



STATE OF HAWAII
BOARD OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

September 19, 2019

TO: Human Resources Committee

FROM: Dwight Takeno
Chairperson, Human Resources Committee

AGENDA ITEM: Update on work ensuring Board policies support the recommendations of the Special Education Task Force's 2018 summative report and the English Learners Task Force's 2018 summative report (HR Strategic Priority 1): Identification of relevant Board policies

I. EXECUTIVE SUMMARY

In accordance with the work plan and timeline the Human Resources Committee ("Committee") adopted at its last meeting, the Department has provided the following information (in a memorandum attached as **Exhibit A**):

- A list of identified Board policies the Department recommends the Committee review; and
- A list of other policies, rules, regulations, or guidelines that affect or could affect implementation of the taskforce recommendations.

II. BACKGROUND

At its July 18, 2019 general business meeting, the Board of Education ("Board") adopted committee strategic priorities for the 2019-2020 school year. Among the adopted priorities, the Human Resources Committee ("Committee") is to "ensure Board policies under [the Committee's] jurisdiction support the recommendations provided in the Special Education Task Force's 2018 summative report and the English Learners Task Force's 2018 summative report." The following indicators will determine the Committee's success in achieving this priority:

- By February 20, 2020, the Committee will thoroughly review Board Policies 204-1, 204-3, and any other relevant Board policies and generate a comprehensive report

that adequately describes any policy changes necessary to support the taskforce recommendations.

- By May 7, 2020, all (100%) taskforce members, who represent key stakeholders for their respective areas, will agree that the recommendations in the Committee's report support the taskforce recommendations.
- By May 7, 2020, the Board will adopt all (100%) policy changes recommended by the Committee.

The Department of Education ("Department") presented the Special Education Task Force and English Learner Task Force findings and recommendations at the Board's May 17, 2018 general business meeting. The recommendations in the Special Education Task Force's summative report relevant to the Committee's jurisdiction include, but are not limited to:

- Designing fundamental professional development for all stakeholders;
- Implementing a professional development system across state offices, complex areas, and schools;
- Expanding partnerships to support the licensing and certification for special education teachers;
- Expanding mentoring and networking for special education teachers; and
- Improving data collection and monitoring practices.

The recommendations in the English Learners Task Force's summative report¹ relevant to the Committee's jurisdiction include, but are not limited to:

- Determining professional development pathways for pre-service teachers, Department teachers, and part-time teachers to obtain minimum second language acquisition competencies;
- Supporting the recruitment of qualified and certified teachers and support staff that also meet the needs of distinct populations; and
- Recruiting certified TESOL teachers to service English Learners.

At its August 1, 2019 Human Resources Committee ("Committee") meeting, the Committee adopted a work plan and timeline to achieve the aforementioned priority where the Department provides advice and information as necessary. Under this work plan, the Committee tasks Committee members with reviewing Board policies, determining how existing policies support or do not support the taskforce recommendations, and recommending new or amended policies to better support the taskforce recommendations. Committee members could seek direction from the Committee and/or request information

¹ The Special Education Task Force's summative report is attached to Superintendent Christina Kishimoto's memorandum dated May 17, 2018, available here: http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_Agenda%20V_05172018_Presentation%20on%20findings%20of%20Superintendent's%20English%20learner%20task%20force.pdf

from the Department. The Committee reviews any recommendations from its members and determines the proposed policy changes to incorporate into the Committee's report.

The Committee also adopted the following timeline at the August 1, 2019 Committee meeting. The row highlighted in yellow describes the tasks are scheduled to be completed today. Note that the Student Achievement Committee has a similar strategic priority, so this Committee is only reviewing policies related to its jurisdiction of human resources.

