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HOUSE BILL 20-1127

BY REPRESENTATIVE(S) McCluskie and McLachlan, Bird, Bockenfeld, Buckner, Buentello, Caraveo, Cutter, Esgar, Exum, Gonzales-Gutierrez, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, Michaelson Jenet, Snyder, Titone, Valdez D., Will, Woodrow, Young, Becker;
also SENATOR(S) Todd and Sonnenberg, Coram, Crowder, Ginal, Gonzales, Hansen, Moreno, Tate, Woodward.

CONCERNING AN EXTENSION OF THE EMPLOYMENT-AFTER-RETIREMENT LIMITATIONS FOR RETIREES OF THE PUBLIC EMPLOYEES' RETIREMENT ASSOCIATION EMPLOYED BY A BOARD OF COOPERATIVE SERVICES AFTER RETIREMENT.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Boards of cooperative services, or BOCES, are created in statute to provide educational services to two or more school districts that alone cannot afford the service, or find it advantageous and cost-effective to cooperate with other districts. These services represent a financial

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

commitment that is best met by several districts voluntarily sharing costs and programs. In some instances, BOCES also operate as special education administrative units, providing services to students in the member districts.

(b) BOCES receive ongoing local, state, and federal funding, and know how to leverage those dollars for the greatest impact;

(c) BOCES also have a close working relationship with the department of education and embrace local control in how they are governed and in the services they provide; and

(d) Almost all of the regions in which BOCES provide services to school districts are rural and BOCES often have a difficult time finding qualified personnel.

(2) The general assembly further finds and declares that allowing BOCES to hire a limited number of retired special services providers, including speech language pathologists, school psychologists, social workers, occupational therapists, audiologists, teachers for the visually impaired and hard of hearing, early childhood education teachers, and others, and allowing them to receive a salary without a reduction in benefits through the public employees' retirement association will allow those BOCES serving as administrative units to provide support to the districts and students they serve.

SECTION 2. In Colorado Revised Statutes, 24-51-1101, **amend** (1) introductory portion, (1.8)(a), and (1.8)(b); and **add** (5) as follows:

24-51-1101. Employment after service retirement - report - definitions - repeal. (1) Except as otherwise provided in subsections (1.8), ~~and~~ (1.9), AND (5) of this section or part 17 of this article 51, 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:

(1.8) (a) A service retiree who is hired by a state college or university or by an employer in the school or Denver public schools division of the association pursuant to subsection (1.8)(b) of this section and who is

not subject to ~~the provisions of~~ subsection (1.9) OR (5) of this section may receive salary without reduction in benefits if employment of more than four hours per day does not exceed one hundred forty days in the calendar year, if employment of four hours or less per day does not exceed nine hundred sixteen hours in the calendar year, or if employment consisting of a combination of daily and hourly employment does not exceed one hundred forty days per calendar year, and 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 subsection (1.8)(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) A state college or university or an employer in the school or Denver public schools division may hire up to ten service retirees who are not subject to ~~the provisions of~~ subsection (1.9) OR (5) of this section in areas where the employer determines that there is a critical shortage of qualified candidates and that the service retiree has unique experience, skill, or qualifications that would benefit the employer. The employer shall notify the association upon hiring a service retiree pursuant to this subsection (1.8). A list of any and all service retirees employed by the employer shall be provided to the association at the start of each calendar year and shall be updated prior to any additional hirings during the same calendar year.

