

## Amendment No. 635

Assembly Amendment to Assembly Bill No. 488

(BDR 34-782)

**Proposed by:** Assembly Committee on Ways and Means**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

KCR



Date: 5/11/2009

A.B. No. 488—Revises provisions governing educational personnel. (BDR 34-782)



## ASSEMBLY BILL NO. 488—COMMITTEE ON EDUCATION

MARCH 23, 2009

Referred to Committee on Education

SUMMARY—Revises provisions governing ~~educational personnel,~~ the employment of retired public employees. (BDR ~~34-782~~ 23-782)

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

~

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

AN ACT relating to ~~education;~~ public employees' retirement; 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;~~ a public employer in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. ~~1076~~) ~~Section 1 of this bill continues this exception for 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, as designated by the Department of Education.~~ 1077. This bill extends the prospective expiration of this exception to June 30, 2015. Section 4 of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. Section 4 also requires the designating authority to submit written findings of the determination to the Public Employees' Retirement Board on a form prescribed by the Board. The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.

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

1       **Section 1.** ~~[Chapter 291 of NRS is hereby amended by adding thereto a new~~  
2 ~~section to read as follows:~~

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

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

8       ~~(b) At the time of his reemployment, he is receiving;~~

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

11       ~~(2) A benefit actuarially reduced pursuant to subsection 6 of NRS~~  
12 ~~286.510 and has reached the required age at which he could have retired with a~~  
13 ~~benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.~~

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

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

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

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

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

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

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

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

30 ~~(Deleted by amendment.)~~

31       **Sec. 2.** ~~[NRS 286.520 is hereby amended to read as follows:~~

32       ~~286.520 1. Except as otherwise provided in this section, [and] NRS~~  
33 ~~286.525 [.] and section 1 of this act, the consequences of the employment of a~~  
34 ~~retired employee are:~~

35       ~~(a) A retired employee who accepts employment or an independent contract~~  
36 ~~with a public employer under this System is disqualified from receiving any~~  
37 ~~allowances under this System for the duration of that employment or contract if:~~

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

40       ~~(2) He is employed in a position which is eligible to participate in this~~  
41 ~~System.~~

42       ~~(b) If a retired employee accepts employment or an independent contract with a~~  
43 ~~public employer under this System more than 90 calendar days after the effective~~  
44 ~~date of his retirement in a position which is not eligible to participate in this~~  
45 ~~System, his allowance under this System terminates upon his earning an amount~~  
46 ~~equal to one half of the average salary for participating public employees who are~~  
47 ~~not police officers or firefighters in any fiscal year, for the duration of that~~  
48 ~~employment or contract.~~

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

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

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

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

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

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

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

~~5. If a retired employee is chosen by election or appointment to fill an elective public office, he is entitled to the same allowances as a retired employee who has no employment, unless he is serving in the same office in which he served and for which he received service credit as a member. A public employer may pay contributions on behalf of such a retired employee to a retirement fund which is not a part of the System in an amount not to exceed the amount of the contributions that the public employer would pay to the System on behalf of a participating public employee who serves in the same office.~~

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

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

~~(Deleted by amendment.)~~

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

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

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

~~(b) He is entitled to receive, after the termination of the employment and upon written request, a refund of all contributions made by him during the employment. Except as otherwise required as a result of NRS 286.525 or 286.537, if he does not request the refund and the duration of the employment was at least 6 months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment was:~~

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

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

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

~~(a) NRS 286.551; and~~

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

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

~~4. The survivor of a deceased member who had previously retired and was rehired and enrolled in the System, who qualifies for benefits pursuant to NRS 286.671 to 286.6793, inclusive, is eligible for the benefits based on the service accrued through the second period of employment.] (Deleted by amendment.)~~

**Sec. 4. NRS 286.523 is hereby amended to read as follows:**

286.523 1. *It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.*

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System 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.

~~3.~~ 3. A retired employee who is reemployed under the circumstances set forth in subsection ~~2~~ 2 may reenroll in the System as provided in NRS 286.525.

~~4.~~ 4. Positions for which there are critical labor shortages must be determined *in an open public meeting held by the designating authority* as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The ~~{Department of Education}~~ board of trustees of each school district shall designate positions ~~{with the various school districts}~~ within the school district for which there are critical labor shortages.

(e) Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515 shall designate positions for which there are critical labor shortages for the charter schools that it sponsors.

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

~~{(g)}~~ (g) The Board shall designate positions within the System for which there are critical labor shortages.

~~{5.}~~ 5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall ~~{give consideration to}~~ make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

(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 ~~{after all other efforts of recruitment have been exhausted}~~;

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

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

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

~~{5.}~~ 7. A designating authority shall not designate a position pursuant to subsection ~~{3}~~ 4 as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection ~~{4}~~ 5.

Sec. 5. Section 9 of chapter 490, Statutes of Nevada 2001, as amended by section 2 of chapter 316, Statutes of Nevada 2005, at page 1077, is hereby amended to read as follows:

Sec. 9. ~~{1.}~~ This act becomes effective on July 1, 2001.

~~{2. Section 1 of this act expires by limitation on June 30, [2005.] [2009.]}~~

Sec. 6. The Public Employees' Retirement Board shall conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers that participate in the Public Employees' Retirement System pursuant to NRS 286.523, as amended by section 4 of this act, for the period beginning on July 1, 2009, and ending on June 30, 2014. The Public Employees' Retirement Board shall

1 submit a report of the study to the Interim Retirement and Benefits  
2 Committee of the Legislature on or before December 31, 2014.

3 Sec. 7. NRS 286.523 is hereby repealed.

4 [Sec. 4.] Sec. 8. [This act becomes effective on July 1, 2009.]

5 1. This section and sections 1 to 6, inclusive, of this act become effective  
6 upon passage and approval.

7 2. Section 7 of this act becomes effective on June 30, 2015.

---

---

### TEXT OF REPEALED SECTION

---

---

**286.523 Employment of retired employee: Exception for reemployment of certain retired employees to fill positions for which critical labor shortage exists; determination and designation of such positions; limitation on length of designation of position.**

1. It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System 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.

3. A retired employee who is reemployed under the circumstances set forth in subsection 2 may reenroll in the System as provided in NRS 286.525.

4. Positions for which there are critical labor shortages must be determined in an open public meeting held by the designating authority as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The board of trustees of each school district shall designate positions within the school district for which there are critical labor shortages.

(e) Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515 shall designate positions for which there are critical labor shortages for the charter schools that it sponsors.

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

(g) The Board shall designate positions within the System for which there are critical labor shortages.

5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

- (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 after all other efforts of recruitment have been exhausted;
- (c) The length of time the position has been vacant;
- (d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and
- (e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection 4 as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection 5.