

CHAPTER.....

AN ACT relating to public employees' retirement; revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with a public employer in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. 1077) This bill extends the prospective expiration of this exception to June 30, 2015. **Section 4** of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. **Section 4** also requires the designating authority to submit written findings of the determination to the Public Employees' Retirement Board on a form prescribed by the Board. The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Sections 1-3. (Deleted by amendment.)

Sec. 4. NRS 286.523 is hereby amended to read as follows:

286.523 1. *It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.*

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:



(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

~~{2.}~~ 3. A retired employee who is reemployed under the circumstances set forth in subsection ~~{4}~~ 2 may reenroll in the System as provided in NRS 286.525.

~~{3.}~~ 4. Positions for which there are critical labor shortages must be determined *in an open public meeting held by the designating authority* as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The ~~{Department of Education}~~ *board of trustees of each school district* shall designate positions ~~{with the various school districts}~~ *within the school district* for which there are critical labor shortages.

(e) *The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages.*

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

~~{(f)}~~ (g) The Board shall designate positions within the System for which there are critical labor shortages.

~~{4.}~~ 5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall ~~{give consideration to:}~~ *make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:*

(a) The history of the rate of turnover for the position;



(b) The number of openings for the position and the number of qualified candidates for those openings ~~{1}~~ *after all other efforts of recruitment have been exhausted;*

(c) The length of time the position has been vacant; ~~and~~

~~—(d) The success of recruiting persons in other states to fill the position.~~

~~—5.1~~ (d) *The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and*

(e) *The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.*

6. *A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.*

7. A designating authority shall not designate a position pursuant to subsection ~~{3}~~ 4 as a position for which there is a critical labor shortage for a period longer than 2 years. To be redesignated as such a position, the designating authority must consider *and make new findings in an open public meeting as to* whether the position continues to meet the criteria set forth in subsection ~~{4}~~ 5.

Sec. 5. Section 9 of chapter 490, Statutes of Nevada 2001, as amended by section 2 of chapter 316, Statutes of Nevada 2005, at page 1077, is hereby amended to read as follows:

Sec. 9. ~~{1}~~ This act becomes effective on July 1, 2001.

~~{2. — Section 1 of this act expires by limitation on June 30, 2005.}~~

Sec. 6. The Public Employees' Retirement Board shall conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers that participate in the Public Employees' Retirement System pursuant to NRS 286.523, as amended by section 4 of this act, for the period beginning on July 1, 2009, and ending on June 30, 2014. The Public Employees' Retirement Board shall submit a report of the study to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.

Sec. 7. NRS 286.523 is hereby repealed.



Sec. 8. 1. This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

2. Section 7 of this act becomes effective on June 30, 2015.



**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON EDUCATION**

**Seventy-Fifth Session
April 6, 2009**

The Committee on Education was called to order by Chair Bonnie Parnell at 3:54 p.m. on Monday, April 6, 2009, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Bonnie Parnell, Chair
Assemblyman Mo Denis, Vice Chair
Assemblyman David P. Bobzien
Assemblywoman Marilyn Dondero Loop
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Ruben J. Kihuen
Assemblywoman April Mastroluca
Assemblyman Richard McArthur
Assemblyman Harvey J. Munford
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Clark County Assembly
District No. 8

Minutes ID: 828

CMB28

STAFF MEMBERS PRESENT:

Kristin Roberts, Committee Counsel
Carol M. Stonefield, Committee Policy Analyst
Danny Peltier, Committee Manager
Sharon McCallen, Committee Secretary
Sherwood Howard, Committee Assistant

OTHERS PRESENT:

Laurie Richardson, Special Education Advocate Paralegal, Legal Aid Center of Southern Nevada, Las Vegas, Nevada
Anne H. Rhu, Special Education Advocate Paralegal, Legal Aid Center of Southern Nevada, Las Vegas, Nevada
Ed Guthrie, Executive Director, Opportunity Village, Las Vegas, Nevada
Jan Crandy, Chair, Strategic Plan Accountability Committee for Persons with Disabilities; member, Commission on Autism Spectrum Disorders, Las Vegas, Nevada
Nicole Rourke, Director, Intergovernmental Relations, Government Affairs, Clark County School District, Las Vegas, Nevada
Mark Coleman, Deputy Director, Clark County Association of School Administrators and Professional-technical Employees, Las Vegas, Nevada
Ruby Caliendo, Teacher, Clark County School District, Las Vegas, Nevada
Rob Benson, Special Education Teacher, Clark County School District, Las Vegas, Nevada
Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education
Beth Howe, Executive Director, Student Support Services, Clark County School District, Las Vegas, Nevada
Lonnie Shields, Assistant Executive Director, Nevada Association of School Administrators, Reno, Nevada
Dotty Merrill, Executive Director, Nevada Association of School Boards, Reno, Nevada
Mark Coleman, Deputy Director, Clark County Association of School Administrators and Professional-technical Employees, Las Vegas, Nevada
Dana Huckaby, Teacher, Spanish Springs High School, Sparks, Nevada
Bart Mangino, representing Clark County School District, Las Vegas, Nevada
Bryn Lapenta, Senior Director, Public Policy, Accountability and Assessment, Washoe County School District, Reno, Nevada

Chair Parnell:

I will close the hearing on Assembly Bill 428. We do have a couple of questions, so I will not be calling for a motion on this bill today. We will take a short recess and then come back to work session on Assembly Bill 487, and Assembly Bill 505, and action on Assembly Bill 488 [5:41 p.m.].