Date	Activity
August 1, 2019 Committee Meeting	The Committee tasks all of its members to review the Board policies and come prepared for discussion at the next Committee meeting.
September 19, 2019 Committee Meeting	The Committee discusses and identifies the Board policies relevant for review. The Committee tasks specific Committee members to review and make recommendations on specific policies. The Committee determines a timeline for receiving Committee member recommendations. The Committee tasks the Department with providing any information or expertise necessary for the Committee's discussions.
November 7, 2019 Committee Meeting	Possible recommendations from Committee members, depending on timeline. The Committee tasks the Department with providing any information or expertise necessary for the Committee's decisions on February 6, 2020.
January 16, 2020 Committee Meeting	The Committee receives its final recommendations, reviews all recommendations, and decides on the recommendations to include in its report.
February 20, 2020 Committee Meeting	The Committee adopts a report with proposed policy changes to support the taskforce recommendations and provides it to the members of the taskforces for review and comment.
April 16, 2020 Committee Meeting	The Committee considers comments from the taskforce members and, if necessary, revises its report and recommendations.
May 7, 2020 Committee Meeting	The Board considers the Committee's report and acts on its recommendations.

Attached as **Exhibit A** is a memorandum from the Department with the following information:

- A list of identified Board policies the Department recommends the Committee review; and
- A list of other policies, rules, regulations, or guidelines that affect or could affect implementation of the taskforce recommendations.

Exhibit A

September 12, 2019 Memorandum from Assistant Superintendent Cynthia Covell regarding
HR Strategic Priority 1




STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF TALENT MANAGEMENT

September 12, 2019

TO: The Honorable Dwight Takeno
Chairperson, Human Resources Committee

FROM: Cynthia A. Covell
Assistant Superintendent 

SUBJECT: **BOE IOU 445: HR Strategic Priority 1**

This memorandum is in response to your request dated August 1, 2019, regarding the review of all Board policies and any other policies, rules, regulations, or guidelines, with respect to human resources, that could affect implementation of the task force recommendations from the Special Education and English Learners Task Forces for BOE HR Strategic Priority 1.

The Office of Talent Management (OTM) has reviewed the following BOE policies with respect to the recommendation of the Special Education and English Learners Task Forces:

- [E-201](#) High Performing Employees
- [201-3](#) Collective Bargaining
- [E-202](#) Highly Effective School Administration (Strong, Visible School Leadership)
- [202-1](#) School Leadership
- [E-203](#) Highly Effective Teaching
- [203-1](#) Duties and Responsibilities of Teachers
- [203-2](#) Developmentally-Appropriate Teaching Strategies
- [E-204](#) Hiring, Training and Retention of Employees
- [204-1](#) Teacher Recruitment, Retention, and Employment
- [204-3](#) Personnel Development
- [204-4](#) Employee Certification
- [204-5](#) Compensation and Classification

Chapters 76, 88, and 302A of the Hawaii Revised Statute (HRS) were also reviewed for applicable employment-related law.

Based on this review, the recommendations outlined by the Special Education and English Language Task Forces appear to fall within the authority of current policies, rules, regulations, or guidelines.

The Honorable Dwight Takeno
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However, the following recommendations need further clarification to determine if certain laws or collective bargaining may apply. The Special Education Task Force report includes a recommendation to recruit retired special education teachers under exemptions afforded by Act 246. In researching Act 246 of 2016 and the resulting statute HRS 76-28.5, the law does not provide the exemption claimed in the task force recommendation.

The rehiring of State retirees remains governed under HRS 88-9 and 88-98. Under these statutes, retirees would be allowed to be reemployed in teacher shortage areas and collect pension benefits pending a required break in service. The following links provide the specific reference which are also attached:

- <http://ers.ehawaii.gov/wp-content/uploads/2019/07/ERS-212-Ret-Return-to-Work-201809.pdf>
- https://www.capitol.hawaii.gov/hrscurrent/Vol02_Ch0046-0115/HRS0088/HRS_0088-0009.htm

The State Employees' Retirement System (ERS) should be consulted in order to implement this recommendation.

