

HB 17-1176 provides rural school districts with more flexibility to hire PERA service retirees

Rural school districts in Colorado continue to experience critical shortages of teachers, school bus drivers and school food service cooks. A qualified work force to draw from and fill these important positions simply does not exist in many rural communities. One solution proposed this past legislative session was to expand the pool of qualified candidates by allowing public employees' retirement association (PERA) service retirees to fill these vacancies and work for a rural school district for any length of employment in a calendar year without a reduction in PERA benefits. As a result, the Colorado Legislature passed HB17-1176, which modified the current PERA employment after retirement provisions for certain retirees hired by a rural school district.

The key modifications to state law are:

- The employer that hires the service retiree is a rural or small rural school district as determined by the Colorado Department of Education (CDE);
- The school district hires the service retiree for one of three areas: (1) classroom instruction; (2) school bus transportation; or (3) a food services cook; and
- The school district determines that there is a critical shortage of qualified teachers, school bus drivers or school food service cooks, as applicable, and that the service retiree has specific experience, skills or qualifications that would benefit the school district.

A service retiree who is a teacher, a school bus driver or a school food services cook and who is hired by a rural school district that satisfies the criteria above may receive a salary for any length of employment in a calendar year without a reduction in benefits, so long as the service retiree has not worked for any PERA employer during the month of the retiree's effective date of retirement. Thus, service retirees can now work more than 110 or 140 days per calendar year in certain circumstances.

The bill requires the rural school district that hires the service retiree to provide full payment of all PERA employer contributions, disbursements and working retiree contributions. Further, the period of time during which a service retiree may receive salary without a reduction in benefits shall not exceed six consecutive years from the date work begins. Additionally, a teacher who retires before he or she has met the age and service requirements for full service retirement benefits shall not be employed after retirement by the same school district that was the teacher's last employer until two years after the date of retirement. C.R.S. 24-51-1101.

The following represents some frequently asked questions about HB17-1176:

Q: What is considered a “rural” and “small rural” school district by CDE?

A: “Rural” is determined by CDE based on the geographic size of the school district, distance of the school district from the nearest large urbanized area, and the school district enrolls 6,500 students or fewer from kindergarten through twelfth grade. “Small rural” school districts meet the same criteria as “rural” but have a student population of less than 1,000 students.

Q: How does a rural school district determine whether there is a “critical shortage?”

A: The legislature did not provide guidance on how a rural school district determines that there is a “critical shortage.” There is no statutory requirement that the school board adopt a resolution declaring a “critical shortage.” Best practice is for a school district to document its efforts of finding qualified candidates and if unsuccessful, declare that it is experiencing a “critical shortage” as vacancies go unfilled.

Q: How does a rural school district determine that a service retiree has specific experience, skills or qualifications that would benefit the school district?

A: Here again, the legislature did not provide guidance; however, a rural school district should document that the service retiree who is hired has specific experience, skills or qualifications that would benefit the district.

Q: I thought service retirees could already work for a school district under a 110 or 140 day contract if the district determined that there is a critical shortage of qualified candidates and that the service retiree has unique experience, skills or qualifications that would benefit the district?

A: Yes, and those statutory provisions remain. What HB17-1176 does is allow rural school districts the ability to not only hire service retirees under 110 or 140 day contracts, but also the ability to employ service retirees beyond 140 days during a calendar year to fill the specific roles of teachers, school bus drivers and school food service cooks.

Q: Does a rural school district that hires a service retiree under this new law have any kind of reporting obligation to PERA?

A: Yes, HB17-1176 requires that the rural school district provide PERA, at the start of each calendar year, a list of any and all service retirees employed by the district. The list must then be updated prior to any additional hirings during the same calendar year.

Q: When is HB17-1176 in effect?

A: It is currently effective for this 2017-2018 school year. It will remain in effect for six years, at which time the legislature may act to extend the law.

If questions arise as your rural school district seeks to hire PERA service retirees to fill these positions, please do not hesitate to contact CASB's Member Legal Resources for further assistance, 303-832-1000.