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Return-to-Work Laws at a Glance

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During these uncertain economic times, we understand that more retirees may want to return to work in the familiar surroundings in which they spent much of their career. Before you decide to return to work for an employer under the Retirement System from which you retired, you should familiarize yourself with the law governing return to work.

Following the return-to-work law will protect you from incurring financial penalties, possible loss of retirement benefits, and/or possible loss of health benefits. Since somewhat different return-to-work laws apply to members of the Local Governmental Employees' Retirement System (LGERS) and the Teachers' and State Employees' Retirement System (TSERS), below is an "At-a-Glance" view of the laws pertaining to each system:

At a Glance:

Members of LGERS who wish to return to work with, or to perform services for, an LGERS employer:

- The retiree may not work during the month in which the initial retirement became effective.
- The retiree must work in a position that requires less than 1,000 work hours per year.
- Retirees going back to work are subject to the following earnings restrictions: individuals can earn 50 percent of their gross pre-retirement salary (excluding termination payments) or \$28,080.00 (for 2009), whichever is greater. This dollar figure is adjusted annually in January according to the Consumer Price Index, which is the national measure of increase in the cost of living from one year to the next. Earnings restrictions apply for the 12 months immediately following retirement and for each calendar year following the year of retirement.

Members of the TSERS who retired on or before October 1, 2005, who wish to return to work with, or to perform services for, a TSERS employer:

- The retiree may not work during the month in which the initial retirement became effective.
- In order to remain eligible for retirement benefits, the retiree must work in a position that is not eligible for contributing membership in the TSERS.
- Retirees going back to work are subject to the following earnings restrictions: these individuals can earn 50 percent of their gross pre-retirement salary (excluding termination payments) or \$28,080.00 (for 2009), whichever is greater. This dollar figure is adjusted annually according to the Consumer Price Index, which is a national measure of increase in the cost of living from one

year to the next. Earnings restrictions apply for the 12 months immediately following retirement and for each calendar year following the year of retirement.

Members of the TSERS who retired after October 1, 2005, who wish to return to work with, or to perform services for, a TSERS employer:

- After the date of initial retirement, the retiree must wait for a period of six months before returning to work.
- After the six-month period, if the retiree returns to work in a position that is eligible for membership in the TSERS, the retirement benefit will be suspended.
- There cannot be any pre-existing arrangement between the retiree and a state agency for the retiree to return to work after retirement. If it is found that a pre-existing arrangement has occurred, the retirement benefit will be cancelled.
- Retirees going back to work are subject to the following earnings restrictions: these individuals can earn 50 percent of their gross pre-retirement salary (excluding termination payments) or \$28,080.00 (for 2009), whichever is greater. This dollar figure is adjusted every January according to the Consumer Price Index. Earnings restrictions apply for the 12 months immediately following retirement and for each calendar year following the year of retirement.

Reemployment Exception for Nursing Instructors.

A retiree from the Teachers' and State Employees' Retirement System (TSERS) can return to work as a nursing instructor in a permanent full-time position, or a part-time position that exceeds 50 percent of the work week, in a certified nursing program at a community college or university for a maximum of three years. A retiree who meets the following qualifications will not be subject to the earnable allowance and will continue to receive his or her TSERS benefit:

- A retiree is not allowed to work for a university or a community college in any capacity for the six months prior to the new employment.
- If retired after July 1, 2009, the retiree must have retired with a service (unreduced) retirement benefit.

Unless legislation extends this reemployment exception for nursing instructors, the above provision will expire in 2013.

Provision Allowing Return to School as Volunteer

Newly retired teachers or school staff have the opportunity to return to schools as unpaid bona fide volunteers. Retirees who want to volunteer a few hours a week selling concessions at an athletic game, or assisting with fundraisers, among other activities, may do so in the first six months following retirement.

This provision is not intended to allow a retiree to volunteer as a classroom teacher, for example, to hold a job open for the first six months after retirement, as that would violate both federal law and state statutes (GS 135-1(20)) prohibiting an "intent or agreement, express or implied, to return to service."

Volunteering is not employment; therefore, volunteers must not be used to fill vacancies that are normally paid positions. The volunteer work must be performed without promise or expectation of compensation.

If volunteering today helps you secure a paid position in the future, that is a form of compensation and such an arrangement is not permitted. There are some situations that are unclear, for example duties sometimes performed by paid employees and sometimes performed by parent or community volunteers. If you are considering volunteering in one of those roles, we strongly suggest that you provide the Retirement System a full written description of the role you are considering so that we can provide additional guidance.

Important Points to Remember:

- Unless these return-to-work laws and procedures are strictly followed, a retiree's retirement benefit may be cancelled and all benefits paid to the retiree may be required to be repaid to the Retirement System. If the period of time that the retiree is in violation of the return-to-work laws is extensive, the amount required to be repaid will be extensive as well.
- The potential penalty associated with health insurance coverage depends upon which retirement system you are in. If you have employer-provided health insurance as a retiree, you may wish to discuss with your employer how the cancellation or suspension of the retirement benefit will affect your insurance coverage.
- Questions about this and other return-to-work provisions should be directed in writing to:

Retirement Systems Division
Department of State Treasurer
325 North Salisbury Street
Raleigh, North Carolina 27603-1385; or email nc.retirement@nctreasurer.com