As to the English Learner Task Force recommendation to create incentives to recruit certified TESOL teachers to service English Learners, it depends on the type and method of incentive. In-service incentives, bonuses, pay differentials, or other forms of compensation will require bargaining with HSTA. Pre-service incentives such as relocation or recruitment bonuses, tuition stipends, or loan forgiveness generally do not require bargaining. However, statutory authority may be required. The Department of Education is reviewing this with the attorney general. If required, the DOE will be introducing legislation for the upcoming 2020 session.

CAC:sb
Attachment

c: BOE Hawaii

POLICY E-201

HIGH PERFORMING EMPLOYEES

The Department shall create a work environment in which employees have the necessary information to do their job, are continually supported in their growth, have a solid linkage between performance and reward and an understanding of their importance in the whole organization. The Department shall engage in professional personnel practices in hiring, appraisal, assessment, development or discipline. The Department's management practices shall provide control and direction to the school system and its employees to follow Board policy, and set procedures which develop a culture of efficient and responsiveness to all families and community members.

Rationale: When employees have the necessary information to do their job, are continually supported in their growth, have a solid linkage between performance and reward and an understanding of their importance in the whole organization, the Department creates an environment that develops high performing employees. The Department shall operate with the highest level of professionalism and accountability.

[Approved: 01/20/2015]

POLICY 201-3

COLLECTIVE BARGAINING

The Department shall provide for and implement collective bargaining for its employees in accordance with law.

Rationale: The Board believes that shared decision-making through collective bargaining is fundamental to good management and positive employee relations.

[Approved: 04/07/2015 (as Board Policy 201.3); amended: 06/21/2016 (renumbered as Board Policy 201-3)]

Former policy 1110-4 history: approved: 08/1970; see: Act 171, SLH 1970

POLICY E-202

HIGHLY EFFECTIVE SCHOOL ADMINISTRATION (STRONG, VISIBLE SCHOOL LEADERSHIP)

The Department shall ensure that each school has strong, visible school leadership. School level leadership shall demonstrate the capacity to implement systemic change, including adapting and innovating; modeling optimism and fairness; overseeing school transformation; and promoting student success.

Rationale: The Board of Education ("Board") believes that strong school leadership is key to achieving excellence in our education system.

[Approved: 04/07/2015]

POLICY 202-1

SCHOOL LEADERSHIP

Each school shall have strong, visible school leadership and shall be headed by a principal, acting principal or teacher-in-charge whose duties shall include, but not be limited to, those identified in state law.

[Approved: 01/20/2015 (as Board Policy 202.1); amended: 06/21/2016 (renumbered as Board Policy 202-1)]

Former policy 1700-1 history: approved: 08/1970; see: S.298-2, HRS

POLICY E-203

HIGHLY EFFECTIVE TEACHING

The Department shall ensure that students benefit from highly effective teaching by providing the appropriate recruitment, mentoring, training, support and evaluation of its teachers.

Rationale: The Board of Education recognizes that a teacher is the key to student achievement.

[Approved: 01/20/2015]

POLICY 203-1

DUTIES AND RESPONSIBILITIES OF TEACHERS

The teacher, under the supervision and direction of the principal, shall be responsible for the teaching of students assigned to the teacher and shall perform other duties assigned by the principal in accordance with applicable policies, subject to the collective bargaining agreement.

[Approved: 01/20/2015 (as Board Policy 203.1); amended: 06/21/2016 (renumbered as Board Policy 203-1)]

Former policy 1900-1 history: approved: 08/1970

POLICY 203-2

DEVELOPMENTALLY-APPROPRIATE TEACHING STRATEGIES

The Department of Education shall provide all teachers and school administrators with research-based information about how all children develop and learn, including: (1) the interrelatedness and interdependency of children's physical, social, emotional, and cognitive development; (2) a planned approach to the development of knowledge and skills articulated to address, as appropriate, academic performance standards as approved by the Board of Education; (3) recognition that development progresses at varying rates among children within an age group and within individual children; (4) the importance of capitalizing on optimal periods for specific types of development and learning; (5) recognition that children come to understand their world through active physical involvement, social engagement, and culturally-transmitted knowledge; and (6) the importance of play in a child's development.

