This legislative summary sheet was developed to give an overview of the policy and legislation related to phased retirement. Statutes and bills can be reviewed individually, but often it is useful to view them in “themes” or “clusters” to:

- Highlight legislative activity in one particular state
- Make it easier to compare legislation between states
- Illustrate varying legislation language and content

### Phased retirement programs for educators

**California**

**Cal Ed Code § 22713**
Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and have his or her retirement allowance, as well as other benefits that the member is entitled to under this part, that the member would have been entitled to if the member had been employed on a full-time basis.

**Cal Gov Code § 20900**
Notwithstanding any other provision of this part, a member employed on a part-time basis on and after January 1, 1976, shall, for the period of part-time employment, receive the credit the member would receive if he or she was employed on a full-time basis and have his or her retirement allowance, as well as any other benefits the member is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis, if the member and his or her employer both elect to contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of an employee's workload under this section, the district personnel responsible for the administration of this program, in conjunction with the administrative staff of the State Teachers' Retirement System and this system, shall verify the eligibility of the applicant for the reduced workload program. This section shall be applicable only to members who are academic employees of the California State University or who are certificated employees of school districts and who have met the criteria provided in Sections 44922 and 87483 of the Education Code or Section 89516 of the Education Code and are not older than 70 years and is limited to a period of five years of part-time status. The employer shall maintain the necessary records to separately identify each employee receiving credit pursuant to this section.

**Cal Gov Code § 20905**
Notwithstanding any other provision of this part, a school member employed on a part-time basis on and after January 1, 1991, shall, for that period of part-time employment, receive the credit he or she would receive if he or she was employed on a full-time basis and shall have his or her retirement allowance, as well as any other
other benefits he or she is entitled to under this part, based upon the salary that he or she would have received if employed on a full-time basis if he or she and his or her employer both contribute to the retirement fund the amount that would have been contributed if the member was employed on a full-time basis. Prior to the reduction of a classified employee's workload under this section, the school employer personnel responsible for the administration of this program shall verify the eligibility of the applicant for the reduced workload program. This section shall be applicable only to school members who are classified employees of school employers or community college districts and who have met the criteria provided in Sections 45139 and 88038 of the Education Code.

- Cal Ed Code § 22713
  Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district or a county superintendent of schools may establish regulations that allow an employee who is a member of the Defined Benefit Program to reduce his or her workload from full time to part time, and receive the service credit the member would have received if the member had been employed on a full-time basis and have his or her retirement allowance, as well as other benefits that the member is entitled to under this part, based, in part, on final compensation determined from the compensation earnable the member would have been entitled to if the member had been employed on a full-time basis.

- Cal Ed Code § 44922
  Notwithstanding any other provision, the governing board of a school district or a county superintendent of schools may establish regulations, which allow their certificated employees to reduce their workload from full-time to part-time duties. The regulations shall include, but shall not be limited to, the following, if the employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22713 of this code or Section 20815 of the Government Code: a) the employee shall have reached the age of 55 prior to reduction in workload; b) the employee shall have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment; c) during the period immediately preceding a request for a reduction in workload, the employee shall have been employed full time in a position requiring certification for a total of at least five years without a break in service; d) the option of part-time employment shall be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

- Cal Ed Code § 45139
  Notwithstanding any other provision of this part, the governing board of a school district or county superintendent of schools may establish regulations, which allow their classified employees to reduce their workload from full-time to part-time duties.

- Cal Ed Code § 87483
  Notwithstanding any other provision, the governing board of a community college district may establish regulations that allow academic employees to reduce their workload from full-time to part-time duties.

- Cal Ed Code § 88038
  Notwithstanding any other provision of this part, the governing board of a community college district may establish regulations, which allow their classified employees to reduce their workload from full-time to part-time duties.

- Cal Ed Code § 89516
  The trustees may establish rules and regulations, which allow academic teaching employees, librarians, counselors, and student affairs officers to reduce their workload from full-time to part-time duties.
Florida

- Fla. Stat. § 121.091
  The State University System may reemploy a retiree as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retiree has been retired for one calendar month. A member who is reemployed within one calendar month after retirement shall void his or her application for retirement benefits. The State University System is subject to the retired contribution required in subparagraph 2, as appropriate. A retiree may be reemployed as an adjunct faculty member or a participant in a phased retirement program for no more than 780 hours during the first 12 months of his or her retirement.