[Reconvened 5:51 p.m.] Before we begin the official work session, I would like to make a couple of comments regarding one bill in particular. Given that today is April 6 and this is the last week we have to complete Committee action, and get bills to the floor or get them exempted, I would like to propose that we vote Assembly Bill 488 out of Committee without recommendation.

**Assembly Bill 488: Revises provisions governing educational personnel.
(BDR 34-782)**

It is a Public Employees Retirement System (PERS) bill. It is the critical shortage bill. It would allow teachers who are teaching, who fill a critical need, after their retirement to continue to do so. When the bill was first passed in maybe 2003 or 2005, it had a sunset provision. What this bill would do is remove the sunset. This bill was written particularly for school teachers. When the original bill was passed, it involved all public employees who retire. If there was a critical need somewhere in public service, retired employees could go back and fill that need but continue to accept their retirement. Since it does have a fiscal note, obviously, and is involved with the other PERS bills that are before us this session, it makes sense, rather than have the policy discussion here, that we just move it on again without recommendation to the Ways and Means Committee. If everyone is comfortable with that I will accept a motion to do so.

ASSEMBLYMAN DENIS MOVED TO REREFER TO WAYS AND
MEANS WITHOUT RECOMMENDATION.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

There is a question from Ms. Dondero Loop that would include Ms. Dondero Loop, Mr. Stewart, Mr. Munford, and me—we could all be affected by the outcome of Assembly Bill 488. On the record, under Assembly Rule 23, again, the aforementioned members could all be affected by the outcome of Assembly Bill 488. As Mrs. Woodbury is not retired yet, it probably would not affect her for a while to come.

Are there questions or remarks on A.B. 488?

THE MOTION PASSED UNANIMOUSLY.

With that I will turn our official work session over to Carol Stonefield.

Carol M. Stonefield, Committee Policy Analyst:

I believe although your work session document includes a page on Assembly Bill 155, that bill has been held over until Wednesday's work session. We will proceed to Assembly Bill 487 which is behind the bill number tab.

Assembly Bill 487: Revises provisions governing pupils enrolled in middle school and junior high school. (BDR 34-780)

[Read prepared text on Assembly Bill 487 ([Exhibit M](#)), including an amendment from the Nevada Association of School Administrators ([Exhibit N](#)), and an amendment from Washoe County School District ([Exhibit O](#)).]

Chair Parnell:

In the second amendment, it was my understanding that it would read, "to provide that the program of mentoring shall include peer and may include adult mentoring." That is A.B. 505. I had a discussion with the Washoe County School District. This was the middle school bill, and I will be referencing, in a minute, the high school bill. I had said I was comfortable with mandating the peer mentoring, but making the adult mentoring "may" language and not "shall" language. I am getting a nod that that was the intent. We would make that uniform with both the middle school bill and Assembly Bill 505, the high school bill.

Bryn Lapenta, would you like to come up just for the record and agree that was your intent?

Bryn Lapenta, Senior Director, Public Policy, Accountability and Assessment, Washoe County School District, Reno, Nevada:

Yes, it was our intent it would look like the amendment for Assembly Bill 505 which would say, "shall provide a program of peer mentoring which may contain a component of adult mentoring."

Chair Parnell:

I was pretty adamant about the peer mentoring. I think that has been so successful in the high schools and, I think, will be every bit as successful in our middle schools and junior high schools.

I would like to defer to Mrs. Mastroluca on the second amendment offered by Washoe County since it was the input from you that brought us to the

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Fifth Session
April 29, 2009**

The Committee on Ways and Means was called to order by Chair Morse Arberry Jr. at 8:13 a.m. on Wednesday, April 29, 2009, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Morse Arberry Jr., Chair
Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Marcus Conklin
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblywoman Debbie Smith

GUEST LEGISLATORS PRESENT:

Assemblyman Chad Christensen, Clark County Assembly District No. 13
Assemblyman David Bobzien, Washoe County Assembly District No. 24
Assemblyman Kelvin Atkinson, Clark County Assembly District No. 17
Assemblywoman Bonnie Parnell, Assembly District No. 40
Assemblyman Paul Aizley, Clark County Assembly District No. 41

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Steve Abba, Principal Deputy Fiscal Analyst
Brian Burke, Principal Deputy Fiscal Analyst
Tracy Raxter, Principal Deputy Fiscal Analyst
Jeff Ferguson, Program Analyst
Connie Davis, Committee Secretary
Vickie Kieffer, Committee Assistant

**Assembly Bill 488: Revises provisions governing educational personnel.
(BDR 34-782)**

Assemblyman Denis assumed the duties of the Chair in the absence of Chair Arberry and Vice Chair Leslie and called upon Assemblywoman Parnell to address Assembly Bill (A.B.) 488.