Teachers shall apply knowledge of the above characteristics of students to ensure that all students will receive developmentally-appropriate instruction to support attainment of state performance standards as approved by the Board of Education.

Teaching and learning activities in all primary grades shall meet each child's developmental readiness within Department of Education approved guidelines. Teachers shall appropriately adapt activities based on student data indicative of readiness that have been obtained through such sources as timely and appropriate assessment, careful observation, interviews of parents, and examination of preschool records, to ensure that all children learn and make adequate progress. Teachers shall make every effort, within available resources, to provide for children who demonstrate special interests and skills or exhibit greater than normal difficulty in learning.

Rationale: The Board of Education recognizes that children enter school diverse in their physical, social, emotional, and cognitive development.

[Approved: 04/07/2015 (as Board Policy 203.2); amended: 06/21/2016 (renumbered as Board Policy 203-2)]

Former policy 2235 history: approved: 01/1999; amended: 01/05/2006

POLICY E-204

HIRING, TRAINING AND RETENTION OF EMPLOYEES

The Department shall ensure that a dynamic and efficient staff, dedicated to excellence in public education and aligned with Department goals/outcomes, is recruited, managed, developed, and retained within the applicable legal, contractual and financial limits and obligations. The Department shall use a long-range and strategic approach to managing its human resources that are so essential to educational excellence. The Department shall ensure that there are in place effective procedures related to: (1) recruitment, (2) evaluation and accountability, (3) continuing education training, and (4) employee health and wellness.

Rationale: A critical dimension of a quality educational program is the quality, commitment and development of qualified and professional staff in every classification and type of employment.

[Approved: 04/07/2015]

POLICY 204-1

TEACHER RECRUITMENT, RETENTION, AND EMPLOYMENT

Recruitment and employment of trained applicants shall be active, selective, competitive, and based on the concept of preferential hiring. The process of preferential hiring requires: (1) the establishment of a pool of qualified applicants who most closely match the Department of Education's "Profile of an Effective Teacher"; (2) selection from the applicant pool; and (3) consideration of students' education and welfare and the good of the public school system. This process calls for looking beyond certification/licensure qualifications of applicants. It requires rigorous efforts to hire the best qualified candidates to consistently achieve ever higher levels of student growth and development within the public schools of Hawaii. A multivariate screening system shall be applied to determine employment entry/admission into the applicant pool of eligible candidates for teacher positions.

The Department of Education ("Department") shall develop and implement a strategic plan to recruit and retain qualified teachers. The strategic plan shall: (1) identify recruitment and retention goals; (2) implement strategies to achieve the goals; (3) identify specific teaching shortage areas and geographically hard-to-fill areas; and (4) establish a continuing community outreach program to encourage and assist residents of communities experiencing high teacher turnover to become teachers.

The Superintendent of Education employs teachers. Primary considerations for employment shall be the needs of students and programs at schools. Hiring shall be based on the selection of eligible professionals who most exemplify the Department's "Profile of an Effective Teacher."

TEACHER PLACEMENT

Placement of teachers shall be by matching the qualifications, personal attributes, and training of the individual with the requirements of the position. An effective match of the qualifications of the individual with the requirements of the position ensures attainment of the Department's mission.

TENURE

Tenure in the Department is obtained by continued employment based on successful completion of probationary requirements and demonstrated competency at progressively higher levels of performance.

Upon being hired, teachers shall serve no less than six (6) semesters of probation and no more than ten (10). Probationary teachers shall be evaluated each year through the same process and using the same instruments and measures as tenured teachers.

