Return-to-Work Law

New provisions from 2012 legislative session

An Employer Webinar
Friendly reminders

• This presentation contains general information to be used as a guide during the webinar training. Detailed information can be found in the **Employer Procedures Manual** at [www.trsl.org](http://www.trsl.org).

• All participants are muted during the webinar.

• You can type questions in the **Questions** area during the webinar. The moderator will see them and respond.

• You can **raise your hand** during the webinar, allowing you to voice your question once you are acknowledged by the moderator.

• A question-and-answer period will be provided at the end of the webinar.
Agenda

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• Notification/reporting requirements
• Reporting requirements
• Disability retirement
• Certification requirements
• Review of existing return-to-work provisions
• Summary
Return-to-work law

- TRSL retirees who return to work in TRSL-covered positions are categorized as either **retired teachers** or **retired members**.
- Category determines receipt of retirement benefits and payment of retirement contributions
- 2012 legislation:
  - Expands definition of retired teachers
  - Establishes earnings limits for certain retired teachers
  - Extends contract or corporate contract provision
  - Revises employer reporting requirements
Retired teacher provisions

- **Retirement benefit:**
  - Eligible to receive a TRSL retirement benefit after fulfilling a 12-month waiting period that starts on the date of retirement.
  - If a retired teacher is re-employed in a TRSL-covered position within the first 12 months of retirement, the TRSL benefit will be suspended until the teacher has been retired for 12 months or the end of re-employment, whichever occurs first.

- **Retirement contributions:**
  - Employee and employer contributions are required on compensation received as a re-employed retired teacher.
  - Upon request, employee contributions are returned at the end of re-employment.
Retired teacher criteria

• **Act 297 of 2012:**
  
  » Retirees who are re-employed as substitute, preK-12 classroom teachers; or
  
  » Retirees who hold advanced degrees in speech pathology/therapy or audiology; or
  
  » Retirees who have valid Louisiana teaching certificates and who instruct adults through adult education or literacy programs administered through a public institution of elementary and secondary education.

• **Act 228 of 2012:**
  
  » Retirees re-employed as adjunct professors in TRSL-covered positions
Retired teacher criteria

• **Act 347 of 2011:**
  
  » TRSL member who retired during the period of May 1, 2009, through June 30, 2010, and returns to work in a position requiring a valid Louisiana teaching or ancillary certificate

• **Act 921 of 2010:**
  
  » Retirees who returned to work on or before 6/30/10 (Grandfather provision)

  » Retirees re-employed as part- or full-time K-12 classroom teacher in a critical shortage area

  » Retirees re-employed as full-time certified speech pathologists/therapists or audiologists where a shortage exists
Retired member provisions

• Retirement benefit:
  » TRSL benefit is suspended for the duration of employment in a TRSL-covered position.

• Retirement contributions:
  » Employee and employer contributions are not required.
Retired member criteria

• Retirees who do not meet the definition of a retired teacher as previously described are retired members.

• Includes, but not limited to, administrators and secretaries
Monthly Salary Reporting

- Salary reports are due within 30 days of the last day of each month and must include the salary paid to all individuals identified as a retired teacher under the return-to-work law. Employers are required to pay any overpayments made to return-to-work retirees who are not due those benefits if the monthly salary report is filed more than 30 days after month’s close.

  » Example: August 2012 salary report is due by September 30, 2012. If not received by that date and benefits were paid that were not due the retiree, the employer is liable for the benefits overpaid.
Earnings limit provision

- New provisions impose earnings limits on retired teachers re-employed as preK-12 substitute teachers, adult education literacy program instructors, and adjunct professors.
  - Restricts any earnings from such position in a fiscal year to no more than 25 percent of the retiree’s annual benefit.
  - If earnings exceed this amount the retiree’s benefit will be reduced by the amount in excess of the 25 percent.
  - If a retiree returns to active service in more than one position that is subject to the 25 percent earnings limit in any fiscal year, the limit applies to the total earnings for all such positions in the fiscal year.
Contracts and corporate contracts

- Act 297 of 2012 extended the suspension of benefit provision to retired members who are re-employed by contract or corporate contract.

