

2022 Regular Session

HOUSE BILL NO. 1021

BY REPRESENTATIVES MCFARLAND, DEVILLIER, EDMONDS, FRIEMAN,
GAROFALO, HARRIS, AND ROMERO

RETIREMENT/TEACHERS: Provides for the reemployment of retirees of the Teachers' Retirement System of Louisiana in a critical shortage position

1 AN ACT

2 To amend and reenact R.S. 11:710(F)(1) and (G) and R.S. 11:710.1(A) (introductory

3 paragraph) 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 as provided by Article X, Section 29(C) of the Constitution

11 of Louisiana.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 11:710(F)(1) and (G) and the introductory paragraph of R.S.

14 11:710.1(A)(introductory paragraph) are hereby amended and reenacted and R.S. 11:710(H),

15 710.1(F), and 710.2 are hereby enacted to read as follows:

16 §710. Employment of retirees on or before June 30, 2020

17 * * *

18 F.(1)(a) A retiree who is employed in a critical shortage position shall not

19 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 Paragraph, for
 14 any position sought to be filled before July 1, 2025, by employment of a retiree, the
 15 advertising and posting requirements of Subparagraph (a) of this Paragraph shall be
 16 considered fulfilled if the employer complies with all of the following:

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

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

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

27 * * *

28 G.(1) The provisions of this Subsection shall apply to any retiree of the
 29 retirement system who meets all the following criteria:

- 1 (a) He has been retired for at least twelve months.
- 2 (b) He did not retire based on a disability.
- 3 (c) He has at least thirty years of creditable service in the retirement system.
- 4 (d) He has attained at least age sixty-two.
- 5 (2) If a teacher who is not a retiree of this retirement system and who is
- 6 certified in one or more areas listed in Paragraph (2) of this Subsection applies for
- 7 a position in the area of certification filled at the time by a retiree reemployed under
- 8 the provisions of this Subsection, that teacher shall be employed to replace the retiree
- 9 beginning at the start of the next grading period.
- 10 (3) The provisions of this Subsection shall not apply to anyone reemployed
- 11 by contract or corporate contract.
- 12 (4) The provisions of this Subsection shall terminate July 1, 2025.

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 the
21 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 to
25 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 employer
27 a form provided by the system noting his decision to have his reemployment covered
28 by the provisions of R.S. 11:710. After the termination of R.S. 11:710(G), the retiree
29 may elect to be covered by the provisions of this Section as provided in subsection

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

5 §710.2. Employment of retirees; postsecondary institution critical shortages

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

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

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

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

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

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

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

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

27 D. During the period of his return to active service, the retiree and his
28 employer institution shall make contributions to the retirement system as otherwise
29 provided by law, but the retiree shall receive no additional service credit and shall

1 not accrue any additional retirement benefits in the retirement system. Upon
2 termination of active service, the retiree shall, upon application, be refunded the
3 employee contributions paid since reemployment. The refund shall be without
4 interest. The retirement system shall retain the employer contributions.

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

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

25 G. The provisions of this Section shall terminate July 1, 2025.

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

28 Section 3. The Department of Education shall undertake a study to determine
29 whether the critical shortages suffered by schools participating in the Teachers' Retirement

1 System of Louisiana are suffered to the same degree by schools that are not participating
 2 employers of the system. The department shall ascertain the causes of the shortages, and, if
 3 the shortages are not substantially the same, the department shall ascertain the reasons for
 4 the disparity. In either case, the department shall propose policy changes that will reduce or
 5 eliminate the shortages in both the long and short term. The department shall submit its
 6 findings and proposed policy changes to the House and Senate committees on retirement and
 7 House and Senate committees on education by January 20, 2023.

8 Section 4. This Act shall become effective if and when the Act which originated as
 9 Senate Bill No. 377 of this 2022 Regular Session of the Legislature becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1021 Reengrossed

2022 Regular Session

McFarland

Abstract: Provides for reemployment of teachers in the Teachers' Retirement System of La. (TRSL) in a critical shortage position.

Present law governs the payment of benefits to retirees of the Teachers' Retirement System of Louisiana (TRSL) 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 TRSL-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.
- (2) Allows anyone who retired before July 1, 2020, to be rehired under present critical shortage law.
- (3) Until July 1, 2025, 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, 2025, allows an employer to hire a retiree certified in any position in the certified area without complying with the advertising and posting requirements in present law.

Proposed law provides if a certified teacher applies to fill a position held by a retiree employed in a critical shortage position, upon hiring, the certified teacher will take the retiree's position at the beginning of the next grading period.

Until July 1, 2025, 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.

Proposed law is contingent upon the passage of Senate Bill No. 377.

(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 House

The House Floor Amendments to the engrossed bill:

1. Remove provisions that authorized a retiree who retired prior to July 1, 2020, to return to active service in a critical shortage position without a reduction in retirement benefits regardless of when he returned to active service and remove proposed law relative to the procedure for establishing a critical shortage.
2. Add all proposed law changes to present law described in the above digest.