. Any retiree who elects to be  
2 reemployed pursuant to the provisions of R.S. 11:710 and who subsequently  
3 elects to be covered by the provisions of this Section as provided in Subsection  
4 B of this Section shall thereafter be covered exclusively by the provisions of this  
5 Section.

6 §710.2. Employment of retirees; postsecondary institution critical shortages

7 A. The provisions of this Section shall apply to any retiree of the  
8 retirement system who meets all of the following criteria:

9 (1) The retiree has been retired for at least twelve months.

10 (2) He did not retire based on a disability.

11 (3) He has at least thirty years of creditable service in the retirement  
12 system.

13 (4) He has attained at least age sixty-two.

14 (5) He is being employed to fill a position for an adjunct professor as  
15 defined in R.S. 11:710 and assigned the professional activities of instructing  
16 pupils in a nursing program at a public postsecondary education institution  
17 where a critical shortage exists.

18 B. A retiree to whom this Section applies shall not receive a benefit  
19 during the period of his reemployment as provided in this Section unless and  
20 until the institution's postsecondary education management board, the Board  
21 of Regents, and the board of trustees of the retirement system have received  
22 certification that a critical shortage exists. Prior to making such certification,  
23 the institution shall comply with the provisions of Subsection C of this Section.

24 C. In order to declare the existence of a critical shortage, a public  
25 postsecondary education institution shall cause to be prominently displayed a  
26 listing of positions to which this Section applies that are unfilled or that are  
27 filled by reemployed retirees on the websites of the institution, of the  
28 institution's management board, and of the Board of Regents.

29 D. During the period of his return to active service, the retiree and his

1 employer institution shall make contributions to the retirement system as  
2 otherwise provided by law, but the retiree shall receive no additional service  
3 credit and shall not accrue any additional retirement benefits in the retirement  
4 system. Upon termination of active service, the retiree shall, upon application,  
5 be refunded the employee contributions paid since reemployment. The refund  
6 shall be without interest. The retirement system shall retain the employer  
7 contributions.

8 E. When any retiree covered by this Section returns to active service  
9 with an employer institution covered by the provisions of this Chapter, the  
10 employing institution shall, within thirty days thereafter, notify the board of  
11 trustees in writing of such employment and the date on which employment  
12 commenced. Upon termination, the institution shall provide the same notice. In  
13 addition, the employing institution shall also report to the retirement system  
14 within forty-five days after June thirtieth of each year, the names of all persons  
15 being paid by the employing institution and all persons having received a  
16 benefit pursuant to the provisions of this Section, along with such individuals'  
17 social security numbers, their positions, their designations as part-time or  
18 full-time, and the amount of their earnings during the previous fiscal year  
19 ending on June thirtieth of the reporting year. Additionally, the employing  
20 institution shall transmit a monthly contributions report pursuant to R.S.  
21 11:888(A). Such monthly reports shall be transmitted within thirty days of the  
22 last day of each month and shall include the salary paid to each individual  
23 retiree reemployed under this Section. Should failure to give notice of return to  
24 active service or failure to report any other information required by this Section  
25 result in any payment being made in violation of this Section, the employing  
26 institution shall be liable to the system for the repayment of such amounts.

27 F. The provisions of this Section shall not apply to anyone reemployed  
28 by contract or corporate contract.

29 G. The provisions of this Section shall terminate July 1, 2027.

1 Section 2. The cost of Section 1 of this Act, if any, shall be funded with additional  
2 employer contributions in compliance with Article X, Section 29(F) of the Constitution of  
3 Louisiana.

4 **Section 3. The Department of Education shall undertake a study to determine**  
5 **whether the critical shortages suffered by schools participating in the Teachers'**  
6 **Retirement System of Louisiana are suffered to the same degree by schools that are not**  
7 **participating employers of the system. The department shall ascertain the causes of the**  
8 **shortages, and, if the shortages are not substantially the same, the department shall**  
9 **ascertain the reasons for the disparity. In either case, the department shall propose**  
10 **policy changes that will reduce or eliminate the shortages in both the long and short**  
11 **term. The department shall submit its findings and proposed policy changes to the**  
12 **House and Senate committees on retirement and the House and Senate committees on**  
13 **education by January 20, 2023.**

14 Section 4. This Act shall become effective upon signature by the governor or, if not  
15 signed by the governor, upon expiration of the time for bills to become law without signature  
16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
18 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by LG Sullivan.

