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# A BILL FOR AN ACT

RELATING TO EMPLOYMENT OF RETIRANTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that the department of  
2 education continues to face a critical shortage of qualified  
3 teachers and educational officers, particularly in hard-to-staff  
4 geographic regions and specialized subject areas. The  
5 legislature further finds that this chronic shortage denies  
6 students consistent, high-quality instruction and places an  
7 immense burden on existing school staff.

8       The legislature also finds that to address these vacancies,  
9 the State has increasingly relied on emergency hires and the  
10 recruitment of teachers from foreign countries through the J-1  
11 visa program. While these teachers provide a necessary stopgap,  
12 the legislature notes that the J-1 visa program is inherently  
13 temporary, creating a "revolving door" of turnover that disrupts  
14 student learning and requires continuous recruitment resources.

15       The legislature recognizes that while retired teachers are  
16 eligible to return as substitute teachers, the current  
17 compensation structure for substitutes often fails to adequately



1 recognize their professional credentials. Because substitute  
2 pay is generally standardized, highly qualified retirees are  
3 disincentivized from returning, as the compensation does not  
4 reflect their expert status compared to non-credentialed  
5 substitutes.

6 The legislature believes that re-engaging these retirees is  
7 a fiscal opportunity. By creating a structured pilot program,  
8 the State can fill critical vacancies with experienced local  
9 talent while strengthening the employees' retirement system.  
10 Under this system, the department of education will contribute  
11 the employer's share of the unfunded actuarial accrued liability  
12 for each rehired retiree, paying down state debt without  
13 incurring new pension obligations. Furthermore, the State will  
14 realize cost savings by statutorily excluding these positions  
15 from active recruitment into the Hawaii employer-union health  
16 benefits trust fund.

17 Accordingly, the purpose of this Act is to establish a  
18 five-year critical skills retention pilot program within the  
19 department of education to authorize the rehiring of retired  
20 educators for hard-to-staff positions.



SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to part III, subpart B, to be appropriately designated and to read as follows:

**"§302A- Critical skills retention pilot program. (a)**

There is established within the department the critical skills retention pilot program. The purpose of the pilot program shall be to authorize the department to employ retirants under section 88-9(d)(6).

(b) A retirant may be employed without reenrollment in the employees' retirement system and suffer no loss or interruption of benefits provided under chapters 87A and 88 if the retirant is employed under this section.

(c) Before employing or reemploying a retirant under this section, the superintendent shall certify in writing that:

(1) Either:

(A) The department has conducted a good-faith recruitment effort for the position; or

(B) The position falls within a licensure area or geographic complex designated by the superintendent as having a systemic shortage where continuous recruitment has failed to



1                   produce a sufficient number of qualified non-  
2                   retiree applicants; and

3       (2)   No qualified and available non-retirant applicant  
4           could be identified to fill the vacancy.

5   The superintendent shall establish internal procedures to verify  
6   the certifications, ensuring that the program supplements,  
7   rather than supplants, the permanent workforce.

8       (d)   Employment of any retirant by the department shall be  
9   limited to employment in positions:

10       (1)   Eligible for a hard-to-staff location differential;

11       (2)   Eligible for a special education differential;

12       (3)   Eligible for a Hawaiian language immersion  
13           differential;

14       (4)   Eligible for another differential of an annual amount  
15           of \$3,000 or more as established by the department;

16       (5)   In an area where the percentage of unlicensed  
17           individuals employed as emergency hires pursuant to  
18           sections 302A-801 to 302A-808 exceeds           per cent of  
19           all public school teachers in that area; or

20       (6)   Identified by the superintendent as a hard-to-staff  
21           position.



1 (e) No retirant employed under this section shall have:

2 (1) Been employed by the State or a county during the

3 twelve calendar months prior to the first day of

4 reemployment, except as provided under subsection (i);

5 or

6 (2) Entered into an agreement with the State or a county

7 prior to retiring.

8 (f) The department shall contribute the required

9 percentage of compensation to amortize the employees' retirement

10 system's unfunded actuarial accrued liability.

11 (g) The retirant shall not earn additional service credit

12 or contribute to the pension accumulation fund established under

13 section 88-114.