Assemblywoman Bonnie Parnell, representing Assembly District No. 40, and Chair of the Assembly Committee on Education, testified in support of A.B. 488, which revised provisions governing educational personnel.

Assemblywoman Parnell advised that under existing law, a retired public employee who accepted employment with a public employer would be disqualified from receiving retirement allowances for the duration of that employment. Assemblywoman Parnell further advised that A.B. No. 555 of the 71st Session (2001) provided an exception for retired public employees whose level of knowledge and expertise could be used in a position with a public employer for which a critical labor shortage was declared. Under the provisions of A.B. No. 555, various public employers, including the State Board of Examiners, the Nevada System of Higher Education, and the Supreme Court made the determination of whether a critical labor shortage existed, and the Department of Education made the determination for the county school districts. That exception had been scheduled to expire on June 30, 2005, but during the 2005 Legislative Session, the sunset provision was extended to June 30, 2009.

Assemblywoman Parnell advised that A.B. No. 555 had proven to be "critically important" legislation concerning critical labor shortages in many fields including the lack of qualified special-education teachers. Assemblywoman Parnell discussed the problems associated with, for example, hiring a long-term substitute teacher without the knowledge or expertise needed to work in a special education, severe-needs classroom rather than hiring a teacher with the content knowledge and the experience necessary for a special-needs environment.

Assemblywoman Parnell advised that A.B. 488 was an extension of the previous critical labor shortage legislation but with needed adjustments that would be provided through proposed Amendment 4676 (Exhibit K). Assemblywoman Parnell provided the following information regarding the amendment:

- Section 4 amended *Nevada Revised Statutes* (NRS) to require the designating employer to make the determination of a critical labor shortage in an open public meeting.
- Section 4 removed the Department of Education as the entity responsible for declaring critical labor shortage positions for school districts and required the board of trustees of each school district to designate positions within the school district for which there were critical labor shortages.

Assemblywoman Parnell pointed out that not all schools or school districts had the same critical labor shortages, and the amendment would allow each school district to look at their critical shortage areas and to respond appropriately.

- Subsection 5 of section 4 required the designating authority, in determining whether a position was a position for which there was a critical labor shortage, to make findings based upon established criteria

that supported the critical labor shortage designation. Additionally, a designating authority that established a critical needs position had to submit to the Public Employees' Retirement System its written findings that supported that designation on a form prescribed by the System. Lastly, the System was required to provide a biennial report to the Interim Retirement and Benefits Committee that included a compilation of the forms from each designating authority.

- o Section 5 required the Public Employees' Retirement Board to conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers similar to the study it was required to conduct between 2005 and 2009.
- o Section 6 repealed the exemption contained in NRS 286.523 on June 30, 2015, for reemployment of certain retired employees to fill positions for which critical labor shortages existed.

Assemblywoman Gansert expressed appreciation for the transparency brought forth by the bill but asked whether contracts for reemploying retired individuals by a designating authority could be publicly accessed.

Assemblywoman Parnell indicated she wanted to be certain that public access to contracts was clearly stated in the legislation and indicated that subsequent to the hearing, she would discuss the requirement with the Executive Officer for the Public Employees' Retirement System to determine whether additional information was required.

Dana Bilyeu, Executive Officer, Public Employees' Retirement System (PERS), advised that she had reviewed the proposed amendment to A.B. 488 with the System's independent actuary. Ms. Bilyeu advised that the actuary had indicated that because of the "extremely limiting nature of the new language," a new experience review period would be necessary to evaluate the cost to the System. Ms. Bilyeu said that with the new experience review period and a new sunset date, staff would recommend that the Retirement Board adopt a neutral position on the amendment and remove the fiscal note on the bill.

Additionally, Ms. Bilyeu said that by requiring the biennial report to the Legislature's Interim Retirement and Benefits Committee, the Legislature would be kept apprised of the use of the exemption and action could be taken before the sunset date if costs were not sufficiently contained by the restrictive language. She also said that because of the openness of the process, it was hoped that a much smaller usage of the benefit would be seen over time.

Keith Rheault, Ph.D., Superintendent of Public Instruction, Department of Education, spoke in support of the bill and advised that although he had not seen the amendment he could support the amended language from what he had heard. Dr. Rheault indicated he had compiled the list of critical labor shortage positions in the past but believed that it was a good idea to have the board of trustees, within each school district, designate positions for which there were critical labor shortages. Dr. Rheault provided a list of approved critical labor shortage positions for K-12 education for the 2008-09 school year (Exhibit L) and said that he expected to see a downturn in the number of requests for positions because of the reduced number of students coming to the state.

Dr. Rheault referenced the list of positions (Exhibit L) and pointed out that in addition to special education teachers, a number of other positions including speech pathologists and school psychologists needed to be filled and advised

the Committee that some positions were difficult to fill, especially in the rural counties.

Assemblyman Hardy asked if reemployed retirees received a PERS augmentation.

Dr. Rheault advised that an augmentation was usually negotiated at the local school district level.