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#### DIGEST

SB 434 Reengrossed

2022 Regular Session

Fields

Present law governs the payment of benefits to retirees of the Teachers' Retirement System of Louisiana (Teachers') including retirees who return to work in positions covered by the retirement system. Present law generally requires payment of a retiree's benefit to be suspended for the duration of reemployment with some exceptions. Requires suspension of benefit without exception for any reemployment within the first 12 months of retirement. Requires payment of employer and employee contributions during reemployment. Provides for refund of employee contributions without interest after the reemployment ends.

Proposed law retains present law.

One present law exception (commonly referred to as "critical shortage") allows the receipt of retirement benefits without suspension for the duration of reemployment if all of the following apply to the retiree:

- (1) He retired on or before June 30, 2010, OR retired after that date and returned to a

Teachers'-covered position on or before June 30, 2020.

- (2) He is employed to fill a position certified as a critical shortage position.
- (3) He is certified to teach in the critical shortage area.

Present law, applicable to anyone who retired after June 30, 2010, and who first returned to work in a Teachers'-covered position after June 30, 2020, does not contain a critical shortage provision.

Present critical shortage law requires the employer to meet certain advertising and posting requirements before certifying the existence of a critical shortage. Requires the employer to advertise twice in the locality's official journal and to post notice at each post-secondary institution within a 120-mile radius of the employer's governing authority.

Proposed law generally retains present law. Proposed law additionally:

- (1) Applies present critical shortage law to allow employment of any certified retiree, not just to one certified in the critical shortage area.
- (2) Allows anyone who retired before July 1, 2020, to be rehired under present critical shortage law.
- (3) Until July 1, 2027, allows the employer to fulfill the advertising and posting requirements of present law by (a) posting notice each semester at the specified post-secondary institutions and advertising monthly in the official journal that the employer is soliciting applications for future employment of certified teachers and (b) prominently displaying a list of positions that are unfilled or that are filled by reemployed retirees on specified websites.
- (4) Until July 1, 2027, allows an employer to hire a retiree certified in math, science, English language arts, or special ed excluding gifted and talented to fill a position in the certified area without complying with the advertising and posting requirements in present law.

Until July 1, 2027, proposed law allows a public postsecondary education institution to hire a retiree to fill a position for an adjunct professor to teach in a nursing program where a critical shortage exists, if the retiree and the institution satisfy certain criteria. Requires the retiree to meet all of the following:

- (1) The retiree has been retired for at least 12 months.
- (2) He did not retire based on a disability.
- (3) He has at least 30 years of creditable service in the retirement system.
- (4) He has attained at least age 62.

Proposed law requires the institution to post a listing of positions that are unfilled or that are filled by reemployed retirees on the websites of the institution, of the institution's management board, and of the Board of Regents in order to declare the existence of a critical shortage.

Present law requires the employer of a retiree to satisfy certain notice and reporting requirements. Provides that if failure to provide any required notice or report causes the retirement system to pay a benefit that is not due, the employer is liable to the system for repayment.

Proposed law retains present law and applies the notice, reporting, and liability provisions to any institution employing a retiree under proposed law.

Proposed law specifies that proposed law shall not apply to anyone reemployed by contract or corporate contract.

Proposed law requires the Dept. of Education to determine whether non-Teachers' schools are having the same critical shortage issues, to find the reasons for the shortages and for any disparity if those non-Teachers' schools are not having shortages, and to propose policy changes that will reduce or eliminate the shortages. Requires a report of findings and proposals by Jan. 20, 2023.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 11:710(F)(1) and (G) and 710.1(A)(intro para); adds R.S. 11:710(H), 710.1(F), and 710.2)

#### Summary of Amendments Adopted by Senate

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

1. Make technical changes.
2. Until July 1, 2025, allow the employer to fulfill the advertising and posting requirements of present law by (a) posting notice each semester at the specified post-secondary institutions and advertising monthly in the official journal that the employer is soliciting applications for future employment of certified teachers and (b) prominently displaying a list of positions that are unfilled or that are filled by reemployed retirees on specified websites.

##### Senate Floor Amendments to engrossed bill

1. For five years, allow retirees who meet certain criteria to be reemployed as adjunct professors in a nursing programs at public postsecondary education institutions where a critical shortage exists without suspension or reduction of benefit.
2. Make changes to provide a single termination date for all temporary changes to present law.