

TO: Directors of Schools and Public Charter School Leaders  
FROM: Christy Ballard, General Counsel  
DATE: October 10, 2022  
SUBJECT: **Retired Educator Reemployment**

Chapter 821 of the Public Acts of 2022, now codified at T.C.A. § 8-36-822, was passed by the Tennessee General Assembly to allow recent retirees to return to work in public schools while continuing to receive most of their retirement benefits. This new law is in addition to the other laws which also authorize the reemployment of retirees by school districts when no other qualified candidates are available. Please find the new law and an overview of all of these laws below to assist you in better understanding all options when considering hiring a retiree.

**New Law - T.C.A. § 8-36-822. Reemployment as teacher, substitute teacher, or bus driver after retirement.**

*(a) Notwithstanding another law to the contrary, a retired member of the Tennessee consolidated retirement system or of a superseded system, or of a local retirement fund established pursuant to chapter 35, part 3 of this title may be reemployed in a position covered by the retirement system without the loss or suspension of the retired member's Tennessee consolidated retirement system benefits; provided, that the following conditions are met:*

- (1) The retired member is reemployed as a kindergarten through twelfth (K-12) grade teacher as defined in § 8-34-101, as a kindergarten through twelfth (K-12) grade substitute teacher, or as a kindergarten through twelfth (K-12) grade school bus driver;*
- (2) The retired member is not reemployed until the expiration of at least sixty (60) calendar days from the member's effective date of retirement;*
- (3) During the reemployment, the retirement benefit payable to the retired member must be reduced to seventy percent (70%) of the retirement allowance the member would have otherwise been entitled to receive;*
- (4) The retired member's reemployment cannot exceed one (1) year; however, the retired member may be reemployed for additional one-year periods; provided, that the conditions contained in this section are met for each period of reemployment;*
- (5) To fund the liability created by this section, the retired member's new employer shall pay to the Tennessee consolidated retirement system during each period of reemployment the greater of:
  - (A) A payment equal to the amount the employer would have contributed to the retirement system had the retired member been a member of the retirement system during the period of reemployment; or*
  - (B) An amount equal to five percent (5%) of the retired member's pay rate;**
- (6) The retired member is not eligible to accrue additional retirement benefits as a result of the member's reemployment;*
- (7) Upon the reemployment of the retired member, the retired member's new employer shall:
  - (A) Notify the retirement system of the member's reemployment with documents or information required by the retirement system; and*
  - (B) Certify in writing to the retirement system that the retired member has the requisite experience and training for the position to be filled and that no other qualified persons are available to fill the position; and**
- (8) The retiree is not drawing disability retirement benefits under chapter 36, part 5 of this title.*

(b) This section is repealed on June 30, 2025.

In addition to T.C.A. § 8-36-822, T.C.A § 8-36-805 and T.C.A. § 8-36-821 remain in effect and provide their own requirements and procedures for school districts to reemploy retirees. Some general comparisons are included in the chart below but all requirements for each statute are not covered. Please consult your local board attorney in application and interpretation these statutes, especially in conjunction with local board policies.

### Overview of All Laws Regarding the Reemployment of Retirees

	<b>T.C.A. § 8-36-822</b>	<b>T.C.A. § 8-36-805</b>	<b>T.C.A. § 8-36-821</b>
<i>Duration of Reemployment</i>	One year of reemployment. Will need to continue qualifying and recertify in writing each year to continue to be reemployed beyond one year.	Up to 120 days in a year of reemployment (temporary). Substitute teacher may work more than 120 days if certain conditions are present.	One year of reemployment. Will need to continue qualifying and recertify in writing each year to continue to be reemployed beyond one year.
<i>Duration of Retirement</i>	Must have been retired at least 60 days.	Must have been retired at least 60 days.	Must have been retired at least 1 year.
<i>Compensation</i>	Retirement benefits are capped at 70% during reemployment.	Entire compensation may not exceed 60% or last full-time salary per year. No cap on retirement benefits received unless work in excess of 120 days.	Compensation may be set at the same rates of newly hired teachers up to 85% of the rates for commiserate experience and qualifications of reemployed member. No cap on retirement benefits received.
<i>Certification Requirements</i>	Notify and certify in writing, to retirement system that educator is qualified, and no other qualified persons are available to fill the position. <b>Commissioner of Education approval not required.</b>	Head of employing entity or designee shall certify to retirement system, name, period of employment, days worked, compensation, and anticipated termination date. <b>Commissioner of Education approval not required.</b>	Superintendent or director of schools must certify in writing to retirement system and Commissioner that teacher is qualified, and no other qualified persons can fill the position. <b>Commissioner of Education approval required.</b>

	<b>T.C.A. § 8-36-822</b>	<b>T.C.A. § 8-36-805</b>	<b>T.C.A. § 8-36-821</b>
<i>Limitation on Benefits</i>	No additional retirement benefits shall accrue during period of reemployment	No additional retirement credits shall accrue during period of reemployment.	No additional retirement benefits, no accrual of leave, cannot receive medical insurance coverage during period of reemployment, and not entitled to attain tenure.
<i>Positions Retirees may be Reemployed to Fill</i>	K-12 <sup>th</sup> grade teacher <sup>1</sup> K-12 substitute teacher K-12 <sup>th</sup> grade bus driver	No restrictions on position	K-12 <sup>th</sup> grade teachers*

Please contact Tennessee Department of Education staff attorney Keith Minor at (615) 983-9798 or [Keith.Minor@tn.gov](mailto:Keith.Minor@tn.gov) for additional questions.

---

<sup>1</sup> Under T.C.A. § 8-34-101(48), the definition of teacher includes a number of additional positions including superintendents, administrative officers, supervisors of teachers, ROTC instructors, school nurses, physical therapist or occupational therapist in public schools.