

SENATE BILL 251

By Reeves

AN ACT to amend Tennessee Code Annotated, Section 8-25-213 and Title 8, Chapter 36, Part 8, relative to reemployment after retirement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-36-805, is amended by deleting the section and substituting:

(a) A retired member or prior class member of the retirement system, and a retiree of a local retirement fund receiving benefits in accordance with chapter 35, part 3 of this title may return to service temporarily in a position covered by the retirement system and continue to draw the person's retirement allowance; provided, that all of the following conditions are met:

(1) The retired member must have had a bona fide separation of service.

For purposes of this section, a "bona fide separation of service" means a separation of service where there is:

(A) No prearranged agreement, whether verbal or in writing, prior to the member's retirement between the member and a participating employer in the retirement system for the member to return to work for the employer after retirement; and

(B) A complete separation of service, from all employment in a position or positions covered by the retirement system, for at least sixty (60) calendar days between the member's effective date of retirement and the first day of work for the employer as a retiree;

(2) During a twelve-month period, the retiree must not work more than one hundred twenty (120) days or the equivalent of one hundred twenty (120) days, or if employed as a teacher by an institution of higher learning, twenty-four (24) quarter credit hours or eighteen (18) semester credit hours;

(3) The entire compensation payable to the retired member for the temporary employment period must not exceed an amount equal to the sum of sixty percent (60%) of the annual full-time salary received by the retired member in the year immediately prior to the member's last paid day of covered employment, adjusted by five percent (5%) for each year since the member's last paid day of covered employment or by such other percentage as may be determined by the treasurer and the commissioner of human resources. In determining the percentage for a given year, the treasurer and the commissioner of human resources may consider any matter which, in their discretion, they deem relevant, including, but not limited to, the condition of the labor market and the ability to fill the respective positions;

(4) The retired member may work beyond the one hundred twenty (120) days prescribed in subdivision (a)(2) if employed as a substitute teacher in a public school system; provided, that the compensation payable to the retired member for such work does not exceed the rate of compensation set by the public school system for substitute teachers filling similar vacant positions, and the total salary paid to any such retired member for teaching during the twelve-month period does not exceed the pertinent pro rata share of average salary being paid at the institution in the academic discipline concerned;

(5) The head of the employing entity or the head's designee:

(A) Certifies to the retirement division the member's name, period to be employed, number of days to be worked, compensation to be paid, anticipated termination date, and that there was no explicit prearrangement at the time of the member's retirement for future employment with the new employing entity after the member's retirement. The certification must be made in the manner prescribed by the retirement division and must be filed annually, if applicable, and acknowledged by the member;

(B) Submits a statement showing working hours and compensation for the retiree when requested; and

(C) Is subject to audit to verify working hours and the compensation being paid;

(6) If the period of return to service or the compensation therefor exceed that specified in this section, then the person's monthly retirement allowance must be reduced by the greater of the following:

(A) Each day worked in excess of the limitation must result in the loss of one-twentieth (1/20) of the monthly retirement allowance; or

(B) Any compensation received in excess of the limitation must reduce the retirement allowance payable by the ratio the compensation exceeds the limitation;

(7) The retirement system may obtain reimbursement for any retirement benefits overpaid as a result of a retiree's reemployment in excess of that permitted by this section, by deductions from a retiree's monthly benefit;

(8) The retired member, if otherwise eligible, may participate in the state's 401(k) or 457(b) deferred compensation plans, but is not eligible to accrue

additional retirement benefits in the retirement system as a result of the member's reemployment; and

(9) The retiree is not drawing disability retirement benefits under this chapter.

(b) For a member whose effective date of retirement was in fiscal years 2022-2023, 2023-2024, or 2024-2025, with the state fiscal year being from July 1 to June 30, if the retirement system discovers that the member did not have a bona fide separation of service, then the member must be treated as receiving an in-service distribution and the retirement system shall make any required tax reporting changes to reflect the in-service distribution in prior years. After July 1, 2025, the identified members may be temporarily reemployed pursuant to this chapter after a bona fide separation of service.