- Fla. Stat. § 238.181
  A community college board of trustees may reemploy a retiree as an adjunct instructor or as a participant in a phased retirement program within the Florida Community College System, after he or she has been retired for one calendar month. A member who is reemployed within one calendar month after retirement shall void his or her application for retirement benefits. Boards of trustees reemploying such instructors are subject to the retirement contribution required in subparagraph 2. A retiree may be reemployed as an adjunct instructor for no more than 780 hours during the first 12 months of retirement. The State University System may reemploy a retiree as an adjunct faculty member or as a participant in a phased retirement program within the State University System after the retiree has been retired for one calendar month.

Kansas

- K.S.A. § 76–746
  The state board of regents is hereby authorized to develop and implement a phased-retirement program for unclassified employees of state educational institutions under the management of the board in accordance with the provisions of this act. Subject to rules and regulations adopted by the state board of regents, each state educational institution may enter into phased-retirement agreements under this section with unclassified employees of the institution. Such agreements shall provide that the unclassified employee shall accept an appointment in a position which is less than the employee's current appointment but which is at least 1/4 time. For each unclassified employee who has entered into a phased-retirement agreement with a state educational institution under this section, the compensation that the employee would have been entitled to receive based upon the employee’s percentage appointment immediately preceding entry into phased-retirement shall be utilized for the purposes of calculating all employer provided benefits, including but not limited to, compensation for accumulated sick leave, the insured death benefit and the insured disability benefit under K.S.A. 74–4927, and amendments thereto, final average salary as defined in subsection (17) of K.S.A. 74–4902, and amendments thereto, and retirement plan contributions under subsection (1)(c) of K.S.A. 74–4925, and amendments thereto.

Maryland

  Area of critical shortage. -- In this section, “area of critical shortage” means an academic field identified by the State Department of Education in accordance with the provisions of § 18–703(g)(1) of the Education Article as having projected employment vacancies that substantially exceed projected qualified graduates. In general, except as provided in subsection (m) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if: 1) the individual immediately notifies the Board of Trustees of the
individual's intention to accept this employment; and 2) the individual specifies the compensation to be received.

Minnesota

- Minn. Stat. § 354C.165
  Amends Chapter 354C (Higher Education Supplemental Retirement). Except for a participant in a phased retirement program that is part of an approved collective bargaining agreement, no participant may obtain a distribution from the plan at a time before the participant terminates the employment that gave rise to the plan coverage.

Oklahoma

- 70 Okl. St. § 17–116.10
  Subject to the requirements of Section 6–101.2 of this title and any other applicable requirements of law, a member may enter into post-retirement employment with a public school of Oklahoma and still receive monthly retirement benefits subject to the following limitations: 1) a retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty calendar days between the retiree's last day of pre-retirement public-education employment and any post-retirement public-education employment; 2) unless otherwise provided in paragraph 3 of this subsection, earnings from the public schools may not exceed one-half of the member's final average salary used in computing retirement benefits, or the Earnings Limitation for employees allowed by the Social Security Administration, whichever is less; 3) notwithstanding paragraph 2 of this subsection, a retired classified or non-classified member who has been retired for thirty-six or more months and who is employed by a public school to perform duties ordinarily performed by classified or non-classified personnel shall be able to receive annualized earnings from the public school with no reduction in retirement benefits regardless of the amount of annualized earnings; and 4) a member shall be considered to be employed by a school district to perform the duties ordinarily performed by classified or non-classified personnel if the member is hired by the school district in the member's individual capacity to perform the duties or if the member performs the duties through employment with a proprietorship, partnership, corporation, limited liability company or partnership, or any other business structure that has agreed or contracted to provide the services to the school district.

Texas

- Tex. Gov't Code § 824.602
  Subject to Section 825.506, the retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution: 1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, the employment has not exceeded a total of 90 days in the school year; 2) in a position, other than as a substitute, on no more than a one-half time basis for the month; 3) in one or more positions on as much as a full-time basis, if the work occurs in not more than six months of a school year that begins after the retiree's effective date of retirement; 4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree; 5) in a position as a classroom teacher on as much as a full-time basis, if the retiree has retired under Section 824.202(a) or (a–1), is certified under Subchapter B, Chapter 21, Education Code, to teach the subjects assigned, is teaching in an acute shortage area as determined by the board of trustees of a school district as provided by Subsection (m), and has been separated from service with all public schools for at least 12 months.
West Virginia

- W. Va. Code § 18B–1–1d
  Notwithstanding any other provisions of this code to the contrary, each state institution of higher education may include in its strategic plan, pursuant to section one–c of this article, policies that offer various incentives for voluntary, early or phased retirement of employees or voluntary separation from employment when necessary to implement programmatic changes effectively pursuant to the findings, directives, goals and objectives of this article, provided that such incentives for voluntary, early or phased retirement of employees or voluntary separation from employment must be submitted by the governing board to the Legislative Joint Committee on Pensions and Retirement and approved before such policies are adopted as part of the institution’s strategic plan.