- Prior law did not require a suspension of benefit if the retired member was re-employed through an independent contract or corporate contract.
Notification requirements/penalties

- **Changes to notification requirements**
  - Enroll rehired retirees in TRSL within 30 days of re-employment using the online enrollment process
  - Within 45 days of enrollment notification, employers must certify with TRSL the position retiree is filling

- **Penalties**
  - Any overpayment of benefits resulting from failure to notify TRSL in a timely manner will be charged to the employer.
Reporting requirements

• **January 15:** No longer required

• **August 15:** Employers required to submit to TRSL for earnings of all persons paid in the prior fiscal year, including retirees and disability retirees, even if those earnings are for part-time, substitute, temporary, independent, or corporate contract. **Must now include an individual’s position and designation as part- or full-time**
Retired teacher: Additional info

• **Returned to work on or before June 30, 2010 (Grandfather provision)**
  » Worked at least one day at any time prior to July 1, 2010 (even if with different employers)
  » Rehired in any full-time, part-time, or temporary TRSL-covered position
  » Critical shortage declaration **not** required
  » No earnings limit
Retired teacher: Additional info

- **First returned to work July 1, 2010 or later as a full-time K-12 classroom teacher**
  - Position must be a K-12 classroom teacher as defined
  - Critical shortage must be declared in the subject area
  - Retiree must be certified in the subject area
  - No earnings limit
Retired teacher: Additional info

- **First returned to work July 1, 2010 or later as a part-time K-12 classroom teacher**
  - Position must be a K-12 classroom teacher as defined
  - Includes day-by-day subs and temporary appointments
  - Critical shortage must be declared in the subject area
  - No earnings limit
Retired teacher: Additional info

- **First** returned to work July 1, 2010 or later as a full-time speech therapist, speech pathologist, or audiologist
  - Position must be in a K-12 school district
  - Must possess a valid Louisiana ancillary certificate approved and issued by DOE
  - Critical shortage must be declared
  - No earnings limit
Retired teacher: Additional info

- Retired between May 1, 2009 and June 30, 2010, and returned to work in a position requiring a valid Louisiana teaching or ancillary certificate
  - Position requires a valid Louisiana teaching or ancillary certificate as set forth in the BESE Bulletin 746 (See Chapter 3, subchapter A and C; Chapters 4 and 7; and certificate endorsements in Chapter 6)
  - No earnings limit
Retired teacher: Additional info

• **Returned to work as a substitute, preK-12 classroom teacher**
  » Position must be a preK-12 classroom teacher
  » Critical shortage declaration **not** required
  » Earnings limited to 25% of retirement benefit
Retired teacher: Additional info

- Returned to work and holds advanced degrees in speech therapy/pathology or audiology
  - Must hold an advanced degree in speech therapy/pathology or audiology
  - Critical shortage declaration not required
  - No earnings limit
Retired teacher: Additional info

- Has a valid Louisiana teaching certificate and returned to work instructing adults through adult education or literacy programs through a public institution of elementary and secondary education.

  » Must hold valid Louisiana teaching certificate
  » Must instruct adults through adult education or literacy program administered through an elementary or high school
  » Critical shortage declaration **not** required
  » Earnings limited to 25% of retirement benefit
Retired teacher: Additional info

- **Returned to work as an adjunct professor**
  - Critical shortage declaration *not* required
  - Earnings limited to 25% of retirement benefit
Reminder: Disability retirees

- Disability retirees may not return to work in the field of public or private education.
- Those who do so will have their disability benefits terminated.
Certification requirements

- **Louisiana teaching certificate certification.** Employers must certify that a rehired retiree, who instructs adults through adult education or literacy programs administered through a public institution of elementary and secondary education, holds a valid Louisiana teaching certificate.