All probationary teachers shall participate in the Department's mentoring program, as guided by the Hawaii Teacher Induction Program Standards.

Any probationary teacher rated "unsatisfactory" through an annual overall rating shall be dismissed. Any probationary teacher rated "marginal" in any annual overall rating, shall be given immediate assistance for the next year, and shall be dismissed if not rated "effective" or better in the year immediately following the marginal rating. Before completing the probationary

period, each teacher shall complete two consecutive annual overall ratings with a rating of "effective" or better.

If the Unit 5 collective bargaining agreement provides for fewer than six (6) semesters of probation, the Department shall extend the probationary period of any teacher who receives an overall evaluation rating of less than "effective" in the second year of the probationary period.

The Department shall develop a process whereby upon completing probation and being offered regular employment with the Department, teachers shall receive a one-time financial recognition of this professional status, which shall not be added to the base salary for any purpose.

New teachers who have not completed a State Approved Teacher Education Program ("SATEP") and are hired at the Instructor level shall not be eligible to receive probationary credit until they have received a degree from a SATEP and are properly licensed.

EQUAL EMPLOYMENT

The recruitment and employment policy shall be implemented throughout the Department of Education and shall be the responsibility of the Superintendent of Education and all State, district, and school personnel. The manner in which this policy is to be implemented shall be the essence of the Department of Education's Equal Employment Opportunity and Affirmative Action Program.

[Approved: 01/20/2015 (as Board Policy 204.1); amended: 06/21/2016 (renumbered as Board Policy 204-1)]

Former policy 5100 history: revised: 09/1970; amended: 10/1974, 08/1975, 06/1986, 03/1998, 09/15/2005, 04/17/2012

POLICY 204-3

PERSONNEL DEVELOPMENT

To foster the very best efforts of professionals, the Department shall endeavor to provide opportunities for continuing development to teachers and to potential and incumbent educational officers in an environment of trust and respect for the individual. The Department shall endeavor to conduct and maintain a continuous and comprehensive program of professional development, designed to enhance the competencies and performance of its professional staff toward achieving desired educational outcomes for students.

In its management of personnel, the Department shall be guided by the concept of human dignity and human worth. This means that personnel must be selected through merit, that personnel can be developed to their fullest potential to accomplish the goals and objective of the Department of Education, given the opportunity and appropriate support system.

TEACHER EDUCATION PROGRAM

The Department, in cooperation with accredited institutions of higher education, may permit pre-service teachers in teacher education programs to teach, participate, and observe in the public schools of Hawaii, upon verification by the institutions of their ability to function effectively in Department classrooms. Such placements should contribute to the best interests of the Department and its students.

PROBATION

Initial Probation. Probation in personnel development is a period to acknowledge the potential for growth.

For the employee on initial probation, it is a period of intense self-examination to sort and refine the assets one brings to the new situation to the best advantage; it is a time to test one's capabilities to achieve results. From this initial assay, the individual derives a profile of strengths and needs on which to develop a program of self-improvement or development, which is a personal investment in one's professional growth.

For the institution, this is a time of close scrutiny of performance and responsible assessment of strengths and needs on which to develop a program of direct and immediate support. It is a time of calculated investment of resources to nurture the development of individuals in the Department's critical work force.

Probation when Promoted. In the total scheme of personnel development, individuals in the organization are motivated to higher levels of performance by upward movements within the profession. Such a movement into a new position signals a time of realignment of strengths and needs. This is a period of acknowledging the potential for growth in a position of choice. As such, the individual conducts a self-assessment from a base of past experiences to derive an abbreviated profile of strengths and needs on which to develop a selective program of improvement or development. The institution conducts a concentrated assessment to determine organizational fit, and designs appropriate programs of development to strengthen specific areas of needs. It is a time for the judicious use of resources to bring the individual up to optimal performances to achieve targeted goals.

