

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

1 AN ACT

2 To amend and reenact R.S. 11:710(A)(3), (F)(1), and (G) and the introductory paragraph of
3 R.S. 11:710.1(A) and to enact R.S. 11:710(H), 710.1(F), and 710.2, relative to
4 critical teacher shortages; to provide for employment of retirees of the Teachers'
5 Retirement System of Louisiana; to allow a retiree to return to work without
6 suspension or reduction of benefit in certain circumstances; to provide for
7 application; to provide for determinations and reporting; to provide for an effective
8 date; and to provide for 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(A)(3), (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 **who retired on or before June 30, 2020**

15 A. As used in this Section, the following words and phrases shall have the
16 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.

1 of this Section shall be applicable only to a retiree who ~~returns to active service with~~
 2 ~~an employer covered by the provisions of this Chapter~~ **retired** on or before June 30,
 3 2020, ~~and any retiree covered under Subparagraph (A)(6)(a) of this Section.~~

4 §710.1. Employment of retirees **who retired** on or after July 1, 2020

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

10 * * *

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

22 **§710.2. Employment of retirees; postsecondary institution critical shortages**

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

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

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

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

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

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

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

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

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

24 E. When any retiree covered by this Section returns to active service with
25 an employer institution covered by the provisions of this Chapter, the
26 employing institution shall, within thirty days thereafter, notify the board of
27 trustees in writing of such employment and the date on which employment
28 commenced. Upon termination, the institution shall provide the same notice. In
29 addition, the employing institution shall also report to the retirement system
30 within forty-five days after June thirtieth of each year, the names of all persons

1 being paid by the employing institution and all persons having received a
 2 benefit pursuant to the provisions of this Section, along with such individuals'
 3 social security numbers, their positions, their designations as part-time or
 4 full-time, and the amount of their earnings during the previous fiscal year
 5 ending on June thirtieth of the reporting year. Additionally, the employing
 6 institution shall transmit a monthly contributions report pursuant to R.S.
 7 11:888(A). Such monthly reports shall be transmitted within thirty days of the
 8 last day of each month and shall include the salary paid to each individual
 9 retiree reemployed under this Section. Should failure to give notice of return to
 10 active service or failure to report any other information required by this Section
 11 result in any payment being made in violation of this Section, the employing
 12 institution shall be liable to the system for the repayment of such amounts.

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

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

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

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

29 Section 4. The provisions of Sections 1 and 2 of this Act shall become effective when
 30 the Act which originated as Senate Bill No. 377 of the 2022 Regular Session of the

1 Legislature become effective.

2 Section 5. The provisions of Sections 3 and 4 and this Section of this Act shall
3 become effective upon signature of this Act by the governor or, if not signed by the
4 governor, upon expiration of the time for bills to become law without signature by the
5 governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If this Act
6 is vetoed by the governor and subsequently approved by the legislature, the provisions of
7 Sections 3 and 4 and this Section of this Act shall become effective on the day following
8 such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____