

# BOARDS OF COOPERATIVE SERVICES (BOCES) ("CRITICAL SHORTAGE") REPORT HB20-1127

DECEMBER 2023



PREPARED FOR:

The Colorado General Assembly  
Finance Committee of the House of Representatives  
Finance Committee of the Senate

PREPARED BY:

Colorado Public Employees' Retirement Association (PERA)



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# I. INTRODUCTION

The Colorado Public Employees' Retirement Association (PERA), respectfully submits this report titled, "Boards of Cooperative Services (BOCES) ("Critical Shortage") Report," to the House and Senate Finance Committees of the Colorado General Assembly pursuant to the following statute:

**C.R.S. §24-51-1101(5)(k)**

On or before December 1, 2023, the association shall submit a report to the finance committees of the house of representatives and the senate, or any successor committees, regarding the employment after service retirement provisions of this subsection (5). The boards of cooperative services that employ special service providers pursuant to this subsection (5) shall provide information requested by the association for the purposes of the report. The report shall include:

- (I) The number of special service providers who have been employed after service retirement pursuant to this subsection (5) as of the date of the report;
- (II) The extent to which this subsection (5) has helped boards of cooperative services address shortages of school special service providers;
- (III) The costs, if any, to the association as a result of this subsection (5); and
- (IV) Any other information deemed relevant by the association.

## II. BACKGROUND

Under current law, Colorado PERA benefits are temporarily reduced when a PERA service retiree works for a PERA employer more than 110 days/720 hours in a calendar year (or 140 days/916 hours if designated by a school district or institution of higher education).

On July 13, 2020, House Bill 20-1127 was signed into law which modified the PERA working after retirement provisions for certain PERA service retirees hired by a BOCES if the following conditions are met:

- » The BOCES hires the PERA service retiree to provide services in two or more rural<sup>1</sup> school districts (as identified by the Colorado Department of Education).
- » The BOCES hires the PERA service retiree for the purpose of providing special services to students enrolled by the districts served by the BOCES.
- » The BOCES determines that there is a critical shortage of qualified special service providers, and that the PERA service retiree has specific experience, skills, or qualifications that would benefit the students in the school districts served by the BOCES.

A PERA service retiree who meets these criteria would not be subject to a reduction in his or her benefit if the retiree works beyond the current working after retirement limits as long as the retiree does not work for a PERA employer during the effective month of retirement. The maximum number of PERA service retirees hired by all BOCES pursuant to subsection (5) cannot exceed 40.

Any BOCES using critical shortage provisions under subsection (5) is required to make full payment of all PERA employer contributions, disbursements, and working retiree contributions plus an additional 2.0% of service retiree's salary, during the time of employment, which may not exceed five consecutive years. Any service retiree who is employed pursuant to subsection (5) will not be required to resume membership in PERA. In addition, all contributions collected from or on behalf of a service retiree during the period of employment will not be credited to a member account and the service will not be considered for an additional benefit accrual. A working retiree may not receive a health care premium subsidy during their return to employment but may participate in the health plan offered by the BOCES or a school district served by the BOCES. A special service provider who retires before he or she has met the age and service credit requirements for full retirement may not be employed after retirement pursuant to subsection (5) by the BOCES that was the special service provider's last employer until two years after his or her date of retirement. Each calendar year, any BOCES utilizing one or more allocated critical shortage positions under subsection (5) must notify PERA of any service retiree hired under these provisions.

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<sup>1</sup>A Colorado school district is determined to be rural giving consideration to the size of the district, the distance from the nearest large urban/urbanized area and having a student enrollment of approximately 6,500 students or less. Small rural districts are those districts meeting these same criteria and having a student population of less than 1,000 students. Rural and small rural school districts will be identified as simply "rural school districts" throughout this report.

# III. UTILIZATION DATA<sup>2</sup>

## SCHOOL DIVISION MEMBERSHIP DATA

The active membership data of the School Division as of December 31, 2022, and the active membership data for the school districts that have been identified by the Colorado Department of Education as Rural School Districts are shown in the table below. In addition, census data as of December 31, 2022, related to the BOCES serving the rural school districts also is provided. Although the BOCES membership serves the rural school districts, their data is independent of that shown for the Rural School Districts. Both the Rural School Districts and the BOCES data sets are subsets of the School Division data summary shown below.

Item	School Division	Rural School Districts	BOCES
Number of Active Members	128,057	25,128	809
Average Age	44.5	44.6	44.6
Average Service	9.0	8.3	9.4
Annual Reported Payroll	\$5,670,279,844	\$898,094,575	\$35,152,369
Average Reported Payroll	\$44,279	\$35,741	\$43,452

The number of qualifying individual service retirees filling the designated Critical Shortage positions of special service providers, is shown over the effective period of the program to-date (since July 2020), by effective year, in the following table. Note that the effective year shown indicates the initial year of designation for each individual included in the summary.

Effective Year	Special Service Providers
2020	1
2021	1
2022	1
2023	2
<b>Total</b>	<b>5</b>

<sup>2</sup> Census data collected for purposes of this Critical Shortage Report was captured by PERA as of October 23, 2023.

### III. UTILIZATION DATA

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The Critical Shortage data collected specifically for purposes of this report, contains individuals who have been designated under the Critical Shortage provisions over multiple years during the effective period of the legislation. Each year the BOCES must meet the Critical Shortage criteria prior to designating a position or re-designating a position as qualifying. Therefore, the five individuals summarized in the table above who have participated in the Critical Shortage program since 2020, have filled 11 designated Critical Shortage positions within the qualifying BOCES over the effective period. Provided below is a similar table detailing the number of critical shortage positions filled over the effective period (since July 2020) to date. As in the table above, the data is shown by effective year.