- W. Va. Code § 18A–2–3
  The Legislature hereby finds and declares that due to a shortage of qualified substitute teachers, a compelling state interest exists in expanding the use of retired teachers to provide service as substitute teachers in areas of critical need and shortage. The Legislature further finds that diverse circumstances exist among the counties for the expanded use of retired teachers as substitutes. A person receiving retirement benefits under the provisions of article seven–a (§ 18A–7A–1 et seq.) of this chapter or who is entitled to retirement benefits during the fiscal year in which that person retired may accept employment as a substitute teacher for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retiree is otherwise entitled.

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Phased retirement programs for state employees

California

- Cal Gov Code § 21115
  A public agency employer may elect to make Sections 21110 through 21115 applicable to the agency and if it does so, the public agency employer shall establish other personnel policies or guidelines required for the administration of the reduced work time for partial retirement program within the agency.

- Cal Gov Code § 21194
  A person who has been partially retired under this system pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Sections 21110 through 21115 may be reinstated from partial retirement by the board as provided in this article, and thereafter may continue to be employed on a full-time basis by the state, in the same manner as a person who has not been so retired.

- Cal Gov Code § 21356
  A member who elects, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 or pursuant to Sections 21110 through 21115, to participate in partial service retirement, while so participating, shall receive a reduced service retirement allowance. The reduced service retirement allowance shall be the amount of the service retirement allowance to which the employee would otherwise have been entitled had he or she fully retired on the effective date of the partial service retirement, reduced by the percentage of the employee's full-time work which the employee has elected to work while on partial service retirement. A member shall receive service credit for service during participation in reduced work time for partial retirement and service credited at the time of the election to participate in reduced work time for partial retirement.
Iowa

Iowa Code § 70A.30
There is established a voluntary employee phased retirement incentive program for full-time state employees who are at least sixty years of age and have completed at least twenty years as full-time state employees.

Iowa Code § 70A.31
The phased retirement incentive program requires that participants agree to work a maximum of thirty-two hours per week and a minimum of twenty hours per week for the first four years after entering the program. After the fourth year of participation in the program, participants shall agree to work a maximum of twenty hours per week. Participants shall agree to retire from state government employment effective no later than the last day of their fifth year of participation in the program.

Iowa Code § 70A.32
The phased retirement incentive program is a voluntary program that provides that an employee may participate in the program for not more than five years and provides for the following: 1) payment of a salary based upon the participant's salary on a full-time basis reduced proportionally by the number of hours of employment plus ten percent of the budgeted full-time salary; 2) continuation of eligibility by the participant for membership in the state life insurance program with continuation of state payments at the rate paid for full-time employees; 3) continuation of eligibility by the participant for membership in the state health or medical insurance program and continuation of state payments at the rate paid for full-time employees; 4) continuation of membership in the state employees disability insurance program; and 5) accrual of vacation and sick leave based upon section 70A.1 as it applies to part-time employees.

Iowa Code § 70A.34
Annually after June 30 of each fiscal year, the department of administrative services shall determine the cost during the preceding fiscal year to the Iowa public employees' retirement fund of participation of state employees in the phased retirement program. Annually, there is appropriated from the general fund of the state to the Iowa public employees' retirement fund an amount sufficient to reimburse the retirement fund for the costs of the phased retirement program.

Louisiana

La. R.S. 11:1413
A retiree receiving retirement benefits from the system may be temporarily reemployed by an assessor but the retiree shall not be or become a member of the system during such reemployment. If the retiree is reemployed in any capacity for more than one hundred working days during any calendar year, or the equivalent thereof, during any calendar year, the benefits payable to the retiree shall be reduced by the amount he earned after thirty working days, or the equivalent thereof.

