

Amendment No. 859

Senate Amendment to Assembly Bill No. 488 First Reprint (BDR 23-782)

Proposed by: Senate Committee on Finance**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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: 5/19/2009

A.B. No. 488—Revises provisions governing the employment of retired public employees. (BDR 23-782)



ASSEMBLY BILL NO. 488—COMMITTEE ON EDUCATION

MARCH 23, 2009

Referred to Committee on Education

SUMMARY—Revises provisions governing the employment of retired public employees. (BDR 23-782)

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 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 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. 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:

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (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***

1 *to fill a position for which there is a critical labor shortage must make the*
2 *determination of reemployment based upon the appropriate and necessary*
3 *delivery of services to the public.*

4 2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a
5 retired employee who accepts employment or an independent contract with a public
6 employer under the System 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 286.510
12 and has reached the required age at which he could have retired with a benefit that
13 was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

14 ~~2-1~~ 3. A retired employee who is reemployed under the circumstances set
15 forth in subsection ~~H~~ 2 may reenroll in the System as provided in NRS 286.525.

16 ~~3-1~~ 4. Positions for which there are critical labor shortages must be
17 determined *in an open public meeting held by the designating authority* as
18 follows:

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

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

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

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

29 ~~(e) Each entity which is authorized to sponsor charter schools pursuant to~~
30 ~~NRS 386.515.~~ *The governing body of a charter school shall designate positions*
31 *within the charter school for which there are critical labor shortages.* ~~for the~~
32 ~~charter schools that it sponsors.~~

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

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

37 ~~4-1~~ 5. In determining whether a position is a position for which there is a
38 critical labor shortage, the designating authority shall ~~give consideration to:~~ *make*
39 *findings based upon the criteria set forth in this subsection that support the*
40 *designation. Before making a designation, the designating authority shall*
41 *consider all efforts made by the applicable employer to fill the position through*
42 *other means. The written findings made by the designating authority must*
43 *include:*

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

45 (b) The number of openings for the position and the number of qualified
46 candidates for those openings ~~H~~ *after all other efforts of recruitment have been*
47 *exhausted;*

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

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

50 ~~5-1~~ (d) *The difficulty in filling the position due to special circumstances,*
51 *including, without limitation, special educational or experience requirements for*
52 *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~~ 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.~~

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

Sec. 7. NRS 286.523 is hereby repealed.

Sec. 8. 1. This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

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) The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages.

(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.