Anne Loring, representing the Washoe County School District, spoke in support of A.B. 488 and the amendment. Ms. Loring discussed how "critically important" the bill was to the District and pointed out that in the current school year 29 employees were employed under the approved critical labor shortage provision mainly in special education, mathematics, and biology. Ms. Loring defined the approved critical labor shortage positions as an important resource for the Washoe County School District since it had been difficult to hire the most effective teachers for some positions and asked for the Committee's favorable consideration of the bill.

Joyce Haldeman, representing the Clark County School District, spoke in support of the bill. Ms. Haldeman advised that even with the provision in place and after hiring 268 teachers, the Clark County School District currently had 65 secondary mathematic teacher vacancies, 78 secondary science teacher vacancies, 196 K-12 special education vacancies and 104 other vacant positions.

Ms. Haldeman advised that 48 math teachers, 73 special education teachers, 18 speech and language pathologists, 23 school psychologists, and 16 science teachers had been hired through the approved critical labor shortage list and encouraged the Committee's favorable consideration of the bill.

Additionally, Ms. Haldeman advised that after checking with her resident school principal, reemployed retired teachers were eligible for up to five additional years in the PERS.

Assemblyman Hardy asked whether the board of trustees within each school district would designate the positions in accordance with the provisions of the open-meeting law.

Ms. Haldeman advised that although she had not seen the proposed amendment, the Clark County School District and the board of trustees within each school district were currently very transparent, and hiring retired teachers was accomplished in a notified open board meeting that was a part of the board agenda record.

Dotty Merrill, representing the Nevada Association of School Boards (NASB), testified that although she had not yet seen the proposed amendment, the NASB was supportive of the continuation of the critical-shortage program. Additionally, Ms. Merrill indicated that in response to Assemblyman Hardy's questions, she believed school board representatives would welcome the opportunity to make decisions about critical labor shortages in public and to provide any requested information about contracts for those individuals.

Additionally, Ms. Merrill advised that the ability for rural school districts to hire retired teachers in positions that otherwise could not be filled was important because there were no available substitutes in some areas. Ms. Haldeman strongly encouraged the Committee's favorable support of the bill.

Assemblywoman Smith pointed out another positive aspect of the legislation was that it removed the incentive to use consultants.

Julie Whitacre, Director of Government Relations, Nevada State Education Association (NSEA), spoke in support of A.B. 488 and although she had not seen the proposed amendment indicated that, given the description, NSEA representatives did not have a problem with the language.

Francisco Aguilar, representing the Andre Agassi Foundation, spoke in support of A.B. 488 and advised that the Foundation had 600 students compared with over 600,000 students in the Clark County School District and although not as large in comparison, the Foundation had a need for individuals under the critical labor shortage classification. Mr. Aguilar asked for the Committee's favorable consideration of A.B. 488.

Lonnie Shields, representing the Nevada Association of School Administrators, also spoke in support of A.B. 488, which he said assisted the schools in filling their critical needs shortage and put competent teachers back in the schoolroom.

Assemblyman Denis asked whether others wanted to speak for or in opposition to A.B. 488 and hearing no response closed the hearing on A.B. 488 and opened the hearing on Assembly Bill (A.B.) 505 (R1).

Assembly Bill 505 (1st Reprint): Revises provisions governing pupils enrolled in high school. (BDR 34-784)

Assemblywoman Bonnie Parnell, representing Assembly District No. 40, and Chair of the Assembly Committee on Education, testified that A.B. 505 (R1), an Assembly Committee on Education bill, was a continuation of an idea that occurred during the 2007 Legislative Session to develop a plan to increase the graduation rate for high school students.

Assemblywoman Parnell advised that during two recent hearings held by the Committee on Education, high school teachers, middle school teachers, counselors, parents, high school students, community representatives, and students that had dropped out of school provided testimony on increasing the graduation rate. Testimony revealed that students needed "meaningful relationships" at school, rigorous course work, and a curriculum relevant to life after high school.

Assemblywoman Parnell advised that A.B. 505 (R1) included a provision that the Department of Education and the Nevada System of Higher Education work together to establish "clearly defined goals and benchmarks for pupils enrolled in high schools to be adequately prepared for the educational requirements of postsecondary education and for success in the workplace."

Assemblywoman Parnell advised that Assembly Bill No. 212 of the 74th Session (2007) required every high school to develop an academic plan for incoming 9th grade students, and A.B. 505 (R1) included a provision that information about all educational programs be provided to incoming students to help them determine career choices.

Additionally, section 9 of the bill required the board of trustees of each school district to adopt a policy for a program of peer mentoring, which might also

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Fifth Session
May 4, 2009**

The Committee on Ways and Means was called to order by Chair Sheila Leslie at 3:30 p.m. on Monday, May 4, 2009, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Sheila Leslie, Vice Chair
Assemblywoman Barbara E. Buckley
Assemblyman Marcus Conklin
Assemblyman Mo Denis
Assemblywoman Heidi S. Gansert
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman Joseph (Joe) P. Hardy
Assemblyman Joseph M. Hogan
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblywoman Debbie Smith

COMMITTEE MEMBERS ABSENT:

Assemblyman Morse Arberry Jr.