SECTION 2. Tennessee Code Annotated, Section 8-36-809, is amended by deleting the section and substituting:

Notwithstanding another law to the contrary, a retired member or prior class member of the retirement system, and any retired member of a local retirement fund receiving benefits pursuant to chapter 35, part 3 of this title may be reemployed in a position covered by the retirement system without the loss or suspension of the retired member's retirement system benefits; provided, that the following conditions are met, as certified by the employer:

(1) The retired member must have had a "bona fide separation of service". For purposes of this section, a "bona fide separation of service" means a separation of service where there is:

(A) No prearranged agreement, whether verbal or in writing, prior to the member's retirement between the member and a participating

employer in the retirement system for the member to return to work for the employer after retirement; and

(B) A complete separation of service from all employment in a position or positions covered by the retirement system of at least sixty (60) calendar days between the member's effective date of retirement and the first day of work for the employer as a retiree;

(2) The retired member is reemployed in a hard-to-fill position. For purposes of this section, a "hard-to-fill position" means a position where one (1) or more of the following conditions are met:

(A) The employer is experiencing difficulty in recruiting and retaining qualified employees for the position;

(B) The position requires specialized certification, credentials, or education;

(C) The demand for the position exceeds the supply;

(D) The position is in high demand in the marketplace;

(E) The position is filled by key personnel;

(F) The position requires specific skills and experience; or

(G) The position has other unique recruitment or retention issues identified and documented by the employer;

(3) During the reemployment, the retirement benefit payable to the retired member must be reduced to seventy percent (70%) of the retirement allowance the member would have otherwise been entitled to receive;

(4) The retired member's reemployment must not exceed one (1) year; however, the retired member may be reemployed for additional one-year periods,

provided, that the conditions contained in this section are met for each period of reemployment;

(5) To fund the liability created by this section, the retired member's new employer shall pay to the retirement system during each period of reemployment the greater of:

(A) A payment equal to the amount the employer would have contributed to the retirement system had the retired member been a member of the retirement system during the period of reemployment; or

(B) An amount equal to five percent (5%) of the retired member's earnable compensation;

(6) The retired member, if otherwise eligible, may participate in the state's 401(k) or 457(b) deferred compensation plans, but is not eligible to accrue additional retirement benefits in the retirement system as a result of the member's reemployment;

(7) Prior to the commencement of each reemployment of the retired member, the head of the retired member's new employer, or the head's designee:

(A) Notifies the retirement division of the retired member's reemployment with documents or information required by the retirement system; and

(B) Certifies in writing to the retirement division that:

(i) The position is a hard-to-fill position;

(ii) The retired member has the requisite experience and training for the position to be filled;

(iii) No other qualified persons are reasonably available to fill the position; and

(iv) There was no explicit prearrangement at the time of the member's retirement for future employment with the new employing entity after the member's retirement; and

(C) Makes the certification in the manner prescribed by the retirement division, file the certification annually, if applicable, and ensure the certification is acknowledged by the member; and

(8) The retiree is not drawing disability retirement benefits under this chapter.

SECTION 3. Tennessee Code Annotated, Section 8-36-801(c), is amended by deleting the second sentence and substituting:

This subsection (c) does not apply to retirees who return to service in a position covered by the retirement system as provided in § 8-36-805, § 8-36-809, § 8-36-810, § 8-36-818, or § 8-36-820.

SECTION 4. Tennessee Code Annotated, Section 8-25-213(1), is amended by deleting the subdivision and substituting:

(1) Is subject to the applicable work and compensation limits set forth in § 8-36-805(a).

SECTION 5. Tennessee Code Annotated, Sections 8-36-821 and 8-36-822, are amended by deleting the sections in their entireties.

SECTION 6. Section 5 takes effect January 1, 2026, the public welfare requiring it. All remaining sections of this act take effect July 1, 2025, the public welfare requiring it.