14 (h) The retirant shall be included in the appropriate

15 bargaining unit under section 89-6 for the payment of dues and

16 grievance protections, but shall be excluded from tenure and

17 promotion provisions.

18 (i) The retirant's term of employment shall not exceed one

19 year; provided that the retirant may be reappointed to

20 additional one-year terms if, before each reappointment:



1       (1) The requirements under subsection (c) are satisfied  
2       again; and

3       (2) The position continues to satisfy the qualifications  
4       under subsection (d).

5       (j) The superintendent may establish a salary schedule for  
6       retirants employed by the department that differs from the  
7       applicable collective bargaining agreement negotiated under  
8       chapter 89; provided that the salary of the retirant shall not  
9       exceed the maximum salary step for the position's classification  
10      in the collective bargaining agreement.

11      (k) For purposes of this section, "retirant" has the same  
12      meaning as defined under section 88-21."

13      SECTION 3. Section 76-16, Hawaii Revised Statutes, is  
14      amended by amending subsection (b) to read as follows:

15      "(b) The civil service to which this chapter applies shall  
16      comprise all positions in the State now existing or hereafter  
17      established and embrace all personal services performed for the  
18      State, except the following:

19      (1) Commissioned and enlisted personnel of the Hawaii  
20      National Guard and positions in the Hawaii National  
21      Guard that are required by state or federal laws or



1 regulations or orders of the National Guard to be  
2 filled from those commissioned or enlisted personnel;

3 (2) Positions filled by persons employed by contract where  
4 the director of human resources development has  
5 certified that the service is special or unique or is  
6 essential to the public interest and that, because of  
7 circumstances surrounding its fulfillment, personnel  
8 to perform the service cannot be obtained through  
9 normal civil service recruitment procedures. Any  
10 contract may be for any period not exceeding one year;

11 (3) Positions that must be filled without delay to comply  
12 with a court order or decree if the director  
13 determines that recruitment through normal recruitment  
14 civil service procedures would result in delay or  
15 noncompliance, such as the Felix-Cayetano consent  
16 decree;

17 (4) Positions filled by the legislature or by either house  
18 or any committee thereof;

19 (5) Employees in the office of the governor and office of  
20 the lieutenant governor, and household employees at  
21 Washington Place;



- 1 (6) Positions filled by popular vote;
- 2 (7) Department heads, officers, and members of any board,  
3 commission, or other state agency whose appointments  
4 are made by the governor or are required by law to be  
5 confirmed by the senate;
- 6 (8) Judges, referees, receivers, masters, jurors, notaries  
7 public, land court examiners, court commissioners, and  
8 attorneys appointed by a state court for a special  
9 temporary service;
- 10 (9) One bailiff for the chief justice of the supreme court  
11 who shall have the powers and duties of a court  
12 officer and bailiff under section 606-14; one  
13 secretary or clerk for each justice of the supreme  
14 court, each judge of the intermediate appellate court,  
15 and each judge of the circuit court; one secretary for  
16 the judicial council; one deputy administrative  
17 director of the courts; three law clerks for the chief  
18 justice of the supreme court, two law clerks for each  
19 associate justice of the supreme court and each judge  
20 of the intermediate appellate court, one law clerk for  
21 each judge of the circuit court, two additional law





1 clerks for the civil administrative judge of the  
2 circuit court of the first circuit, two additional law  
3 clerks for the criminal administrative judge of the  
4 circuit court of the first circuit, one additional law  
5 clerk for the senior judge of the family court of the  
6 first circuit, two additional law clerks for the civil  
7 motions judge of the circuit court of the first  
8 circuit, two additional law clerks for the criminal  
9 motions judge of the circuit court of the first  
10 circuit, and two law clerks for the administrative  
11 judge of the district court of the first circuit; and  
12 one private secretary for the administrative director  
13 of the courts, the deputy administrative director of  
14 the courts, each department head, each deputy or first  
15 assistant, and each additional deputy, or assistant  
16 deputy, or assistant defined in paragraph (16);