GUEST LEGISLATORS PRESENT:

Assemblyman David Bobzien, Washoe County Assembly District No. 24
Assemblyman Jerry D. Claborn, Clark County Assembly District No. 19
Assemblywoman Peggy Pierce, Clark County Assembly District No. 3
Assemblyman James Settelmeyer, Assembly District No. 39

STAFF MEMBERS PRESENT:

Mark Stevens, Assembly Fiscal Analyst
Anne Bowen, Committee Secretary
Vickie Kieffer, Committee Assistant

ASSEMBLYWOMAN MCCLAIN MOVED TO DO PASS AS
AMENDED ASSEMBLY BILL 426 (R1).

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION PASSED. (Assemblyman Arberry was not present
for the vote.)

**Assembly Bill 461 (1st Reprint): Makes various changes relating to older
persons. (BDR 15-126)**

Assemblywoman McClain stated there was no longer a fiscal note with the bill,
but the policy was still intact.

Assemblyman Hardy compared page 2, line 14 to page 3, line 4 of
A.B. 461 (R1) and indicated there appeared to be a conflict.

Assemblywoman Buckley referred to page 3 of the bill and said the language
regarding attorneys was in opposition to attorney/client privilege. She said she
could not support language in the bill that required an attorney to ignore
attorney/client privilege.

Assemblywoman McClain stated attorneys and clergy were always included in
the law until last session.

Chair Leslie declared A.B. 461 (R1) held.

**Assembly Bill 488: Revises provision governing the employment of retired
public employees. (BDR 23-782)**

Mark Stevens, Assembly Fiscal Analyst, Fiscal Analysis Division, Legislative
Counsel Bureau (LCB), explained that A.B. 488 had been heard by the
Committee on April 29, 2009. Mr. Stevens noted the amendments that had
been worked out with the Public Employees Retirement System (PERS) for
continuation of the critical labor shortage provisions, particularly involving
K-12 education. The bill would further require the PERS to perform an
experience study for the period of July 1, 2009, through June 30, 2014, and
report to the Legislature regarding the cost of the provision.

ASSEMBLYWOMAN BUCKLEY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 488.

ASSEMBLYWOMAN SMITH SECONDED THE MOTION.

Assemblywoman Gansert asked whether the bill contained a fiscal note and
Mr. Stevens explained the amendment would remove the fiscal note and tighten
the positions covered by the critical labor shortage provisions. Mr. Stevens said
the PERS had agreed the contribution rate would not change during the
experience period of five years. That was a sufficient amount of time to
determine whether the provisions worked to restrict the number of people
utilizing the critical labor shortage provision.

THE MOTION PASSED. (Assemblyman Arberry was not present
for the vote.)

Chair Leslie adjourned the meeting at 7:51 p.m.

RESPECTFULLY SUBMITTED:

Anne Bowen
Committee Secretary

APPROVED BY:



Assemblywoman Sheila Leslie, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: May 4, 2009

Time of Meeting: 3:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Guest sign-in sheet
A.B. 246	C	Assemblyman David Bobzien	Families Afield Revised Youth Hunting Report
A.B. 246	D	Kim Jolly, Nevada Department of Wildlife	Description of Fiscal Effect
A.B. 246	E	Dianna Belding and Judi Caron	Restoring Nevada's Landscape PowerPoint
A.B. 246	F	Assemblywoman Debbie Smith	Mock-up proposed amendment 4747 to A.B. 246
A.B. 246	G	Chris Askin, President, Community Foundation of Western Nevada	Annual Report of Community Foundation of Western Nevada 2007
A.B. 246	H	Assemblyman Pete Goicoechea	Amendment to A.B. 246
A.B. 246	I	Chad Bliss	Testimony of Chad Bliss

**MINUTES OF THE
SENATE COMMITTEE ON FINANCE**

**Seventy-fifth Session
May 19, 2009**

The Senate Committee on Finance was called to order by Cochair Bernice Mathews at 08:52 a.m. on Tuesday, May 19, 2009, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Bernice Mathews, Cochair
Senator Steven A. Horsford, Cochair
Senator Bob Coffin
Senator Joyce Woodhouse
Senator William J. Raggio
Senator Dean A. Rhoads

COMMITTEE MEMBERS ABSENT:

Senator Warren B. Hardy II (Excused)

GUEST LEGISLATORS PRESENT:

Michael A. Schneider, Clark County Senatorial District No. 11
Assemblywoman Bonnie Parnell, Assembly District No. 40
Assemblyman David Bobzien, Washoe County Assembly District No. 24
Assemblywoman Barbara E. Buckley, Clark County Assembly District No. 8

STAFF MEMBERS PRESENT:

Gary L. Ghiggeri, Senate Fiscal Analyst
Russell J. Guindon, Senior Deputy Fiscal Analyst
Cynthia Clampitt, Committee Secretary

OTHERS PRESENT:

Scott J. Kipper, Commissioner of Insurance, Division of Insurance, Department of Business and Industry
Bill Uffelman, President and CEO, Nevada Bankers Association
George E. Burns, Commissioner, Financial Institutions Division, Department of Business and Industry
Jack H. Kim, Nevada Association of Health Plans
Jesse A. Wadhams, American Insurance Association and Nevada Independent Insurance Association
Charles M. Benjamin, Ph.D., J.D., Director, Nevada Office, Western Resource Advocates
Joe Johnson, Sierra Club
Nicholas Vanderpoel, Deputy Director, Office of Energy, Governor's Office
Dana K. Bilyeu, Executive Officer, Public Employees' Retirement System