CONTINUING EDUCATION PROGRAM

The Department shall establish and maintain a program of continuing education that includes workshops, institutes, courses, and other educational activities in cooperation with educational institutions and professional agencies. The program shall be based on expressed and perceived needs, broad-based participation, self and institutional initiatives, and on progressive development.

EDUCATIONAL OFFICERS PROFESSIONAL DEVELOPMENT PROGRAMS

The Department shall make available systematic provisions for those employees with leadership and managerial potential to be trained for levels of management in the system. The professional development shall be based on qualifying standards and progressive instruction.

PROGRAM MANAGEMENT

Consistent administration of Department policies shall be achieved through open and continuous communication and professional development. Decisions will be made at the most appropriate administrative levels. There shall be compliance monitoring by post-audit to assure quality performance and decision-making based on sound management principles.

Rationale: Continuing development and its corollary concept of self-assessment identify the exemplary practicing professional.

[Approved: 01/20/2015 (as Board Policy 204.3); amended: 06/21/2016 (renumbered as Board Policy 204-3)]

Former policy 5600 history: reviewed: 09/01/1970; amended: 10/1974, 06/1986, 12/1995

POLICY 204-4

EMPLOYEE CERTIFICATION

EMPLOYEE CERTIFICATION PROGRAM

The Department of Education shall administer a program for the certification of Department of Education employees in order to support the continued, competent performance and development of its professional employees, and to recognize high levels of competence and performance in its employees.

The Department of Education shall establish a certification program for school administrators who are either included in or excluded from Collective Bargaining Unit 06 based on competencies delineated in the Department of Education's Profile of an Effective School Leader and Profile of an Effective Educational Administrator; Complex-Area, District and State Levels.

EDUCATION PROGRAM APPROVAL

The Department of Education shall establish and maintain a cooperative relationship with training institutions to provide programs to meet the educational and experiential requirements for employee certification. The education programs shall reflect the dynamic and changing needs of the Department of Education.

[Approved: 02/17/2015 (as Board Policy 204.4); amended: 06/21/2016 (renumbered as Board Policy 204-4)]

Former policy 5300 history: reviewed: 09/01/1970, 10/1974; amended: 06/1986, 12/1991, 04/1997, 11/2001, 06/2008

POLICY 204-5

COMPENSATION AND CLASSIFICATION

The Department of Education shall establish, maintain and administer appropriate classification and compensation systems for teachers and educational officers in accordance with State of Hawaii statutes, Department regulations, and collective bargaining agreements.

Any pay increases for teachers and school-level educational officers in the Department shall be based on an evaluation of the performance of those employees and only employees who receive a rating of "effective" or higher will be eligible to receive such pay increases.

The Department shall develop a process whereby teachers and school-level educational officers who are rated "highly effective" on their annual evaluation shall be eligible to receive financial recognition of this professional accomplishment, which shall not be added to or increase base compensation.

New teachers who do not hold a degree in a State Approved Teacher Education Program ("SATEP") shall be placed in the teacher salary schedule on the Instructor level. Teachers at the Instructor level shall not be eligible for step movement or any other increase in compensation until they have received a degree from a SATEP and are properly licensed.

[Approved: 01/20/2015 (as Board Policy 204.5); amended: 06/21/2016 (renumbered as Board Policy 204-5)]

Former policy 5200 history: approved: 06/1986; amended: 08/1989, 04/17/2012

Employees' Retirement System (ERS)
RETIRANT RETURNING TO WORK

If you are an ERS retirant considering returning to State or County employment, please review and consider the following information:

Position Type	Required Break	Impact to Pension	Notes
Non ERS Membership	6 months	None. Pension will continue if employed after the required break fulfilled.	Examples of positions: Temporary, less than 50% FTE, substitute teaching, etc.
Difficult to Fill or Labor Shortage	12 months	None. Pension will continue if employed after the required break fulfilled.	These positions must meet the criteria designated by the Director of Human Resource or Human Resource Management Chief Executive of the appropriate jurisdiction. In addition, an annual report detailing the employment of the number of retirants in these difficult to fill or labor shortage positions must be submitted to the Legislature.
ERS Membership	n/a	Pension suspended until employment ends.	Retirants will be re-enrolled in their previous retirement plan. Additional benefits accrued under re-employment will be "tacked-on" to the previous pension. Note: Pensions with benefit limitations still apply to this employment period.

