§ 211. Employment of retired persons without diminution of retirement allowance. 1. Notwithstanding the provisions of sections one hundred one, two hundred twelve and four hundred one of this chapter or section five hundred three of the education law, or the provisions of any local law or charter, a retired person may be employed and earn compensation in a position or positions in the public service, without any effect on his or her status as retired and without suspension or diminution of his or her retirement allowance subject to one of the following: (a) His or her total compensation in such position or positions in any calendar year, including compensation earned under other provisions of this article, shall not exceed the multiple of five hundred dollars next higher than the difference between (1) the sum of his or her annual retirement allowance computed without optional modification plus annual supplemental retirement payments, if any, and (2) the salary on which his or her retirement allowance is based or his or her final salary, whichever is greater; or (b) The position in which he or she is employed is not a position in the service of a former employer.

2. (a) No retired person may be employed in a position in public service pursuant to subdivision one hereof except upon approval of

(1) the state civil service commission; or

(2) the commissioner of education if such person is to be employed in the unclassified service of a school district other than the city of New York, a board of cooperative educational services or a county vocational education and extension board; or

(3) the municipal civil service commission of the city of New York if such person is to be employed in a position in the service of the city of New York or in the classified service in the board of education of such city; or

(4) the chancellor of the city school district of the city of New York if such person is to be employed in the unclassified service under the board of education of the city of New York; or

(5) the board of higher education of the city of New York if such person is to be employed in the classified or unclassified service under the board of higher education of the city of New York; or

(6) the chancellor of state university if such person is to be employed in the unclassified service of the state university of New

York, or in the professional service at the state colleges of agriculture, home economics, veterinary medicine or industrial and labor relations, the state agricultural experiment station at Geneva or any other institution or agency under the management and control of Cornell university as representative of the board of trustees of state university of New York, or at the state college of ceramics under the management and control of Alfred university as representative of the board of trustees of state university of New York or in the unclassified service of a community college other than those in the city of New York; or

(7) the chief administrator of the courts if such person is to be employed in a judicial or nonjudicial position in the unified court system.

(b) Such approval may be granted only on the written request of the prospective employer of such retired person, which request shall state detailed reasons therefor related to the standards set forth herein, and on a finding, on evidence satisfactory to the appropriate officer or authority specified in paragraph (a) of this subdivision,

(1) that the retired person is duly qualified, competent and physically fit for performance of the duties of the position in which he or she is to be employed and is properly certified where such certification is required;

(2) that he or she will earn more than one thousand dollars in one year, including compensation earned in such position under other provisions of this article that there are not readily available for recruitment persons qualified to perform the duties of such position; and (4)];

(3) that the prospective employer has prepared a detailed recruitment plan to fill such vacancy on a permanent basis;

(4) that his or her employment is in the best interests of the government service; and

(5)(i) that there is an urgent need for his or her services in such position as a result of an unplanned, unpredictable and unexpected vacancy where sufficient time is not available to recruit a qualified individual and that such hiring shall be deemed as non-permanent rather than a final filling of such position; or

(ii) that the prospective employer has undertaken extensive

recruitment efforts to fill such vacancy and as a result thereof, has determined that there are no available non-retired persons qualified to perform the duties of such position.

Such approvals may be granted for periods not exceeding two years each, provided that such person may not return to work in the same or similar position for a period of one year following retirement. The authority or officer specified in paragraph (a) of this subdivision, upon approving employment of a retired person under this section, shall certify such approval to the retirement system or pension plan from which such person is receiving a retirement allowance.

(c) Notwithstanding any provision of this subdivision, designation of a retired person as a judicial hearing officer by the chief administrator of the courts, pursuant to provisions of article twenty-two of the judiciary law, shall constitute approval under subparagraph seven of paragraph (a) of this subdivision. In making such a designation, the chief administrator shall not be subject to the provisions of paragraph (b) of this subdivision, except that the chief administrator shall certify such designation to the retirement system or pension plan from which the person designated is receiving a retirement allowance.

3. If a retired person employed under this section earns in such employment in any calendar year an amount in excess of the maximum earnings allowed under subdivision one of this section, his retirement allowance and supplemental retirement payments shall be suspended until the total amount so suspended equals the amount of such excess.

4. A retired person who returns to public service on or after January first, nineteen hundred seventy-four, as a consultant shall be subject to the limitations applicable to a reemployed retiree as specified in this section or in any other provision of law.

5. An officer, commission or board specified in paragraph (a) of subdivision two of this section which has approved the employment of any retired person is hereby authorized to require such retired person and the department head or other appointing authority under whose

jurisdiction such retired person is employed to furnish at any time information concerning the employment and earnings of such retired person. It shall be the duty of such retired person and such department head or other appointing authority to co-operate fully in furnishing such requested information. Such officer, commission or board may rescind approval granted for the employment of a retired person upon finding that such approval was obtained by deception or misrepresentation of any material fact, or that such retired person is serving in a position or engaged in duties substantially different from the position or duties for which his employment was approved, or that such employment does not otherwise conform with the requirements of this section, or that such retired person or the department head or other appointing authority under whose jurisdiction he is employed has failed to co-operate fully in furnishing requested information concerning the employment and earnings of such retired person.

6. Any request for approval of the employment of a retired person under this section, including the reasons stated therefor, and the findings and determination on such request shall be a public record open for inspection in the office of the officer, commission or board making such findings and determination as specified in paragraph (a) of subdivision two of this section.

7. The provisions of this section shall not be construed to authorize the employment of any person in any position in the civil service except in compliance with requirements of the civil service law and rules applicable to such employment.

8. Each officer, commission or board specified in paragraph (a) of subdivision two of this section may adopt appropriate regulations, procedures and forms for implementation of the provisions of this section. Such regulations may authorize employment of a retired person, without prior approval, but pending application for approval under this section, in situations of unforeseen and immediate need.

* 9. Notwithstanding the provisions of this section, sections two hundred twelve and four hundred one of this chapter and section five hundred three of the education law and any other law, regulation, rule,

local law, or charter to the contrary, a retired person may be employed and earn compensation in a position or positions in the service of a school district or a board of cooperative educational services in the state without any effect on his or her status as retired and without suspension or diminution of his or her retirement allowance and without prior approval pursuant to subdivision two of this section. Earnings received as a result of employment in a school district or a board of cooperative educational services in the state shall not be applied to a retired person's earnings when calculating the earnings limitations imposed by subdivisions one and two of section two hundred twelve of this article.

* NB Repealed June 30, 2027