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Joyce Haldeman, Executive Director, Community and Government Relations,
Clark County School District
Dotty Merrill, Ph.D., Nevada Association of School Boards
Keith W. Rheault, Ph.D., Superintendent of Public Instruction, Department of
Education
Ann Loring, Washoe County School District
Francisco V. Aguilar, the Andre Agassi Charitable Foundation
Daniel J. Klaich, Executive Vice Chancellor and Chief Operating Officer, Nevada
System of Higher Education
Andrew Clinger, Director, Department of Administration
Sabra Smith-Newby, Director, Department of Administrative Services, Clark
County
Lisa A. Gianoli, Washoe County
Stacy Shaffer, Service Employees International Union
Robert F. Joiner, City of Sparks
Robert Cashell, Mayor, City of Reno
Jeff Fontaine, Executive Director, Nevada Association of Counties
Carole Vilardo, Nevada Taxpayers' Association
Craig Stevens, Nevada State Education Association
Dino DiCianno, Executive Director, Department of Taxation
Lonnie Shields, Nevada Association of School Administrators and the Clark
County Association of School Administrators and Professional Employees
Marvin Levitt, City of Las Vegas and City of Henderson

COCHAIR MATHEWS:

We will open the hearing on Senate Bill (S.B.) 426.

SENATE BILL 426: Revises provisions relating to insurance. (BDR 57-1203)

SCOTT J. KIPPER (Commissioner of Insurance, Division of Insurance, Department
of Business and Industry):

I appear in support of S.B. 426. This bill provides an opportunity for the
Insurance Division to move from support through the General Fund to become a
self-funded agency. The funding would be derived from additional fees charged
by the Division to the regulated insurance carriers, risk retention groups, captive
insurers and insurance producers or agents.

The self-funded concept was developed in cooperation with the insurance
industry. It is almost universally supported by the industry as an opportunity for
them to be better regulated.

Other provisions of the bill include three federal mandates. They concern genetic
information disclosure, Michelle's Law and mental health parity. A provision is
included addressing counter signatures, as determined by the United States
Court of Appeals for the Ninth Circuit.

Senate Bill 426 also includes a piece on the Federal Deposit Insurance
Corporation (FDIC) and the Financial Institutions Division (FID) of the
Department of Business and Industry (B&I).

SENATOR COFFIN:

Why is the language suggested by the Senate Committee not a part of this
legislation?

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NICHOLAS VANDERPOEL (Deputy Director, Office of Energy, Governor's Office):
We can remove our fiscal note on S.B. 242 with an the amendment deleting the requirement for development of regulations by our Office.

We want to acknowledge Senator Schneider and the EIT Committee for their work with our Office and our limited resources and the Legislative Counsel Bureau staff.

SENATOR HORSFORD MOVED TO AMEND AND DO PASS A.B. 242 WITH PROPOSED AMENDMENT NO. 5056, INDICATING THERE IS NO IMPACT TO THE GENERAL FUND.

SENATOR COFFIN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

COCHAIR MATHEWS:
We will open the hearing on Assembly Bill (A.B.) 488.

ASSEMBLY BILL 488 (1st Reprint): Revises provisions governing the employment of retired public employees. (BDR23-782)

ASSEMBLYWOMAN BONNIE PARNELL (Assembly District No. 40):
Most of the Committee members will recall the issue of filling critical labor shortages with retirees. Assembly Bill 488 extends the sunset on the reemployment of a retired public employee and with additional provisions.

When the provision was first passed, controversy occurred on how it was being implemented. People were being rehired in circumstances that may not have been the best option. This bill provides that any employer seeking to employ a retired public employee for a position in which there is a critical labor shortage must make the determination based on the appropriate and necessary services to the public. The decision must be determined in an open public meeting by the designating authority. The designating authority shall make written findings in support of the designation.

Most importantly, A.B. 488 requires that to be redesignated as a critical labor shortage position, new findings must be made in an open public meeting. No longer can we, as elected officials, allow a well-meaning piece of legislation to be abused. This process is more transparent, more accountable and it extends the sunset through June 30, 2015.

Section 4, the last few words, "... necessary delivery of services to the public," is of incredible importance.

Another important section is section 4, subsection 4 which requires the determination to be held in an open public meeting. Also, instead of a large governing board, separate from the issue, it is much more intimate. The State Board of Education will not be making determinations for all school districts. School districts will have the ability to make its own determinations based upon the needs of that particular school district.

We took something that has worked well and, through the legislation, perfected the process and made it more accountable and transparent.

COCHAIR MATHEWS:

Does A.B. 488 provide a "cooling off period;" a time the employee must be retired before they can return to work?