(5) (a) SUBJECT TO SUBSECTION (5)(j) OF THIS SECTION, A SERVICE RETIREE WHO IS A SPECIAL SERVICE PROVIDER AND IS HIRED PURSUANT TO THIS SUBSECTION (5) BY A BOARD OF COOPERATIVE SERVICES THAT SATISFIES THE CRITERIA SPECIFIED IN SUBSECTION (5)(b) OF THIS SECTION MAY RECEIVE SALARY WITHOUT REDUCTION IN BENEFITS FOR ANY LENGTH OF EMPLOYMENT IN A CALENDAR YEAR IF THE SERVICE RETIREE HAS NOT WORKED FOR ANY EMPLOYER DURING THE MONTH OF THE EFFECTIVE DATE OF RETIREMENT. A SERVICE RETIREE DESCRIBED IN THIS SUBSECTION (5)(a) WHO WORKS FOR ANY EMPLOYER 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) THIS SUBSECTION (5) APPLIES ONLY IF:

(I) THE BOARD OF COOPERATIVE SERVICES HIRES THE SERVICE RETIREE TO PROVIDE SERVICES IN TWO OR MORE RURAL SCHOOL DISTRICTS

AS DETERMINED BY THE DEPARTMENT OF EDUCATION BASED ON THE GEOGRAPHIC SIZE OF THE SCHOOL DISTRICT AND THE DISTANCE OF THE SCHOOL DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA;

(II) THE BOARD OF COOPERATIVE SERVICES HIRES THE SERVICE RETIREE FOR THE PURPOSE OF PROVIDING SPECIAL SERVICES TO STUDENTS ENROLLED BY THE DISTRICTS SERVED BY THE BOARD OF COOPERATIVE SERVICES; AND

(III) THE BOARD OF COOPERATIVE SERVICES DETERMINES THAT THERE IS A CRITICAL SHORTAGE OF QUALIFIED SPECIAL SERVICE PROVIDERS AND THAT THE SERVICE RETIREE HAS SPECIFIC EXPERIENCE, SKILLS, OR QUALIFICATIONS THAT WOULD BENEFIT THE STUDENTS IN THE SCHOOL DISTRICTS SERVED BY THE BOARD OF COOPERATIVE SERVICES.

(c) A BOARD OF COOPERATIVE SERVICES THAT HIRES A SERVICE RETIREE PURSUANT TO THIS SUBSECTION (5) SHALL NOTIFY THE ASSOCIATION BEFORE HIRING THE SERVICE RETIREE. A LIST OF ALL SERVICE RETIREES EMPLOYED BY THE BOARD OF COOPERATIVE SERVICES SHALL BE PROVIDED TO THE ASSOCIATION AT THE START OF EACH CALENDAR YEAR AND SHALL BE UPDATED PRIOR TO ANY ADDITIONAL HIRINGS DURING THE SAME CALENDAR YEAR.

(d) THE TOTAL NUMBER OF SERVICE RETIREES HIRED BY ALL BOARDS OF COOPERATIVE SERVICES PURSUANT TO THIS SUBSECTION (5) DURING THE TIME IT IS IN EFFECT SHALL NOT EXCEED FORTY. THE ASSOCIATION SHALL ENSURE THAT THE BOARDS OF COOPERATIVE SERVICES DO NOT HIRE MORE THAN FORTY SERVICE RETIREES PURSUANT TO THIS SUBSECTION (5).

(e) A BOARD OF COOPERATIVE SERVICES THAT HIRES A SERVICE RETIREE PURSUANT TO THIS SUBSECTION (5) SHALL PROVIDE FULL PAYMENT OF ALL EMPLOYER CONTRIBUTIONS AND DISBURSEMENTS IN ACCORDANCE WITH PART 4 OF THIS ARTICLE 51, AND ALL WORKING RETIREE CONTRIBUTIONS IN ACCORDANCE WITH PART 11 OF THIS ARTICLE 51, ON THE SALARY PAID TO THE SERVICE RETIREE DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION. IN ADDITION, A BOARD OF COOPERATIVE SERVICES THAT HIRES A SERVICE RETIREE PURSUANT TO THIS SUBSECTION (5) SHALL MAKE AN ADDITIONAL MONTHLY PAYMENT TO THE ASSOCIATION IN AN AMOUNT EQUAL TO TWO PERCENT OF THE SALARY PAID TO THE SERVICE RETIREE.

(f) ANY SERVICE RETIREE WHO IS EMPLOYED PURSUANT TO THIS SUBSECTION (5) 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.