State employers include, and are not limited to, the State executive branch, the University of Hawaii, the Research Corporation at the University of Hawaii, the Hawaii Health Systems Corporation, the Department of Education, the Office of Hawaiian Affairs, the Judiciary, the Legislative branch of the State. County employers include the City and County of Honolulu and the Counties of Hawaii, Kauai, and Maui.

§88-9 Employment of retirants. (a) A retirant may not be employed by the State or by any county unless the retirant is reenrolled in the system pursuant to this chapter, or unless the employment, without reenrollment, is authorized by this section. A retirant whose employment without reenrollment in the system is authorized by this section shall acquire no service credit or retirement rights under this chapter with respect to the employment and shall not be considered to be in service for purposes of this chapter.

(b) Any retirant employed in violation of this section shall:

(1) Reimburse the system for any retirement allowance or other benefit received from the system during the period or periods of employment in violation of this section, plus interest thereon at the rate of eight per cent per annum;

(2) Pay the system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of employment in violation of this section, plus interest thereon at the rate of eight per cent per annum; and

(3) Contribute toward reimbursement of the system for administrative expenses incurred in responding to the situation, to the extent that the retirant is determined by the executive director to be at fault.

(c) Any employer that employs a retirant in violation of this section shall:

(1) Pay to the system an amount of money equal to the employer contributions that would otherwise have been paid for the period or periods of employment in violation of this section, plus interest thereon at the rate of eight per cent per annum; and

(2) Contribute toward reimbursement of the system for administrative expenses incurred in responding to the situation, to the extent that the employer is determined by the executive director to be at fault.

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

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

(2) As a juror or precinct official;

(3) As a part-time or temporary employee excluded from membership in the system pursuant to section 88-43, as a session employee excluded from membership in the system pursuant to section 88-54.2, as the president and chief executive officer of the Hawaii tourism authority excluded from membership in the system pursuant to section 201B-2, or as any other employee expressly excluded by law from membership in the system; provided that:

- (A) The retirant was not employed by the State or a county during the six calendar months prior to the first day of reemployment; and
- (B) No agreement was entered into between the State or a county and the retirant, prior to the retirement of the

retirant, for the return to work by the retirant after retirement;

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

- (A) The retirant was not employed by the State or a county during the twelve calendar months prior to the first day of reemployment;
- (B) No agreement was entered into between the State or a county and the retirant, prior to the retirement of the retirant, for the return to work by the retirant after retirement; and
- (C) Each employer shall contribute to the pension accumulation fund the required percentage of the rehired retirant's compensation to amortize the system's unfunded actuarial accrued liability; or

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

- (A) The retirant was not employed by the State or a county during the twelve calendar months prior to the first day of reemployment;
- (B) No agreement was entered into between the State or a county and the retirant prior to the retirement of the retirant, for the return to work by the retirant after retirement; and
- (C) The department of education or charter school shall contribute to the pension accumulation fund the required percentage of the rehired retirant's compensation to amortize the system's unfunded actuarial accrued liability.

(e) This section does not waive any provision of chapter 76 or 89 that may be applicable to a position for which a retirant is employed pursuant to this section.

(f) No later than twenty days prior to the convening of each regular legislative session, the director of human resources of the appropriate state jurisdiction or the human resources management chief executive of each county shall submit an annual report to the legislature detailing the employment of retirants under paragraphs (4) and (5) of subsection (d), including the number and positions of retirants. [L 2010, c 179, §2; am L 2013, c 23, §2]