La. R.S. 11:1513
Except as provided in Subsection B of this Section, a retiree receiving retirement benefits from the system may be temporarily reemployed by a clerk, but the retiree shall not be or become a member of the system during such reemployment. If the retiree is reemployed in any capacity for more than sixty working days, or the equivalent thereof, during any calendar year, the benefits payable to the retiree shall be reduced by the amount he earned after sixty working days, or the equivalent thereof.
Mississippi
  The provisions of this section shall not be construed to prohibit any retiree, regardless of age, from being employed and drawing a retirement allowance either: a) for a period of time not to exceed one-half of the normal working days for the position in any fiscal year during which the retiree will receive no more than one-half of the salary in effect for the position at the time of employment; or b) for a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of 25% of retiree’s average compensation.

Montana
  A retiree 65 years of age or older who returns to employment covered by the retirement system is either subject to the 960-hour limitation of subsection (1) or may earn in any calendar year an amount that, when added to the retiree's current annual retirement benefits, will not exceed the member’s annualized highest average compensation, adjusted for inflation as of January 1 of the current calendar year, whichever limitation provides the higher limit on earned compensation to the retiree. Upon reaching the applicable limitation, the retiree's benefits must be temporarily reduced $1 for each $1 of compensation earned in service beyond the applicable limitation during that calendar year.

Pennsylvania
- 16 P.S. § 11674
  Should a retiree be reemployed as a county employee, the retirement allowance of such person shall immediately cease. Such person shall thereupon be reinstated as a contributor; and, there shall be restored to his credit as accumulated deductions the actuarial value of his member's annuity computed as of the date of his reemployment. Should he refuse to surrender his right to retirement allowance as of the date of his reemployment, it shall be unlawful for the county to reemploy him. If a retiree is reemployed on a part–time basis, the retirement allowance shall not cease, but shall be reduced by an amount equal to the amount of compensation received by the employee for service in excess of 1000 hours per year. Such reduction shall, however, not exceed the amount of the retirement allowance. A retiree reemployed on a part–time basis shall not be reinstated as a contributor and shall not receive additional service credit for retirement purposes.

Tennessee
  Any retired member or prior class member of the Tennessee consolidated retirement system, and any retiree of a local retirement fund receiving benefits in accordance with chapter 35, part 3 of this title may return to service temporarily in a position covered by the Tennessee consolidated retirement system and continue to draw such person's retirement allowance; provided, that certain conditions are met.

Utah
- Utah Code Ann. § 49–11–504
  A retiree of an agency who is reemployed by the same agency within six months of retirement on a less than full–time basis by the same agency is subject to the following: a) the retiree may earn, without penalty, compensation from that position which is not in excess of the exempt earnings permitted by Social Security; b) if a retiree receives compensation in a calendar year in excess of the Social Security limitation, 25% of the allowance shall be suspended for the remainder of the six–month period; c) the effective date of a suspension
and reinstatement of an allowance shall be set by the office; and d) any suspension of a retiree's allowance under this Subsection (5) shall be applied on a calendar year basis.

Phased retirement for other state officials

West Virginia


The Legislature finds that a compelling state interest exists in maintaining an actuarially sound retirement system and that this interest necessitates that certain limitations be placed upon an individual's ability to retire from the system and to then later return to state employment as an employee with a participating public employer while contemporaneously drawing an annuity from the system. The Legislature hereby further finds and declares that the interests of the public are served when persons having retired from public employment are permitted, within certain limitations, to render post-retirement employment in positions of public service, either in elected or appointed capacities. The Legislature further finds and declares that it has the need for qualified employees and that in many cases an employee of the Legislature will retire and be available to return to work for the Legislature as a per diem employee. The Legislature further finds and declares that in many instances these employees have particularly valuable expertise which the Legislature cannot find elsewhere. The Legislature further finds and declares that reemploying these persons on a limited per diem basis after they have retired is not only in the best interests of this state, but has no adverse effect whatsoever upon the actuarial soundness of this particular retirement system.

Other

Tennessee

Tenn. Code Ann. § 63–8–119

Every registered optometrist who desires to continue to practice in this state shall pay an annual renewal fee to defray the cost of regulating optometry, and shall furnish satisfactory evidence of having met minimum continuing education requirements, as set by the board. The board may formulate a policy that would allow retirees to practice where their services are needed on a temporary basis.

The Network has compiled a Bills by Theme series to help provide an overview of the bills that have been proposed during the current session that are relevant to work–family issues. You can connect to this series at: http://wfnetwork.bc.edu/template.php?name=bill_clusters.