

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 20-0286.01 Nicole Myers x4326

HOUSE BILL 20-1127

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A BILL FOR AN ACT

101 C O N C E R N I N G A N E X T E N S I O N O F T H E
102 E M P L O Y M E N T - A F T E R - R E T I R E M E N T L I M I T A T I O N S F O R R E T I R E E S
103 O F T H E P U B L I C E M P L O Y E E S ' R E T I R E M E N T A S S O C I A T I O N
104 E M P L O Y E D B Y A B O A R D O F C O O P E R A T I V E S E R V I C E S A F T E R
105 R E T I R E M E N T .

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law allows a service retiree of any division of the public employees' retirement association (PERA) to work for a PERA employer

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
May 28, 2020

HOUSE
3rd Reading Unamended
February 28, 2020

HOUSE
2nd Reading Unamended
February 27, 2020

for limited periods and to receive a salary without reduction in benefits under certain circumstances. Boards of cooperative services (BOCES) provide special education services to the school districts they serve. Almost all of these school districts are in rural parts of the state and it is difficult for BOCES to find qualified people to serve as special service providers in these areas. BOCES could address this issue by hiring service retirees, but PERA's employment-after-retirement provisions, including the limitation on the number of days in a calendar year that a service retiree may work for a PERA employer without a reduction in benefits, make it difficult to do so.

The bill modifies the current PERA employment-after-retirement provisions for certain retirees hired by a BOCES if:

- ! The BOCES hires the service retiree to provide services in 2 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;
- ! The BOCES hires the service retiree for the purpose of providing special services to students enrolled by the districts served by the BOCES; and
- ! The BOCES determines that there is a critical shortage of special service providers and that the service retiree has specific experience, skills, or qualifications that would benefit the districts that the BOCES serves.

A service retiree who is a special service provider and who is hired by a BOCES may receive salary without a reduction in benefits for any length of employment in a calendar year if the service retiree has not worked for any PERA employer during the month of the effective date of retirement.

The bill requires a BOCES that hires the service retiree to provide full payment of all PERA employer contributions, disbursements, and working retiree contributions. In addition, the BOCES is required to pay an additional amount equal to 2% of the retiree's salary to PERA.

A service retiree may not receive salary without reduction in benefits and without limitation in a calendar year for more than 5 consecutive years, and all BOCES combined are prohibited from hiring more than a total of 40 people over 5 years pursuant to the extension in PERA's employment-after-retirement limitations.

PERA is required to submit a report to the general assembly regarding specified aspects of the extension of PERA's employment-after-retirement limitations.

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

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

3 (a) Boards of cooperative services, or BOCES, are created in
4 statute to provide educational services to two or more school districts that
5 alone cannot afford the service, or find it advantageous and cost-effective
6 to cooperate with other districts. These services represent a financial
7 commitment that is best met by several districts voluntarily sharing costs
8 and programs. In some instances, BOCES also operate as special
9 education administrative units, providing services to students in the
10 member districts.

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

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

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

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

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

3 **24-51-1101. Employment after service retirement - report -**
4 **definitions - repeal.** (1) Except as otherwise provided in subsections
5 (1.8), ~~and~~ (1.9), **AND** (5) of this section or part 17 of this article 51, a
6 service retiree from any division may be employed by an employer,
7 whether or not in a position subject to membership, and receive a salary
8 without reduction in benefits if the service retiree has not worked for any
9 employer, as defined in section 24-51-101 (20), during the month of the
10 effective date of retirement, and if:

11 (1.8) (a) A service retiree who is hired by a state college or
12 university or by an employer in the school or Denver public schools
13 division of the association pursuant to subsection (1.8)(b) of this section
14 and who is not subject to ~~the provisions of~~ subsection (1.9) **OR** (5) of this
15 section may receive salary without reduction in benefits if employment
16 of more than four hours per day does not exceed one hundred forty days
17 in the calendar year, if employment of four hours or less per day does not
18 exceed nine hundred sixteen hours in the calendar year, or if employment
19 consisting of a combination of daily and hourly employment does not
20 exceed one hundred forty days per calendar year, and if the service retiree
21 has not worked for any employer, as defined in section 24-51-101 (20),
22 during the month of the effective date of retirement. A service retiree
23 described in this subsection (1.8)(a) who works for any employer, as
24 defined in section 24-51-101 (20), during the month of the effective date
25 of retirement shall be subject to a reduction in benefits as provided in
26 section 24-51-1102 (2).

27 (b) A state college or university or an employer in the school or

1 Denver public schools division may hire up to ten service retirees who are
2 not subject to ~~the provisions of~~ subsection (1.9) OR (5) of this section in
3 areas where the employer determines that there is a critical shortage of
4 qualified candidates and that the service retiree has unique experience,
5 skill, or qualifications that would benefit the employer. The employer
6 shall notify the association upon hiring a service retiree pursuant to this
7 subsection (1.8). A list of any and all service retirees employed by the
8 employer shall be provided to the association at the start of each calendar
9 year and shall be updated prior to any additional hirings during the same
10 calendar year.