ASSEMBLYWOMAN PARNELL:

It would follow the same requirements already in place for restriction from employment for 90 days after retirement. If the determination is made following the new regulations in this legislation, a critical labor shortage can be filled. One of the most common critical shortages we have all used is the area of special education. It could be for the Nevada Department of Transportation (NDOT) for an engineer. Perhaps the NDOT cannot find a new engineer with the skill and expertise of someone who recently retired.

COCHAIR MATHEWS:

Would the rehired employees' new salary be counted into their Public Employees Retirement System (PERS) benefits?

ASSEMBLYWOMAN PARNELL:

No, it would not be.

COCHAIR MATHEWS:

You noted the provisions extend beyond teachers; perhaps an employee of the Airport Authority?

ASSEMBLYWOMAN PARNELL:

It would apply to any public employee. The bill is cost neutral.

SENATOR RAGGIO:

I am trying to reconcile A.B. 488 with other actions that have been taken in other measures. We recently processed legislation concerning the rehire of former State employees and certain exceptions were made. For example, we provided a four-month period in which an agency could contract with someone on a temporary basis until a rehire request was processed by the Interim Finance Committee (IFC). Is this legislation similar? We also excluded certain employees of the NDOT in that measure. This bill applies to all sectors of public employment similar to what was done for State retirees. There are some differences. The criterion was somewhat different, allowing a finding to be made by the IFC that would be exemptions for this purpose.

If A.B. 488 is passed, it should be reconciled with the bill addressing State employees and the provisions for other local governments.

COCHAIR MATHEWS:

That bill may have been heard in another committee, but I remember the conversation also.

SENATOR RAGGIO:

We amended the other bill on the Floor of the Senate.

ASSEMBLYWOMAN PARNELL:

I believe the bill that Senator Raggio is speaking to concerned public employees who leave public employment and form a limited liability company (LLC), and are hired back as consultants, which is every bit as important to have in place as A.B. 488. It captures a completely different population. The individuals addressed under A.B. 488 do not form their own corporations. They would be returned to work as a public employee, not in a consultant capacity having formed an LLC.

SENATOR RAGGIO:

I do not believe the bill I was referring to required an LLC. It seems the same principles and exemptions should apply in this bill.

SENATOR WOODHOUSE:

The other bill was brought by Assemblywoman Debbie Smith on behalf of, and working with, the director of the Department of Personnel.

SENATOR COFFIN:

At the beginning of the 2009 Legislative Session, the dollar amount pulled from the PERS by individuals returning to State employment after retirement was approximately \$55 million. The director of PERS can confirm or deny that figure. It is sad that employees retire, only to return to employment. It argues for a slightly later retirement age.

Does this bill help trim the ability of individuals to return to employment that should have been succeeded to by someone in their agency? When a person is rehired because of their institutional memory, it speaks to poor management skills of an agency that does not have another employee ready to assume the vacated position.

The original intent of the critical labor shortage legislation was primarily toward education. This issue has been discussed in Session after Session, because it seems so many supervisor categories were brought in. It is an indication to me of bad management training. Will A.B. 488 help us break out of that mold?

ASSEMBLYWOMAN PARNELL:

The important provision of A.B. 488 is that, for the first time, we reviewed how the critical labor shortage rehire provisions were abused. For instance, how were those things you just described allowed to happen? The original legislation did not provide a systematic way to make the determination, in public, and require justification of the reason for the shortage.

The decision is three-fold; if we think it still serves a purpose, if we think the bill brings language to tighten the provisions to prevent abuses and if it can be accomplished without cost to the State.

SENATOR COFFIN:

I hope that this process offers a vehicle for corrective action for any agency that rehires a supervisor. That means the agency needs corrective action in its training process.

ASSEMBLYWOMAN PARNELL:

It is similar to review of the colleges of education in Nevada. Are we able to capture enough special education teachers, school psychologists or

school counselors? It is those positions that seem to have continual shortages of qualified applicants.

SENATOR COFFIN:

Does A.B. 488 limit the professions considered for a critical labor shortage need?

ASSEMBLYWOMAN PARNELL:

No, all positions representing a critical need can be considered.

DANA K. BILYEU (Executive Officer, Public Employees' Retirement System):
Assembly Bill 488 has been substantially amended from the original version. The original version only extended the critical labor provision for educational employees. The amendment carries that provision in addition to the ones already mentioned. They include the policy statement that this legislation be made only for the delivery of necessary services to the public. The decision must be made in an open public meeting by the governing body; for the State it would be the Board of Examiners, for the Nevada System of Higher Education (NSHE) it would be the Board of Regents. For local governments it would be school boards, county commissions or city councils. They would have to hold a hearing and make findings on the record as to why it is necessary to hire a retiree back into a position.

In addition, once those findings are made on the record, they are to be transmitted to the PERS on a form created by the PERS. We will compile a report to the Interim Retirement and Benefits Committee (IRBC) of the Legislature. If there is a concern about too much use of the bill provisions, we can make recommendations to the interim committee.

I spoke to the PERS' actuary because of the limiting language of the amendments by the Assembly; they are comfortable placing a new experience period in place. Thus, the bill is not at no cost; the cost cannot be measured until we see how the new provisions affect the experience of the PERS itself. That is why the bill extends the sunset period until 2015 with a new experience review period that will extend through 2014. We will be delivering that experience review to the Legislature through the IRBC. It would be the decision of the Legislature whether or not to extend the provisions beyond 2015.

