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 AND REPRESENTATIVES ADAMS, AMEDEE, BACALA, BOYD, BRYANT, CARRIER, ROBBY CARTER, CORMIER, DEVILLIER, DUPLESSIS, EDMONSTON, FIRMENT, FREIBERG, GAINES, GAROFALO, HARRIS, HUGHES, ILLG, JEFFERSON, JENKINS, MIKE JOHNSON, TRAVIS JOHNSON, JORDAN, LAFLEUR, LARVADAIN, LYONS, MARCELLE, MARINO, MCFARLAND, MIGUEZ, DUSTIN MILLER, NEWELL, PHELPS, PIERRE, STAGNI, THOMAS, THOMPSON, WHITE AND WILLARD

AN ACT

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

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:710(A)(3), (F)(1), and (G) and the introductory paragraph of R.S. 11:710.1(A) are hereby amended and reenacted and R.S. 11:710(H), 710.1(F), and 710.2 are hereby enacted to read as follows:

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

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

(3) "Critical shortage" means any situation in which the employer has advertised and posted notice of positions to be filled a solicitation for certified teachers, has listed on the specified websites the positions that are unfilled or filled by reemployed retirees, and has received fewer than three certified applicants as provided in Subsection F of this Section.

* * *

F.(1)(a) A retiree who is employed in a critical shortage position shall not receive a benefit during the period of his reemployment as provided in this Section unless and until the Board of Elementary and Secondary Education and the board of trustees of this system have received certification that a critical shortage exists. Prior to making such certification for any full-time critical shortage position, the employer shall cause to be advertised in the official journal of the employer's governing authority, on two separate occasions, notice that a shortage of certified teachers exists and the positions sought to be filled. Additionally, the employer shall cause notice to be posted at the career development office, or similar such entity, of every post-secondary institution within a one hundred twenty-mile radius of the employer's governing authority satisfy the requirements of Subparagraph (b) of this Paragraph. If a certified applicant who is not a retiree applies for an advertised position, such person shall be hired before any certified retiree is employed, unless fewer than three applicants have applied for the position each of whom is certified in the critical shortage area being filled.

(b) For any position sought to be filled by employment of a retiree, the employer may certify the existence of a critical shortage only after complying with all of the following requirements:

(i) Posting with the career development office, or similar such entity, of every postsecondary education institution within a one hundred twenty-mile radius of the employer's governing authority at the beginning of each semester a general statement that the employer is soliciting applications for future employment of certified teachers.
(ii) Advertising at least once per month in the official journal of the employer's governing authority that the employer is soliciting applications for future employment of certified teachers.

(iii) Prominently displaying a listing of positions that are unfilled or that are filled by reemployed retirees, including those positions filled under the provisions of Subsection G of this Section, on the website of the employer's governing authority and of the employer, if the employer maintains a separate website.

* * *

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

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

(b) The retiree is certified, has at least thirty years of creditable service, has attained at least age sixty-two, and is reemployed to fill a vacancy created because a teacher is on maternity leave pursuant to R.S. 17:1211, military leave pursuant to R.S. 17:1215, sabbatical leave pursuant to R.S. 17:1171, or extended sick leave pursuant to R.S. 17:1202.

(2) The provisions of this Subsection shall not apply to anyone reemployed by contract or corporate contract.

(3) If a teacher who is not a retiree of this retirement system and who is certified in one of the areas listed in Subparagraph (1)(a) of this Subsection applies for a position in the area of certification filled at that time by a retiree reemployed under the provisions of Subparagraph (1)(a) of this Subsection, that nonretiree shall be employed to replace the retiree at the start of the next grading period.

(4) The provisions of this Subsection shall terminate July 1, 2027.

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

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

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

*          *          *

F. Any retiree who retired on or before June 30, 2020, and who returned to active service under the provisions of this Section may elect to be reemployed pursuant to the provisions of R.S. 11:710. The retiree shall submit to his employer a form provided by the system noting his decision to have his reemployment covered by the provisions of R.S. 11:710. After the termination of R.S. 11:710(G), the retiree may elect to be covered by the provisions of this Section as provided in Subsection B of this Section. Any retiree who elects to be reemployed pursuant to the provisions of R.S. 11:710 and who subsequently elects to be covered by the provisions of this Section as provided in Subsection B of this Section shall thereafter be covered exclusively by the provisions of this Section.

§710.2. Employment of retirees; postsecondary institution critical shortages

A. The provisions of this Section shall apply to any retiree of the retirement system who retired on or before June 30, 2020, and who meets all of the following criteria:

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

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

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

(4) He has attained at least age sixty-two.
(5) He is being employed to fill a position for an adjunct professor as
defined in R.S. 11:710 and assigned the professional activities of instructing
pupils in a nursing program at a public postsecondary education institution
where a critical shortage exists.

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

C. In order to declare the existence of a critical shortage, a public
postsecondary education institution shall cause to be prominently displayed a
listing of positions to which this Section applies 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.

D. During the period of his return to active service, the retiree and his
employer institution shall make contributions to the retirement system as
otherwise provided by law, but the retiree shall receive no additional service
credit and shall not accrue any additional retirement benefits in the retirement
system. Upon termination of active service, the retiree shall, upon application,
be refunded the employee contributions paid since reemployment. The refund
shall be without interest. The retirement system shall retain the employer
contributions.

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

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

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

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

Section 3. The Department of Education shall undertake a study to determine 
whether the critical shortages suffered by schools participating in the Teachers' 
Retirement System of Louisiana are suffered to the same degree by public schools that 
are not participating employers of the system. The department shall ascertain the 
causes of the shortages, and, if the shortages are not substantially the same, the 
department shall ascertain the reasons for the disparity. In either case, the department 
shall propose policy changes that will reduce or eliminate the shortages in both the long 
and short term without employment of retirees. The department shall submit its 
findings and proposed policy changes to the House and Senate committees on 
retirement and the House and Senate committees on education by January 20, 2023.

Section 4. The provisions of Sections 1 and 2 of this Act shall become effective when 
the Act which originated as Senate Bill No. 377 of the 2022 Regular Session of the
Section 5. The provisions of Sections 3 and 4 and this Section of this Act shall become effective upon signature of this Act by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved by the legislature, the provisions of Sections 3 and 4 and this Section of this Act shall become effective on the day following such approval.

________________________

PRESIDENT OF THE SENATE

________________________

SPEAKER OF THE HOUSE OF REPRESENTATIVES

________________________

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.