17 (10) First deputy and deputy attorneys general, the  
18 administrative services manager of the department of  
19 the attorney general, one secretary for the  
20 administrative services manager, an administrator and  
21 any support staff for the criminal and juvenile



1 justice resources coordination functions, and law  
2 clerks;

3 (11) (A) Teachers, principals, vice-principals, complex  
4 area superintendents, deputy and assistant  
5 superintendents, other certificated personnel,  
6 and no more than twenty noncertificated  
7 administrative, professional, and technical  
8 personnel not engaged in instructional work;  
9 (B) Effective July 1, 2003, teaching assistants,  
10 educational assistants, bilingual or bicultural  
11 school-home assistants, school psychologists,  
12 psychological examiners, speech pathologists,  
13 athletic health care trainers, alternative school  
14 work study assistants, alternative school  
15 educational or supportive services specialists,  
16 alternative school project coordinators, and  
17 communications aides in the department of  
18 education;

19 (C) The special assistant to the state librarian and  
20 one secretary for the special assistant to the  
21 state librarian; and



1 (D) Members of the faculty of the university of  
2 Hawaii, including research workers, extension  
3 agents, personnel engaged in instructional work,  
4 and administrative, professional, and technical  
5 personnel of the university;

6 (12) Employees engaged in special, research, or  
7 demonstration projects approved by the governor;

8 (13) (A) Positions filled by inmates, patients of state  
9 institutions, and persons with severe physical or  
10 mental disabilities participating in the work  
11 experience training programs;

12 (B) Positions filled with students in accordance with  
13 guidelines for established state employment  
14 programs; and

15 (C) Positions that provide work experience training  
16 or temporary public service employment that are  
17 filled by persons entering the workforce or  
18 persons transitioning into other careers under  
19 programs such as the federal Workforce Investment  
20 Act of 1998, as amended, or the Senior Community  
21 Service Employment Program of the Employment and



1 Training Administration of the United States  
2 Department of Labor, or under other similar state  
3 programs;

4 (14) A custodian or guide at Iolani Palace, the Royal  
5 Mausoleum, and Hulihee Palace;

6 (15) Positions filled by persons employed on a fee,  
7 contract, or piecework basis, who may lawfully perform  
8 their duties concurrently with their private business  
9 or profession or other private employment and whose  
10 duties require only a portion of their time, if it is  
11 impracticable to ascertain or anticipate the portion  
12 of time to be devoted to the service of the State;

13 (16) Positions of first deputies or first assistants of  
14 each department head appointed under or in the manner  
15 provided in section 6, article V, of the Hawaii State  
16 Constitution; three additional deputies or assistants  
17 either in charge of the highways, harbors, and  
18 airports divisions or other functions within the  
19 department of transportation as may be assigned by the  
20 director of transportation, with the approval of the  
21 governor; one additional deputy in the department of



1 human services either in charge of welfare or other  
2 functions within the department as may be assigned by  
3 the director of human services; four additional  
4 deputies in the department of health, each in charge  
5 of one of the following: behavioral health,  
6 environmental health, hospitals, and health resources  
7 administration, including other functions within the  
8 department as may be assigned by the director of  
9 health, with the approval of the governor; two  
10 additional deputies in charge of the law enforcement  
11 programs, administration, or other functions within  
12 the department of law enforcement as may be assigned  
13 by the director of law enforcement, with the approval  
14 of the governor; three additional deputies each in  
15 charge of the correctional institutions,  
16 rehabilitation services and programs, and  
17 administration or other functions within the  
18 department of corrections and rehabilitation as may be  
19 assigned by the director of corrections and  
20 rehabilitation, with the approval of the governor; two  
21 administrative assistants to the state librarian; and



1 an administrative assistant to the superintendent of  
2 education;

3 (17) Positions specifically exempted from this part by any  
4 other law; provided that:

5 (A) Any exemption created after July 1, 2014, shall  
6 expire three years after its enactment unless  
7 affirmatively extended by an act of the  
8 legislature; and

9 (B) All of the positions defined by paragraph (9)  
10 shall be included in the position classification  
11 plan;

12 (18) Positions in the state foster grandparent program and  
13 positions for temporary employment of senior citizens  
14 in occupations in which there is a severe personnel  
15 shortage or in special projects;