  » Submit *Retiree Return-to-Work Position Certification* (Form 15POSC)

- **Advanced degree certification.** Employers must certify that retiree holds an advanced degree in speech pathology/therapy or audiology within 45 days of enrollment notification.

  » Submit *Retiree Return-to-Work Position Certification* (Form 15POSC)
Certification requirements

- **Critical shortage certification.** Employers must certify a critical shortage within 45 days of enrollment notification for:
  
  » Part- and full-time K-12 classroom teachers in critical shortage area
  » Full-time speech pathologists/therapists or audiologists in critical shortage area
  
  » Submit *Retiree Return-to-Work Critical Shortage Certification* (Form 15CS) or certification letter declaring a critical shortage.

- **Position certification.** Employers must certify that position requires a valid certificate within 45 days of enrollment notification:
  
  » Submit a *Retiree Return-to-Work Position Certification* (Form 15POSC)
  » When identifying position description/job title on Form 15POSC, please use DOE PEP object code descriptions.
Certification requirements

• **Employer certifications are not required for the following groups:**
  
  » Retirees who returned to work on or before June 30, 2010 (Grandfather provision)
  
  » Retirees who are re-employed as substitute, preK-12 classroom teachers; or
  
  » Retirees re-employed as adjunct professors in TRSL-covered positions
Review of existing return-to-work provisions
Definition of classroom teacher

• An employee:
  » Whose position of employment requires a Louisiana teaching certificate, and
  » Who performs professional activities of instructing pupils in courses in classroom situations for which daily attendance figures are kept
Declaring a critical shortage area

• **For K-12 classroom teacher (Full time)**
  » Employer must advertise on two separate occasions in the official journal notice that a shortage of certified teachers exists in the position sought to be filled.
  » If three or more qualified certified applicants apply, the certified retiree cannot be hired under the critical shortage provision.
  » Superintendent and personnel director must certify to BESE and TRSL that a shortage of certified teachers exists for the subject area.
  » Retiree must be certified in the subject area.
Declaring a critical shortage area

• **For K-12 classroom teacher (Part time)**
  
  » Superintendent and personnel director must certify to BESE and TRSL that a shortage of certified teachers exists for the subject area.

  » Advertising is not required.

  » Retiree must be a certified teacher.

  » *Substitute positions.* For part-time positions such as substitutes, employers must list all subject areas in which a shortage exists and specify that the retiree who is a certified teacher may fill the substitute position in those subject areas listed.
Declaring a critical shortage area

- For speech therapist, speech pathologist, or audiologist (Full time)
  » The school board must certify to BESE and TRSL that a shortage of full-time speech therapists, speech pathologists, or audiologists exists in the school district.
  » Advertising is not required.
  » Retiree must possess a valid ancillary certificate approved and issued by the Department of Education.

NOTE: Once a retired teacher is rehired in a critical shortage area, he or she can remain continuously employed for the duration of the declared critical shortage.
Summary

• TRSL retirees who return to work in TRSL-covered positions are classified as either (1) retired teachers or (2) retired members.

• Classification determines the impact on retiree benefits and whether employee and employer contributions are due during the period of re-employment.

• Certification required is dependent on which return-to-work provision the retiree is being re-employed.

• Enrollments must be completed online.

• TRSL forms are available for use in certification of critical shortage areas as well as position certification.
Online resources

- Available on [www.trsl.org](http://www.trsl.org)
  - **Employers Procedures Manual**
    - Index 15.0: Retirees Returning to Work
    - Step-by-Step: Declaring a Critical Shortage and Certifying Positions
    - Return-to-Work Frequently Asked Questions (FAQs)
    - Return-to-Work Flowcharts
  - *Returning to Work after Retirement* brochure
How to contact us:

Main: (225) 925-6446
Toll free (outside Baton Rouge area): 1-877-ASK-TRSL (1-877-275-8775)
Website: www.trsl.org
Email: web.master@trsl.org