

CHAPTER 68

**GOVERNMENT - STATE**

**SENATE BILL 02-145**

BY SENATOR(S) Owen, Chlouber, Entz, Fitz-Gerald, Hanna, Hernandez, Isgar, Matsunaka, Nichol, Taylor, and Teck; also REPRESENTATIVE(S) Kester, Bacon, Borodkin, Boyd, Cloer, Coleman, Daniel, Groff, Grossman, Hodge, Hoppe, Lawrence, Madden, Miller, Ragsdale, Romanoff, Sanchez, Spence, and Tapia.

**AN ACT**

**CONCERNING RETIREMENT INCENTIVES TO RETAIN QUALIFIED TEACHERS IN THE STATE, AND, IN CONNECTION THEREWITH, ESTABLISHING A POST-RETIREMENT TEACHING INCENTIVE PLAN FOR PUBLIC SCHOOL TEACHERS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 22-32-109 (1) (f), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**22-32-109. Board of education - specific duties - repeal.** (1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(f) (III) (A) IF A SCHOOL DISTRICT DETERMINES THAT, DUE TO AN INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS FOR TEACHERS, IT IS UNABLE TO HIRE THE NUMBER OF TEACHERS NECESSARY FOR THE BOARD TO MEET ITS DUTY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (f), THE BOARD OF EDUCATION MAY ADOPT A RESOLUTION DECLARING A CRITICAL SHORTAGE OF TEACHERS. THE RESOLUTION SHALL BE EFFECTIVE FOR NO MORE THAN ONE YEAR AFTER ADOPTION. IN ORDER FOR THE SCHOOL DISTRICT TO DECLARE A CRITICAL SHORTAGE, THE DISTRICT MUST HAVE POSTED THE VACANCY FOR A TEACHING POSITION FOR AT LEAST ONE MONTH, MUST HAVE SOLICITED APPLICATIONS THROUGH LOCAL AND WIDELY DISTRIBUTED NEWSPAPERS, OR TEACHER EDUCATION PROGRAMS, AND MUST HAVE DETERMINED THAT THERE IS AN INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS FOR TEACHING POSITIONS. FOLLOWING ADOPTION OF THE RESOLUTION, ANY PERSON WHO IS RECEIVING RETIREMENT BENEFITS PURSUANT TO PART 6 OF ARTICLE 51 OF TITLE 24, C.R.S., AND WHO IS HIRED BY THE SCHOOL DISTRICT AS A TEACHER, MAY RECEIVE A SALARY FROM THE SCHOOL DISTRICT WITHOUT REDUCTION IN RETIREMENT BENEFITS

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

AS PROVIDED IN SECTION 24-51-1101 (1.7), C.R.S. ANY SUCH TEACHER SHALL BE ELIGIBLE TO PARTICIPATE IN THE SCHOOL DISTRICT'S HEALTH PLAN WHILE EMPLOYED AS A TEACHER.

(B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1, 2005.

**SECTION 2.** The introductory portion to section 24-51-1101 (1), Colorado Revised Statutes, is amended, and the said 24-51-1101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**24-51-1101. Employment after service retirement - repeal.** (1) Except as otherwise provided in ~~subsection (1.5)~~ SUBSECTION (1.5) OR (1.7) of this section, a service retiree from any division may be employed by an employer, whether or not in a position subject to membership, and receive a salary without reduction in benefits if the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement, and if:

(1.7) (a) A SERVICE RETIREE WHO IS HIRED BY A SCHOOL DISTRICT OR A BOARD OF COOPERATIVE SERVICES ESTABLISHED PURSUANT TO SECTION 22-5-104, C.R.S., TO WORK AS A TEACHER AT AN ELIGIBLE SCHOOL IN A SCHOOL DISTRICT IN WHICH THE DISTRICT BOARD OF EDUCATION HAS ADOPTED A RESOLUTION DECLARING A CRITICAL SHORTAGE OF TEACHERS PURSUANT TO SECTION 22-32-109 (1) (f) (III) (A), C.R.S., OR WHO IS HIRED TO WORK AS A TEACHER FOR THE COLORADO SCHOOL FOR THE DEAF AND BLIND MAINTAINED IN ACCORDANCE WITH ARTICLE 80 OF TITLE 22, C.R.S., MAY RECEIVE A SALARY WITHOUT REDUCTION IN BENEFITS, REGARDLESS OF THE NUMBER OF HOURS OR DAYS WORKED IN THE CALENDAR YEAR, IF THE SERVICE RETIREE HAS NOT WORKED FOR ANY EMPLOYER, AS DEFINED IN SECTION 24-51-101 (20), DURING THE MONTH OF THE EFFECTIVE DATE OF RETIREMENT. A SERVICE RETIREE DESCRIBED IN THIS PARAGRAPH (a) WHO WORKS FOR ANY EMPLOYER, AS DEFINED IN SECTION 24-51-101 (20), DURING THE MONTH OF THE EFFECTIVE DATE OF RETIREMENT SHALL BE SUBJECT TO A REDUCTION IN BENEFITS AS PROVIDED IN SECTION 24-51-1102 (2).

(b) UPON THE ADOPTION BY A SCHOOL DISTRICT OF A RESOLUTION DECLARING A CRITICAL SHORTAGE FOR A DURATION OF A PERIOD OF NO LONGER THAN ONE YEAR PURSUANT TO SECTION 22-32-109 (1) (f) (III) (A), C.R.S., THE SCHOOL DISTRICT SHALL NOTIFY THE ASSOCIATION OF THE RESOLUTION.

(c) EMPLOYER CONTRIBUTIONS SHALL BE MADE ON ALL SALARY PAID TO SERVICE RETIREES FROM EMPLOYMENT AS TEACHERS PURSUANT TO THIS SUBSECTION (1.7).

(d) ANY SERVICE RETIREE WHO IS EMPLOYED AS A TEACHER PURSUANT TO THIS SUBSECTION (1.7) SHALL NOT BE REQUIRED TO RESUME MEMBERSHIP. UPON TERMINATION OF SUCH SERVICE RETIREE'S EMPLOYMENT, THERE SHALL BE NO BENEFIT CALCULATION REFLECTING ADDITIONAL SERVICE CREDIT ACCUMULATED OR ANY INCREASE IN THE HIGHEST AVERAGE SALARY OF SUCH PERSON.

(e) A SERVICE RETIREE WHO IS EMPLOYED PURSUANT TO THIS SUBSECTION (1.7) SHALL NOT RECEIVE A HEALTH CARE PREMIUM SUBSIDY PURSUANT TO SECTION 24-51-1206 DURING SUCH EMPLOYMENT.

(f) FOR PURPOSES OF THIS SUBSECTION (1.7):

(I) "ELIGIBLE SCHOOL" MEANS A SCHOOL:

(A) THAT IS LOCATED IN A SCHOOL DISTRICT WITH FEWER THAN FOUR THOUSAND FIVE HUNDRED STUDENTS; AND

(B) THAT HAS NOT OFFERED AN EXPERIENCE AND LONGEVITY PLAN OR OTHER RETIREMENT INCENTIVE PLAN ENCOURAGING RETIREMENT DURING THE CURRENT OR EITHER OF THE TWO PREVIOUS CALENDAR YEARS.

(II) "TEACHER" MEANS A PERSON WHO IS LICENSED TO TEACH PURSUANT TO ARTICLE 60.5 OF TITLE 22, C.R.S., AND IS PRIMARILY ENGAGED IN TEACHING DURING THE MAJORITY OF A SCHOOL DAY OR WHO IS EMPLOYED AS THE PRINCIPAL OF AN ELIGIBLE SCHOOL.

(g) THIS SUBSECTION (1.7) IS REPEALED, EFFECTIVE JULY 1, 2005.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 3, 2002