16 (19) Household employees at the official residence of the  
17 president of the university of Hawaii;

18 (20) Employees in the department of education engaged in  
19 the supervision of students during meal periods in the  
20 distribution, collection, and counting of meal



1 tickets, and in the cleaning of classrooms after  
2 school hours on a less than half-time basis;

3 (21) Employees hired under the tenant hire program of the  
4 Hawaii public housing authority; provided that no more  
5 than twenty-six per cent of the authority's workforce  
6 in any housing project maintained or operated by the  
7 authority shall be hired under the tenant hire  
8 program;

9 (22) Positions of the federally funded expanded food and  
10 nutrition program of the university of Hawaii that  
11 require the hiring of nutrition program assistants who  
12 live in the areas they serve;

13 (23) Positions filled by persons with severe disabilities  
14 who are certified by the state vocational  
15 rehabilitation office that they are able to perform  
16 safely the duties of the positions;

17 (24) The sheriff;

18 (25) A gender and other fairness coordinator hired by the  
19 judiciary;

20 (26) Positions in the Hawaii National Guard youth and adult  
21 education programs;



1 (27) In the Hawaii state energy office in the department of  
2 business, economic development, and tourism, all  
3 energy program managers, energy program specialists,  
4 energy program assistants, and energy analysts;

5 (28) Administrative appeals hearing officers in the  
6 department of human services;

7 (29) In the Med-QUEST division of the department of human  
8 services, the division administrator, finance officer,  
9 health care services branch administrator, medical  
10 director, and clinical standards administrator;

11 (30) In the director's office of the department of human  
12 services, the enterprise officer, information security  
13 and privacy compliance officer, security and privacy  
14 compliance engineer, security and privacy compliance  
15 analyst, information technology implementation  
16 manager, assistant information technology  
17 implementation manager, resource manager, community or  
18 project development director, policy director, special  
19 assistant to the director, and limited English  
20 proficiency project manager or coordinator;





1 (31) The Alzheimer's disease and related dementia services  
2 coordinator in the executive office on aging;

3 (32) In the Hawaii emergency management agency, the  
4 executive officer, public information officer, civil  
5 defense administrative officer, branch chiefs, and  
6 emergency operations center state warning point  
7 personnel; provided that for state warning point  
8 personnel, the director shall determine that  
9 recruitment through normal civil service recruitment  
10 procedures would result in delay or noncompliance;

11 (33) The executive director and seven full-time  
12 administrative positions of the school facilities  
13 authority;

14 (34) Positions in the Mauna Kea stewardship and oversight  
15 authority;

16 (35) In the office of homeland security of the department  
17 of law enforcement, the statewide interoperable  
18 communications coordinator;

19 (36) In the social services division of the department of  
20 human services, the business technology analyst;

21 (37) The executive director and staff of the 911 board;



1 (38) The software developer supervisor and senior software  
2 developers in the department of taxation;

3 (39) In the department of law enforcement, five Commission  
4 on Accreditation for Law Enforcement Agencies, Inc.,  
5 coordinator positions;

6 (40) The state fire marshal and deputy state fire marshal  
7 in the office of the state fire marshal;

8 (41) The administrator for the law enforcement standards  
9 board;

10 (42) In the office of the director of taxation, the data  
11 privacy officer and tax business analysts; ~~[and]~~

12 ~~[+]~~ (43) ~~[+]~~ All positions filled by the Hawaii tourism  
13 authority within the department of business, economic  
14 development, and tourism~~[-]~~; and

15 (44) Retirants employed under section 302A- .

16 The director shall determine the applicability of this  
17 section to specific positions.

18 Nothing in this section shall be deemed to affect the civil  
19 service status of any incumbent as it existed on July 1, 1955."