With the amendments, the PERS has agreed to remove its fiscal note to A.B. 488. I have provided written testimony for the Committee ([Exhibit J](#)).

COCHAIR MATHEWS:

Could the employer experience rating change?

MS. BILYEU:

It could, after the experience review period. If it is to be extended, the cost would be absorbed into the contribution rate at that time.

COCHAIR MATHEWS:

The cost would not increase until after 2015?

MS. BILYEU:

That is correct. It remains on sunset until 2015; thus, it is not a permanent feature of the retirement system.

COCHAIR MATHEWS:

Would the experience rating be considered from the date of hire, regardless of the sunset?

MS. BILYEU:

From the perspective of costing the benefit out, since it is not currently part of the contribution rate. The actuary will consider the experience review period for the critical labor shortage addressed in A.B. 488 based upon the time it is in place. We will apply that experience to the contribution rate in 2015. If the cost is sufficient, it will require a change in the contribution rate.

SENATOR RAGGIO:

Why is this considered a benefit to the System?

MS. BILYEU:

An individual returning to work in a critical labor shortage exempts them from reemployment restrictions. Reemployment for public sector employees is prohibited by the Retirement Act. Allowing an individual to return to work removes one of the cost restrictions in the Plan. From 2001 until 2008, during the original experience review period, there was a significant amount of usage of the critical labor shortage provisions. The System paid benefits that it would not otherwise have paid. That was the nature of the original fiscal note to A.B. 488. Because of the fiscal note, we reviewed a method in which to extend the critical labor shortage provisions in such a way that is severely restricted.

Approximately 800 positions were determined as critical labor shortages under the original legislation. The amendments will greatly reduce the number of positions that qualify as a critical labor shortage.

SENATOR RAGGIO:

I do not understand how that is considered a benefit. It seems it would be a decrease rather than an increase of a benefit.

MS. BILYEU:

The System is comfortable with extension of the experience period to review the experience that will be generated by the various employers with this legislation.

For purposes of reemployment restriction with the PERS, if an individual returns to work as either an independent contractor or as an employee, the provision of benefits would be halted during their employment. It is different if an individual works for a private sector corporation such as Kelly Services. In that instance they are working in the private sector, but may be contracted to the State.

SENATOR WOODHOUSE:

I have provided a copy of the Floor Statement to A.B. 463 for the record (Exhibit K). This is the legislation that Senator Raggio referred to earlier.

ASSEMBLY BILL 463 (2nd Reprint): Restricts a department, division or other agency of this State from employing a person as a consultant.
(BDR 23-1057)

COCHAIR HORSFORD:

Can you explain how this works in the NSHE, based on the fact they have a choice of retirement plans in which to enroll?

MS. BILYEU:

That provision is for the professional education staff at the NSHE. Professors who have had any service, even one day, covered by the PERS, are required to participate in the PERS. They do not have access to the alternate program for the NSHE because they are already enrolled in the PERS at the time of reemployment. For them, the reemployment restrictions would apply. The Board of Regents would have to make a determination based on the statutory requirements. If the individual has not had any service under the PERS the reemployment restrictions do not apply.

JOYCE HALDEMAN (Executive Director, Community and Government Relations, Clark County School District):

Assembly Bill 488 is very important to the Clark County School District and we urge your passage of the bill. We currently have 268 teachers who have been rehired as critical labor shortage teachers. They are hired into positions in which we experience continual vacancies. Despite the 268 teachers hired under the provisions, we currently have 65 vacant mathematic positions, 78 vacant science positions and 196 classroom vacancies for special education. If this legislation were to expire, and we could not rehire the teachers with those critical endorsements, we would be forced to utilize long-term substitutes in their place.

DOTTY MERRILL, PH.D. (Nevada Association of School Boards):

On behalf of school board members around the State, we want to communicate our appreciation of the opportunities that bills such as A.B. 488 have provided to school districts since 2001 with the adoption of A.B. No. 555 of the 71st Session. Since that time, in 2003 and 2005, Senate bills have further clarified the critical labor shortage process to make it more transparent.

Approximately 91.5 percent of all the critical labor shortage positions since 2001 have been related to education. Sixteen of the seventeen school districts have used these positions through approval of the Superintendent of Public Instruction. Eighty-eight kinds of positions have been filled as a result of this opportunity. In some of the rural school districts, where it is difficult to attract teachers, positions could not be filled.

KEITH W. RHEULT, PH.D. (Superintendent of Public Instruction, Department of Education):

The Department of Education (NDE) strongly supports passage of A.B. 488.

The School districts and charter schools in Nevada employ 28,000 licensed staff. This is a small, but critical, element of meeting the needs for filling difficult-to-fill positions.

I have provided a suggested amendment ([Exhibit L](#)). The amendment would help streamline the approval at the charter schools, but if the amendment will slow down the approval of the bill, remove it from consideration.

Page 2, lines 42 through 44, subsection 2(e) of section 4 requires the designating sponsor of a charter school to approve the critical labor shortage