Effective Year	Special Service Provider
2020	1
2021	2
2022	3
2023	5
<b>Total</b>	<b>11</b>

#### **BENEFITS OF HB 20-1127 TO BOCES**

Since PERA does not directly represent the employers who may utilize critical shortage provisions, to address any realized and/or potential benefits of the HB 20-1127, PERA staff reached out to the Colorado BOCES Association (CBA). Please see the attached correspondence from Dale McCall, the Executive Director of the CBA for commentary on this topic.

## IV. ACTUARIAL ANALYSIS OF COSTS

Working after retirement provisions which allow retirees to continue to work after retirement without a reduction in their retirement benefit are likely to encourage a greater number of retirements than expected, as individuals typically make decisions based on their own financial interests. Plan provisions which encourage and trigger this type of behavior, generally create a “cost” to the plan or rather an unexpected liability loss. The additional costs are generally driven by actual shorter accumulation periods regarding employer and member contributions and longer payout-periods of benefits granted to retirees and beneficiaries when compared to the actuarial expectations of those metrics. The exact cost varies by individual and is largely due to behavioral choices of individual members, which are difficult to anticipate and quantify.

To assist with assessing the potential impact of the Critical Shortage provisions under HB 20-1127, PERA staff requested the Board’s external actuarial service provider, Segal, to analyze the Critical Shortage provisions and collected data regarding both the pension and other postemployment benefit (OPEB) plans. Based upon this information Segal was asked to supply an estimated actuarial impact<sup>3</sup> for the entire program from enactment, as of July 13, 2020, to the repeal date of July 1, 2025 (C.R.S. §24-51-1101(5)(m)).

As noted in the Data Utilization<sup>4</sup> section of this report, there were five individual PERA members who have participated in the BOCES Critical Shortage program, thus far. Also noted above, these five members filled 11 designated critical shortage positions, including positions that are designated each year over multiple years.

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<sup>3</sup> The Critical Shortage provisions, data, and resulting impact estimates are with reference to HB 20-1127 only and do not reflect actual or anticipated experience of other recently enacted critical shortage statutes.

<sup>4</sup> Census data collected for purposes of this Critical Shortage Report was captured by PERA as of October 23, 2023.

### CONSIDERING THE DIVISION AND HEALTH CARE TRUST FUNDS—PENSION AND OPEB COSTS

For the analysis of potential costs to PERA related to the Critical Shortage provisions under HB 20-1127, Segal used the actuarial assumptions and census data as of the December 31, 2022, actuarial valuation.

As noted above, over the last three years (2020-2023) only five retired members elected to return to work under the provisions of the bill, representing less than 0.01% of the active membership of the School Division. While it is possible that more benefit payments were paid as a result of HB 20-1127, due to low utilization of these critical shortage provisions, the amount of benefits actually paid is minimal. In addition, contributions in the amount of 2% of the affiliated payroll were made on behalf of these rehired retirees, offsetting some of the impact of the benefit payments.

#### PENSION

Given the low utilization and the fact that the cost impact of HB 20-1127 is spread over the entire School Division, the effect on the School Division's unfunded actuarial accrued liability, normal cost, and contribution rate is negligible.

#### OPEB

To date, the impact to the Health Care Trust Fund (HCTF) also is negligible due to the limited number of members electing to return to work under the provisions of HB 20-1127. Any impact would be marginally favorable depending upon whether the retirees who return to work are covered by PERACare. This is because HCTF subsidies are not provided to the designees of this program during their periods of reemployment. Over the last three years, only one of the five retired members who returned to work currently is covered by PERACare.

The actuarial team from Segal who provided this cost analysis are experienced in performing work for public pension plans, are members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render this actuarial opinion. A copy of the letter requested by and provided to PERA titled, *Actuarial Analysis of HB 20-1127, dated November 10, 2023*, is available upon request.



**From:** Dale McCall <dale.mccall46@gmail.com>  
**Sent:** Wednesday, December 13, 2023 8:37 AM  
**To:** Michael Steppat <msteppat@copera.org>  
**Cc:** Dale McCall <dale.mccall46@gmail.com>; Tamara Durbin <tdurbin@neboces.org>; Ken Haptonstall <khaptonstall@crboces.org>  
**Subject:** PERA program for Special Service Providers in BOCES

Michael - Please find an excerpt from an email from the Northeast BOCES that supports this program.

Please submit this along with your report.

*The Northeast Colorado BOCES currently uses the PERA program for Special Service Providers and has since the inception of the program. The Northeast Colorado BOCES serves 12 school districts in the northeast corner of the state of Colorado. All of the school districts are small and rural, as are the communities in which the school districts are located.*

*Recruitment and retention of specialized service providers is a challenge. Since special education is a federal and state mandated program, it is critical that Northeast Colorado BOCES, and the school districts, have specialized services providers to provide special education and related services required of the program.*

*The PERA program for Special Service Providers has allowed a retired School Psychologist living in the area to work a full-time 185-day contract filling a critical vacancy within our School Psychology department. Her ability to work full-time allowed us to provide much needed school psychology services to our schools, while meeting her need for compensation beyond her retirement benefit. This option is of great value and critical for the provision of required services from specialized service providers.*

*Tamara Durbin*

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Sincerely,  
Dale

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