20 SECTION 4. Section 76-77, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       **"§76-77 Civil service and exemptions.** The civil service  
2 to which this part applies comprises all positions in the public  
3 service of each county, now existing or hereafter established,  
4 and embraces all personal services performed for each county,  
5 except the following:

6       (1) Positions in the office of the mayor; provided that  
7           the positions shall be included in the classification  
8           systems;

9       (2) Positions of officers elected by public vote,  
10           positions of heads of departments, and positions of  
11           one first deputy or first assistant of heads of  
12           departments;

13       (3) Positions of deputy county attorneys, deputy  
14           corporation counsel, deputy prosecuting attorneys, and  
15           law clerks;

16       (4) Positions of members of any board, commission, or  
17           agency;

18       (5) Positions filled by students; positions filled through  
19           federally funded programs that provide temporary  
20           public service employment such as the federal  
21           Comprehensive Employment and Training Act of 1973; and



1 employees engaged in special research or demonstration  
2 projects approved by the mayor, for which projects  
3 federal funds are available;

4 (6) Positions of district judges, jurors, and witnesses;

5 (7) Positions filled by persons employed by contract where  
6 the personnel director has certified that the service  
7 is special or unique, is essential to the public  
8 interest, and that because of the circumstances  
9 surrounding its fulfillment, personnel to perform the  
10 service cannot be recruited through normal civil  
11 service procedures; provided that no contract pursuant  
12 to this paragraph shall be for any period exceeding  
13 one year[~~7~~], except for contracts authorized under  
14 section 302A- ;

15 (8) Positions of a temporary nature needed in the public  
16 interest where the need does not exceed ninety days;  
17 provided that before any person may be employed to  
18 render temporary service pursuant to this paragraph,  
19 the director shall certify that the service is of a  
20 temporary nature and that recruitment through normal  
21 civil service recruitment procedures is not



1 practicable; and provided further that the employment  
2 of any person pursuant to this paragraph may be  
3 extended for good cause for an additional period not  
4 to exceed ninety days upon similar certification by  
5 the director;

6 (9) Positions of temporary election clerks in the office  
7 of the county clerk employed during election periods;

8 (10) Positions specifically exempted from this part by any  
9 other state statutes;

10 (11) Positions of one private secretary for each department  
11 head; provided that the positions shall be included in  
12 the classification systems;

13 (12) Positions filled by persons employed on a fee,  
14 contract, or piecework basis who may lawfully perform  
15 their duties concurrently with their private business  
16 or profession or other private employment, if any, and  
17 whose duties require only a portion of their time,  
18 where it is impracticable to ascertain or anticipate  
19 the portion of time devoted to the service of the  
20 county and that fact is certified by the director;



1 (13) Positions filled by persons with a severe disability  
2 who are certified by the state vocational  
3 rehabilitation office as able to safely perform the  
4 duties of the positions;

5 (14) Positions of the housing and community development  
6 office or department of each county; provided that  
7 this exemption shall not preclude each county from  
8 establishing these positions as civil service  
9 positions;

10 (15) The following positions in the office of the  
11 prosecuting attorney: private secretary to the  
12 prosecuting attorney, secretary to the first deputy  
13 prosecuting attorney, and administrative or executive  
14 assistants to the prosecuting attorney; provided that  
15 the positions shall be included in the classification  
16 systems; and

17 (16) Positions or contracts for personal services with  
18 private persons or entities for services lasting no  
19 longer than one year and at a cost of no more than  
20 \$750,000; provided that the exemption under this  
21 paragraph shall apply to contracts for building,



1           custodial, and grounds maintenance services with  
2           qualified community rehabilitation programs, as  
3           defined in section 103D-1001, lasting for no longer  
4           than a year and at a cost of no more than \$3,000,000  
5           in the aggregate per private person or entity,  
6           regardless of the number of contracts or qualified  
7           community rehabilitation programs utilized for the  
8           personal service.

9           The director shall determine the applicability of this  
10          section to specific positions and shall determine whether or not  
11          positions exempted by paragraphs (7) and (8) shall be included  
12          in the classification systems.

13          Nothing in this section shall be deemed to affect the civil  
14          service status of any incumbent private secretary of a  
15          department head who held that position on May 7, 1977."

