

ASSEMBLY BILL NO. 488—COMMITTEE ON EDUCATION

MARCH 23, 2009

Referred to Committee on Education

SUMMARY—Revises provisions governing educational personnel.
(BDR 34-782)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with the board of trustees of a school district or the governing body of a charter school in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that a retired public employee who accepts employment
2 or an independent contract with a public employer under the Public Employees'
3 Retirement System is disqualified from receiving allowances under the System for
4 the duration of that employment or contract under certain circumstances. (NRS
5 286.520) Existing law also provides an exception to this disqualification from
6 receipt of allowances if the retired public employee fills a position for which there
7 is a critical labor shortage. (NRS 286.523) This exception under existing law is
8 scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p.
9 1076) **Section 1** of this bill continues this exception for a retired public employee
10 who accepts employment or an independent contract with the board of trustees of a
11 school district or the governing body of a charter school in a position for which
12 there is a critical labor shortage, as designated by the Department of Education.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired public employee who accepts employment or an independent contract with the board of trustees of a school district or the governing body of a charter school if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

2. A retired public employee who is reemployed under the circumstances set forth in subsection 1 may reenroll in the Public Employees' Retirement System as provided in NRS 286.525.

3. The Department shall designate the positions with the various school districts and charter schools for which there are critical labor shortages.

4. In determining whether a position is a position for which there is a critical labor shortage, the Department shall give consideration to:

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings;

(c) The length of time the position has been vacant; and

(d) The success of recruiting persons in other states to fill the position.

5. The Department shall not designate a position pursuant to subsection 3 as a position for which there is a critical labor shortage for a period longer than 2 years. When redesignating a position as such, the Department shall consider whether the position continues to meet the criteria set forth in subsection 4.

Sec. 2. NRS 286.520 is hereby amended to read as follows:

286.520 1. Except as otherwise provided in this section ,
~~{and}~~ NRS 286.525 ~~{}~~ and section 1 of this act, the consequences of the employment of a retired employee are:

(a) A retired employee who accepts employment or an independent contract with a public employer under this System is



1 disqualified from receiving any allowances under this System for
2 the duration of that employment or contract if:

3 (1) He accepted the employment or contract within 90
4 calendar days after the effective date of his retirement; or

5 (2) He is employed in a position which is eligible to
6 participate in this System.

7 (b) If a retired employee accepts employment or an independent
8 contract with a public employer under this System more than 90
9 calendar days after the effective date of his retirement in a position
10 which is not eligible to participate in this System, his allowance
11 under this System terminates upon his earning an amount equal to
12 one-half of the average salary for participating public employees
13 who are not police officers or firefighters in any fiscal year, for the
14 duration of that employment or contract.

15 (c) If a retired employee accepts employment with an employer
16 who is not a public employer under this System, the employee is
17 entitled to the same allowances as a retired employee who has no
18 employment.

19 2. The retired employee and the public employer shall notify
20 the System:

21 (a) Within 10 days after the first day of an employment or
22 contract governed by paragraph (a) of subsection 1.

23 (b) Within 30 days after the first day of an employment or
24 contract governed by paragraph (b) of subsection 1.

25 (c) Within 10 days after a retired employee earns more than one-
26 half of the average salary for participating public employees who
27 are not police officers or firefighters in any fiscal year from an
28 employment or contract governed by paragraph (b) of subsection 1.

29 3. For the purposes of this section, the average salary for
30 participating public employees who are not police officers or
31 firefighters must be computed on the basis of the most recent
32 actuarial valuation of the System.

33 4. If a retired employee who accepts employment or an
34 independent contract with a public employer under this System
35 pursuant to this section elects not to reenroll in the System pursuant
36 to subsection 1 of NRS 286.525, the public employer with which the
37 retired employee accepted employment or an independent contract
38 may pay contributions on behalf of the retired employee to a
39 retirement fund which is not a part of the System in an amount not
40 to exceed the amount of the contributions that the public employer
41 would pay to the System on behalf of a participating public
42 employee who is employed in a similar position.

43 5. If a retired employee is chosen by election or appointment to
44 fill an elective public office, he is entitled to the same allowances as
45 a retired employee who has no employment, unless he is serving in



1 the same office in which he served and for which he received
2 service credit as a member. A public employer may pay
3 contributions on behalf of such a retired employee to a retirement
4 fund which is not a part of the System in an amount not to exceed
5 the amount of the contributions that the public employer would pay
6 to the System on behalf of a participating public employee who
7 serves in the same office.

8 6. The System may waive for one period of 30 days or less a
9 retired employee's disqualification under this section if the public
10 employer certifies in writing, in advance, that the retired employee
11 is recalled to meet an emergency and that no other qualified person
12 is immediately available.

13 7. A person who accepts employment or an independent
14 contract with either house of the Legislature or by the Legislative
15 Counsel Bureau is exempt from the provisions of subsections 1 and
16 2 for the duration of that employment or contract.

17 **Sec. 3.** NRS 286.525 is hereby amended to read as follows:

18 286.525 1. A retired employee who accepts employment in a
19 position eligible for membership may enroll in the System as of the
20 effective date of that employment. ~~As~~ **Except as otherwise**
21 **provided in section 1 of this act, as** of the date of enrollment:

22 (a) He forfeits all retirement allowances for the duration of that
23 employment.

24 (b) He is entitled to receive, after the termination of the
25 employment and upon written request, a refund of all contributions
26 made by him during the employment. Except as otherwise required
27 as a result of NRS 286.535 or 286.537, if he does not request the
28 refund and the duration of the employment was at least 6 months, he
29 gains additional service credit for that employment and is entitled to
30 have a separate service retirement allowance calculated based on his
31 compensation and service, effective upon the termination of that
32 employment. If the duration of the employment was:

33 (1) Less than 5 years, the additional allowance must be added
34 to his original allowance and must be under the same option and
35 designate the same beneficiary as the original allowance.

36 (2) Five years or more, the additional allowance may be
37 under any option and designate any beneficiary in accordance with
38 NRS 286.545.

39 2. The original service retirement allowance of such a retired
40 employee must not be recalculated based upon the additional service
41 credit, nor is he entitled to any of the rights of membership that were
42 not in effect at the time of his original retirement. The accrual of
43 service credit pursuant to this section is subject to the limits
44 imposed by:

45 (a) NRS 286.551; and



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1 (b) Section 415 of the Internal Revenue Code, 26 U.S.C. § 415,
2 if the member's effective date of membership is on or after
3 January 1, 1990.

4 3. Except as otherwise required as a result of NRS 286.470,
5 286.535 or 286.537, a retired employee who has been receiving a
6 retirement allowance and who is reemployed and is enrolled in the
7 System for at least 5 years may have his additional credit for service
8 added to his previous credit for service. This additional credit for
9 service must not apply to more than one period of employment after
10 the original retirement.

11 4. The survivor of a deceased member who had previously
12 retired and was rehired and enrolled in the System, who qualifies for
13 benefits pursuant to NRS 286.671 to 286.6793, inclusive, is eligible
14 for the benefits based on the service accrued through the second
15 period of employment.

16 **Sec. 4.** This act becomes effective on July 1, 2009.

