

## CHAPTER 332

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**EDUCATION - PUBLIC SCHOOLS**

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**HOUSE BILL 00-1222**

BY REPRESENTATIVES Bacon, Coleman, Gagliardi, Gordon, Gotlieb, Kaufman, Larson, Morrison, Plant, Ragsdale, Spence, Tapia, Tupa, Vigil, S. Williams, Windels, and Zimmerman;  
also SENATOR Matsunaka.

**AN ACT**

CONCERNING MAINTENANCE OF PUBLIC EMPLOYEE RETIREMENT BENEFITS FOR RETIREES WHO ARE HIRED AS NONLICENSED EMPLOYEES BY A SCHOOL DISTRICT DURING A CRITICAL EMPLOYEE SHORTAGE.

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

**SECTION 1.** 22-32-109 (1) (f), Colorado Revised Statutes, is amended 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) (I) To employ all personnel required to maintain the operations and carry out the educational program of the district and to fix and order paid their compensation. Prior to the employment of any person, the board shall make an inquiry to the department of education in accordance with the provisions of section 22-32-109.7 (1).

(II) (A) IF A SCHOOL DISTRICT DETERMINES THAT, DUE TO AN INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS FOR NONLICENSED POSITIONS, IT IS UNABLE TO HIRE THE NUMBER OF NONLICENSED EMPLOYEES 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 NONLICENSED EMPLOYEES. 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 NONLICENSED POSITION FOR AT LEAST ONE MONTH, MUST HAVE SOLICITED APPLICATIONS THROUGH LOCAL NEWSPAPERS, AND MUST HAVE DETERMINED THAT THERE IS AN INSUFFICIENT NUMBER OF ELIGIBLE APPLICANTS FOR NONLICENSED POSITIONS. FOLLOWING

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

ADOPTION OF THE RESOLUTION, ANY PERSON WHO IS RECEIVING RETIREMENT BENEFITS PURSUANT TO PART 6 OF ARTICLE 51 OF TITLE 24, C.R.S., OR PURSUANT TO PART 1 OR 2 OF ARTICLE 64 OF TITLE 22, AND WHO IS HIRED BY THE SCHOOL DISTRICT AS A NONLICENSED EMPLOYEE MAY RECEIVE A SALARY FROM THE SCHOOL DISTRICT WITHOUT REDUCTION IN RETIREMENT BENEFITS AS PROVIDED IN SECTION 24-51-1101 (1.5), C.R.S., AND SECTIONS 22-64-111 (1.5) AND 22-64-211 (1.5).

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2003.

**SECTION 2.** 24-51-1101, Colorado Revised Statutes, is amended to read:

**24-51-1101. Employment after service retirement - repeal.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.5) 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:

(a) Employment of more than four hours per day does not exceed one hundred ten days in the calendar year;

(b) Employment of four hours or less per day does not exceed seven hundred twenty hours in the calendar year;

(c) Employment consisting of a combination of daily and hourly employment does not exceed one hundred ten days per calendar year; or

(d) The service retiree is a member of the general assembly.

(1.5) (a) A SERVICE RETIREE WHO IS HIRED AS A NONLICENSED EMPLOYEE OF A SCHOOL DISTRICT IN WHICH THE DISTRICT BOARD OF EDUCATION HAS ADOPTED A RESOLUTION DECLARING A CRITICAL SHORTAGE OF NONLICENSED EMPLOYEES PURSUANT TO SECTION 22-32-109 (1) (f), C.R.S., MAY RECEIVE A SALARY FROM THE SCHOOL DISTRICT 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.

(b) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE JULY 1, 2003.

(2) Salary from ~~such employment~~ THE EMPLOYMENT DESCRIBED IN SUBSECTION (1) OF THIS SECTION shall not be subject to employer and member contributions except as provided in section 24-51-1103.

(2.5) (a) SALARY FROM THE EMPLOYMENT DESCRIBED IN SUBSECTION (1.5) OF THIS SECTION SHALL BE SUBJECT TO EMPLOYER CONTRIBUTIONS UNDER THE CIRCUMSTANCES SET FORTH IN SECTION 24-51-1103.5.

(b) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JULY 1, 2003.

(3) ~~Such service retiree~~ ANY SERVICE RETIREE EMPLOYED PURSUANT TO THIS

SECTION shall not be eligible for disability retirement and survivor benefits during the employment period in which no contributions are being made pursuant to the provisions of this section.

**SECTION 3.** Part 11 of article 51 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-51-1103.5. Contributions for a retiree employed by a school district during critical shortage - no benefit calculation upon subsequent termination - repeal.** (1) 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) (II) (A), C.R.S., THE SCHOOL DISTRICT SHALL NOTIFY THE ASSOCIATION OF THE RESOLUTION, AND EMPLOYER CONTRIBUTIONS SHALL COMMENCE ON SALARY PAID TO SERVICE RETIREES FROM EMPLOYMENT AS NONLICENSED EMPLOYEES.

(2) ANY SERVICE RETIREE WHO IS EMPLOYED AS A NONLICENSED EMPLOYEE OF A SCHOOL DISTRICT IN A POSITION FOR WHICH A CRITICAL SHORTAGE HAS BEEN DECLARED PURSUANT TO SECTION 22-32-109 (1) (f) (II) (A), C.R.S., 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.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2003.

**SECTION 4.** 22-64-111, Colorado Revised Statutes, is amended BY THE ADDITION OF NEW SUBSECTION to read:

**22-64-111. Employment after retirement.** (4) (a) A RETIREE WHO IS HIRED AS A NONLICENSED EMPLOYEE OF A SCHOOL DISTRICT IN WHICH THE DISTRICT BOARD OF EDUCATION HAS ADOPTED A RESOLUTION DECLARING A CRITICAL SHORTAGE OF NONLICENSED EMPLOYEES PURSUANT TO SECTION 22-32-109 (1) (f) MAY RECEIVE A SALARY OR OTHER COMPENSATION FROM THE SCHOOL DISTRICT WITHOUT REDUCTION IN BENEFITS REGARDLESS OF THE NUMBER OF HOURS OR DAYS WORKED IN THE CALENDAR YEAR.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2003.

**SECTION 5.** 22-64-211, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-64-211. Employment after retirement.** (4) (a) A RETIREE WHO IS HIRED AS A NONLICENSED EMPLOYEE OF A SCHOOL DISTRICT IN WHICH THE DISTRICT BOARD OF EDUCATION HAS ADOPTED A RESOLUTION DECLARING A CRITICAL SHORTAGE OF NONLICENSED EMPLOYEES PURSUANT TO SECTION 22-32-109 (1) (f) MAY RECEIVE A SALARY OR OTHER COMPENSATION FROM THE SCHOOL DISTRICT WITHOUT REDUCTION IN BENEFITS REGARDLESS OF THE NUMBER OF HOURS OR DAYS WORKED IN THE CALENDAR YEAR.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2003.

**SECTION 6.** 22-64-218, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**22-64-218. Employer and member contributions - pickup of employee contributions.** (5) (a) UPON THE DECLARATION OF A CRITICAL SHORTAGE PURSUANT TO SECTION 22-32-109 (1) (f), EMPLOYER CONTRIBUTIONS SHALL COMMENCE ON SALARY PAID TO RETIREES FROM EMPLOYMENT AS NONLICENSED EMPLOYEES.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2003.

**SECTION 7. Effective date.** This act shall take effect July 1, 2000.

**SECTION 8. 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: June 1, 2000