

2015 Regular Session

SENATE BILL NO. 20

BY SENATORS LONG, ALARIO, AMEDEE, BROOME, BROWN, CROWE, DORSEY-COLOMB, GUILLORY, MURRAY, GARY SMITH, THOMPSON AND WARD 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 Paragraph
10 (3) of this Subsection. Such classroom situations may include teaching in school
11 classrooms or in other settings such as homes or hospitals or other learning
12 situations including cocurricular activities. Instruction may be provided in
13 person or through an approved medium such as television, radio, computer,
14 Internet, multimedia telephone, or correspondence and may be delivered inside
15 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, school social workers, or school
19 counselors, as further 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, school social worker, or school counselor whose
27 position of employment requires a valid Louisiana ancillary certificate
28 approved and issued by the state Department of Education in a school district
29 where a critical shortage exists.

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

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

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

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

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

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

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

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

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

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

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

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

1 retiree for all such positions in a fiscal year.

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

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

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

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

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

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

1 Upon termination of ~~such~~ active service, the retired teacher shall, upon application,
2 be refunded the employee contributions paid since reemployment. The refund shall
3 be without interest. The retirement system shall retain the employer contributions.

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

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

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

1 salary paid to ~~all individuals~~ **each individual** identified as a "retired teacher"
2 pursuant to ~~Subsection A~~ **Paragraph (A)(7)** of this Section. Should failure to give
3 notice of return to active service or failure to report any other information required
4 by this Section result in any payment being made in violation of this Section, the
5 employing agency shall be liable to the system for the repayment of such amounts.

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

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

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

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

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

17 (1) On an annual basis, the superintendent and personnel director of the
18 school employing a retiree who returns to active service in a position defined in
19 Subparagraph (A)(4)(a) of this Section shall certify a critical shortage area to
20 the Board of Elementary and Secondary Education and the board of trustees
21 of this system.

22 (2) On an annual basis, the employing school board for a retiree who
23 returns to active service in a position defined in Subparagraph (A)(4)(b) of this
24 Section shall certify to the Board of Elementary and Secondary Education and
25 the board of trustees of this system that a critical shortage of speech therapists,
26 speech pathologists, audiologists, school social workers, or school counselors
27 exists in the school district.

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

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

The original instrument was prepared by Margaret M. Corley. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

DIGEST

SB 20 Reengrossed 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 social workers to the list of positions covered by present law. Defines these positions as "reemployment-eligible critical shortage positions".

Proposed law requires employers to post openings at career development offices or similar entities and in every post-secondary institution within a 120 mile radius of the employer's governing authority. Further requires certification annually that a critical shortage exists.

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.

Senate Floor Amendments to engrossed bill

1. Adds school social workers to the list of retirees included.
2. Requires employer to post openings at career development office or a similar entity, and in every post-secondary institution within a one hundred twenty-mile radius of the employer's governing authority.
3. Requires certification that critical shortages exist on an annual basis.
4. Technical amendments.