16          SECTION 5. Section 87A-1, Hawaii Revised Statutes, is  
17          amended by amending the definition of "employee-beneficiary" to  
18          read as follows:

19          ""Employee-beneficiary" means:

20          (1) An employee;



(2) The beneficiary of an employee who is killed in the performance of the employee's duty, including:

(A) The surviving child, if there is no surviving parent who is eligible to be an employee-beneficiary and the child is unmarried and under the limiting age as defined by the board; and

(B) The surviving spouse, if the surviving spouse does not subsequently remarry;

(3) An employee who retired prior to 1961; and

(4) The beneficiary of a retired member of the employees' retirement system; a county pension system; or a police, firefighters, or bandsmen pension system of the State or a county, upon the death of the retired member, including:

(A) The surviving child, if there is no surviving parent who is eligible to be an employee-beneficiary and the child is unmarried and under the limiting age as defined by the board; and

(B) The surviving spouse, if the surviving spouse does not subsequently remarry;





1 provided that the employee, the employee's beneficiary, or the  
2 beneficiary of the deceased retired employee is deemed eligible  
3 by the board to participate in a health benefits plan or  
4 long-term care benefits plan under this chapter.

5 "Employee-beneficiary" shall not include any retirant  
6 employed under section 302A- during the retirant's employment  
7 under that section."

8 SECTION 6. Section 88-9, Hawaii Revised Statutes, is  
9 amended by amending subsection (d) to read as follows:

10 "(d) A retirant may be employed without reenrollment in  
11 the system and suffer no loss or interruption of benefits  
12 provided by the system or under chapter 87A if the retirant is  
13 employed:

14 (1) As an elective officer pursuant to section 88-42.6(c)  
15 or as a member of the legislature pursuant to section  
16 88-73(d);

17 (2) As a juror or precinct official;

18 (3) As a part-time or temporary employee excluded from  
19 membership in the system pursuant to section 88-43, as  
20 a session employee excluded from membership in the  
21 system pursuant to section 88-54.2[+], [+] or as any



1 other employee expressly excluded by law from  
2 membership in the system; provided that:

3 (A) The retirant was not employed by the State or a  
4 county during the six calendar months prior to  
5 the first day of reemployment; and

6 (B) No agreement was entered into between the State  
7 or a county and the retirant, prior to the  
8 retirement of the retirant, for the return to  
9 work by the retirant after retirement;

10 (4) In a position identified by the appropriate  
11 jurisdiction as a labor shortage or difficult-to-fill  
12 position; provided that:

13 (A) The retirant was not employed by the State or a  
14 county during the twelve calendar months prior to  
15 the first day of reemployment;

16 (B) No agreement was entered into between the State  
17 or a county and the retirant, prior to the  
18 retirement of the retirant, for the return to  
19 work by the retirant after retirement; and

20 (C) Each employer shall contribute to the pension  
21 accumulation fund the required percentage of the



1 rehired retirant's compensation to amortize the  
2 system's unfunded actuarial accrued liability;  
3 [~~or~~]

4 (5) As a teacher or an administrator in a teacher shortage  
5 area identified by the department of education or in a  
6 charter school or as a mentor for new classroom  
7 teachers; provided that:

8 (A) The retirant was not employed by the State or a  
9 county during the twelve calendar months prior to  
10 the first day of reemployment;

11 (B) No agreement was entered into between the State  
12 or a county and the retirant prior to the  
13 retirement of the retirant, for the return to  
14 work by the retirant after retirement; and

15 (C) The department of education or charter school  
16 shall contribute to the pension accumulation fund  
17 the required percentage of the rehired retirant's  
18 compensation to amortize the system's unfunded  
19 actuarial accrued liability~~[or]~~; or

20 (6) In a position under section 302A- ."



1       SECTION 7. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 8. This Act shall take effect on July 1, 3000;  
4 provided that on June 30, 2031, this Act shall be repealed and  
5 sections 76-16, 76-77, 87A-1, and 88-9, Hawaii Revised Statutes,  
6 shall be reenacted in the form in which they read on the day  
7 prior to the effective date of this Act.



**Report Title:**

DOE; Hard-to-Staff Positions; Pilot Program; Employment;  
Retirants

**Description:**

Establishes a 5-year pilot program to authorize the Department of Education to rehire retired teachers and educational officers for hard-to-staff positions. Repeals 6/30/2031. Effective 7/1/3000. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