11 (5) (a) SUBJECT TO SUBSECTION (5)(j) OF THIS SECTION, A SERVICE
12 RETIREE WHO IS A SPECIAL SERVICE PROVIDER AND IS HIRED PURSUANT TO
13 THIS SUBSECTION (5) BY A BOARD OF COOPERATIVE SERVICES THAT
14 SATISFIES THE CRITERIA SPECIFIED IN SUBSECTION (5)(b) OF THIS SECTION
15 MAY RECEIVE SALARY WITHOUT REDUCTION IN BENEFITS FOR ANY LENGTH
16 OF EMPLOYMENT IN A CALENDAR YEAR IF THE SERVICE RETIREE HAS NOT
17 WORKED FOR ANY EMPLOYER DURING THE MONTH OF THE EFFECTIVE DATE
18 OF RETIREMENT. A SERVICE RETIREE DESCRIBED IN THIS SUBSECTION (5)(a)
19 WHO WORKS FOR ANY EMPLOYER DURING THE MONTH OF THE EFFECTIVE
20 DATE OF RETIREMENT SHALL BE SUBJECT TO A REDUCTION IN BENEFITS AS
21 PROVIDED IN SECTION 24-51-1102 (2).

22 (b) THIS SUBSECTION (5) APPLIES ONLY IF:

23 (I) THE BOARD OF COOPERATIVE SERVICES HIRES THE SERVICE
24 RETIREE TO PROVIDE SERVICES IN TWO OR MORE RURAL SCHOOL DISTRICTS
25 AS DETERMINED BY THE DEPARTMENT OF EDUCATION BASED ON THE
26 GEOGRAPHIC SIZE OF THE SCHOOL DISTRICT AND THE DISTANCE OF THE
27 SCHOOL DISTRICT FROM THE NEAREST LARGE, URBANIZED AREA;

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

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

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

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

23 (e) A BOARD OF COOPERATIVE SERVICES THAT HIRES A SERVICE
24 RETIREE PURSUANT TO THIS SUBSECTION (5) SHALL PROVIDE FULL
25 PAYMENT OF ALL EMPLOYER CONTRIBUTIONS AND DISBURSEMENTS IN
26 ACCORDANCE WITH PART 4 OF THIS ARTICLE 51, AND ALL WORKING
27 RETIREE CONTRIBUTIONS IN ACCORDANCE WITH PART 11 OF THIS ARTICLE

1 51, ON THE SALARY PAID TO THE SERVICE RETIREE DESCRIBED IN
2 SUBSECTION (5)(a) OF THIS SECTION. IN ADDITION, A BOARD OF
3 COOPERATIVE SERVICES THAT HIRES A SERVICE RETIREE PURSUANT TO
4 THIS SUBSECTION (5) SHALL MAKE AN ADDITIONAL MONTHLY PAYMENT TO
5 THE ASSOCIATION IN AN AMOUNT EQUAL TO TWO PERCENT OF THE SALARY
6 PAID TO THE SERVICE RETIREE.

7 (f) ANY SERVICE RETIREE WHO IS EMPLOYED PURSUANT TO THIS
8 SUBSECTION (5) SHALL NOT BE REQUIRED TO RESUME MEMBERSHIP. UPON
9 TERMINATION OF SUCH SERVICE RETIREE'S EMPLOYMENT, THERE SHALL BE
10 NO BENEFIT CALCULATION REFLECTING ADDITIONAL SERVICE CREDIT
11 ACCUMULATED OR ANY INCREASE IN THE HIGHEST AVERAGE SALARY OF
12 SUCH PERSON.

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

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

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

26 (j) A SPECIAL SERVICE PROVIDER WHO RETIRES BEFORE HE OR SHE
27 HAS MET THE AGE AND SERVICE CREDIT REQUIREMENTS FOR FULL SERVICE

1 RETIREMENT BENEFITS PURSUANT TO SECTION 24-51-602 SHALL NOT BE
2 EMPLOYED AFTER RETIREMENT PURSUANT TO THIS SUBSECTION (5) BY THE
3 BOARD OF COOPERATIVE SERVICES THAT WAS THE SPECIAL SERVICE
4 PROVIDER'S LAST EMPLOYER UNTIL TWO YEARS AFTER HIS OR HER DATE OF
5 RETIREMENT.

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

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

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

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

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

24 (l) AS USED IN THIS SUBSECTION (5):

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

27 (II) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN

1 SECTION 24-51-101 (20).

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

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

7 **SECTION 3. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2020 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.