(g) A SERVICE RETIREE WHO IS EMPLOYED PURSUANT TO THIS SUBSECTION (5) SHALL NOT RECEIVE A HEALTH CARE PREMIUM SUBSIDY PURSUANT TO SECTION 24-51-1206 DURING SUCH EMPLOYMENT.

(h) ANY SERVICE RETIREE WHO IS EMPLOYED PURSUANT TO THIS SUBSECTION (5) SHALL BE ELIGIBLE TO PARTICIPATE IN THE HEALTH PLAN OFFERED BY THE BOARD OF COOPERATIVE SERVICES OR A SCHOOL DISTRICT SERVED BY THE BOARD OF COOPERATIVE SERVICES WHILE EMPLOYED BY THE BOARD OF COOPERATIVE SERVICES.

(i) THE PERIOD DURING WHICH A SERVICE RETIREE MAY RECEIVE SALARY WITHOUT REDUCTION IN BENEFITS AND WITHOUT LIMITATION IN A CALENDAR YEAR PURSUANT TO THIS SUBSECTION (5) SHALL NOT EXCEED FIVE CONSECUTIVE YEARS FROM THE DATE THE SERVICE RETIREE BEGAN WORK PURSUANT TO THIS SUBSECTION (5).

(j) A SPECIAL SERVICE PROVIDER WHO RETIRES BEFORE HE OR SHE HAS MET THE AGE AND SERVICE CREDIT REQUIREMENTS FOR FULL SERVICE RETIREMENT BENEFITS PURSUANT TO SECTION 24-51-602 SHALL NOT BE EMPLOYED AFTER RETIREMENT PURSUANT TO THIS SUBSECTION (5) BY THE BOARD OF COOPERATIVE SERVICES THAT WAS THE SPECIAL SERVICE PROVIDER'S LAST EMPLOYER UNTIL TWO YEARS AFTER HIS OR HER DATE OF RETIREMENT.

(k) ON OR BEFORE DECEMBER 1, 2023, THE ASSOCIATION SHALL SUBMIT A REPORT TO THE FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE EMPLOYMENT AFTER SERVICE RETIREMENT PROVISIONS OF THIS SUBSECTION (5). THE BOARDS OF COOPERATIVE SERVICES THAT EMPLOY SPECIAL SERVICE PROVIDERS PURSUANT TO THIS SUBSECTION (5) SHALL PROVIDE INFORMATION REQUESTED BY THE ASSOCIATION FOR THE PURPOSES OF THE REPORT. THE REPORT SHALL INCLUDE:

(I) THE NUMBER OF SPECIAL SERVICE PROVIDERS WHO HAVE BEEN EMPLOYED AFTER SERVICE RETIREMENT PURSUANT TO THIS SUBSECTION (5) AS OF THE DATE OF THE REPORT;

(II) THE EXTENT TO WHICH THIS SUBSECTION (5) HAS HELPED BOARDS OF COOPERATIVE SERVICES ADDRESS SHORTAGES OF SCHOOL SPECIAL SERVICE PROVIDERS;

(III) THE COSTS, IF ANY, TO THE ASSOCIATION AS A RESULT OF THIS SUBSECTION (5); AND

(IV) ANY OTHER INFORMATION DEEMED RELEVANT BY THE ASSOCIATION.

(I) AS USED IN THIS SUBSECTION (5):

(I) "BOARD OF COOPERATIVE SERVICES" HAS THE SAME MEANING AS SET FORTH IN SECTION 22-5-103 (2).

(II) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-51-101 (20).

(III) "SPECIAL SERVICE PROVIDER" MEANS A PERSON WHO IS EMPLOYED BY A BOARD OF COOPERATIVE SERVICES TO PROVIDE SPECIAL SERVICES TO STUDENTS IN THE SCHOOL DISTRICTS WITHIN THE GEOGRAPHIC REGION SERVED BY THE BOARD OF COOPERATIVE SERVICES.

(m) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO