



## Guidance on Return-to-Work Laws for Members of the Local Governmental Employees' Retirement System (LGERS)

Over time, the North Carolina General Assembly has enacted, and amended, laws governing the return to work for all retirees of the North Carolina Retirement Systems.

Return-to-work laws apply differently to members of the Local Governmental Employees' Retirement System (LGERS) and the Teachers' and State Employees' Retirement System (TSERS), so before you decide to return to work for an employer under the Retirement System from which you retired, you should familiarize yourself with the laws governing return-to-work. As a retiree, you are responsible for knowing and abiding by the return-to-work laws that apply to your particular situation.

***Please be aware that violation of the return-to-work laws could cause you to incur financial penalties, possible loss of retirement benefits and/or possible loss of health coverage.***

The following return-to-work topics will be explained and discussed below, in separate sections:

- Financial penalty if you are an LGERS retiree who returns to work for an LGERS employer during the required 1-month break
- Returning to work with a private entity
- Returning to work after a 1-month break as a contributing LGERS member and therefore stopping your LGERS retirement benefit voluntarily
- Returning to work after a 1-month break when you should have again become a contributing LGERS member, violating the return-to-work laws, and consequently having your LGERS retirement benefit suspended or cancelled involuntarily
- Returning to work after a 1-month break for an LGERS employer in a position not eligible for LGERS membership, violating your earnings limitation, and consequently having your LGERS retirement benefit suspended or cancelled involuntarily
- Returning to work after a 1-month break for an LGERS employer in a position not eligible for LGERS membership, not exceeding your earnable allowance limit, and continuing to receive your monthly LGERS retirement benefit

If you are receiving a disability benefit from any System, you should contact the Retirement Systems Division for information on return-to-work laws that apply to you.

## **I. Financial Penalty if you are an LGERS Retiree who Returns to Work for an LGERS Employer During the Required 1-Month Break**

***You cannot perform any work for an LGERS employer during the month in which your initial LGERS retirement became effective without a financial penalty.*** As an active employee, you may not establish an agreement for post-retirement employment with a LGERS employer.

The financial penalty for returning to work for an LGERS employer on a part-time, temporary, interim, or fee for service basis, during the month immediately following the effective date of LGERS retirement, will be the lesser of the following as determined by the Retirement System:

- You will be deemed to have retired the month after the month you ceased performing services for the employer and repay all retirement benefits received until that date; **or**
- You will be required to make a lump sum payment to LGERS equal to three times the compensation earned during the month immediately following the effective date of retirement.

If you return to work for an LGERS employer in a position that requires LGERS membership during the month of your effective date of retirement, your LGERS benefit will be cancelled retroactively to your retirement date, and you must repay all retirement benefits received since your retirement date.

***NOTE: You are required to be a contributing LGERS member if you are regularly employed as an officer or employee of a participating LGERS employer in a regular position that requires at least 1,000 hours of work in a calendar year. You will not be a contributing member of LGERS if your work is considered “temporary employment,” meaning employment for a limited term which does not exceed 12 consecutive months on a non-recurring basis for an LGERS employer, or “statutorily required interim employment,” meaning employment as an interim city or county manager for a period that does not exceed 12 months on a non-recurring basis.***

## **II. Returning to Work with a Private Entity**

If you are employed with a private-sector agency or a government agency that does not participate in the LGERS (i.e. the federal government, state government, or another municipality that does not participate in this Retirement System) and you do no work for an agency participating in LGERS, your lifetime LGERS retirement benefit will continue. In other words, the return-to-work laws do not restrict you from gaining employment in general, but rather these laws place certain restrictions on you if you return to work with, or do any work for, an agency participating in LGERS.

However, if you return to work for a private entity, such as a temporary staffing agency or a Limited Liability Corporation (LLC), which then assigns you to do work for, or “leases” you back to, an LGERS employer, you will be subject to the return-to-work laws when such an

arrangement is merely a pass-through arrangement or is seen as an attempt to circumvent the applicable return-to-work laws. Please refer to Sections IV and V below.

### **III. Returning to Work After a 1-Month Break as a Contributing LGERS Member and Therefore Stopping Your LGERS Retirement Benefit Voluntarily**

After the 1-month break, if you go back to work in a regular contributing LGERS position which requires at least 1,000 hours of work per calendar year, your LGERS retirement benefit must be suspended the month following the month in which you return to work, and you will again be a contributing member of LGERS in the month in which you are restored to service. When you are no longer employed by a participating LGERS agency, your LGERS retirement benefits may be reinstated. However, you must re-apply for retirement.

### **IV. Returning to Work After a 1-Month Break When You Should Have Again Become a Contributing LGERS Member, Violating the Return-to-Work Laws, and Consequently Having your LGERS Benefit Suspended or Cancelled Involuntarily**

After the 1-month break, if the Retirement System is not notified immediately upon your return to work in a position in which you should have become a contributing LGERS member, all LGERS benefits paid to you beginning with the month following the month you returned to LGERS employment must be repaid to the Retirement System. You can choose to go back to work in any position at an agency that participates in the LGERS at any time after the 1-month break, but if you are regularly employed as an officer or employee of a participating LGERS employer in a position which requires at least 1,000 hours of work per calendar year, your LGERS retirement benefit must be stopped on the first day of the month following the month of reemployment and you will again become a contributing member of LGERS in the month in which you are restored to service. When you are no longer employed by a participating LGERS agency, your LGERS retirement benefits may be reinstated. However, you must re-apply for retirement.

### **V. Returning to Work After a 1-Month Break for an LGERS Employer in a Position Not Eligible for LGERS Membership, Violating your Earnings Limitation, and Consequently Having Your LGERS Retirement Benefit Suspended or Cancelled Involuntarily**

After the 1-month break, if you return to work with an LGERS employer in a position that does not require membership in LGERS, you are subject to the earnings restrictions below. You can earn whichever is greater:

- 50% of your gross pre-retirement salary (excluding termination payments) or
- \$32,940 (2018 amount).

The above amounts are adjusted annually on January 1 according to the Consumer Price Index, which is a national measure of increase in the cost of living from one year to the next. These earnings restrictions apply for the 12 months immediately following retirement and for each calendar year following the year of retirement.

If you abide by the waiting period rules but exceed the earnings limitation, your LGERS retirement benefit must be suspended on the first day of the month following the month in which you exceeded the earnings limitation and will remain suspended for the remainder of that calendar year. Your LGERS benefit will be reinstated on January 1 of the following year. If you do not inform the Retirement System at the time you exceed your earnings limitation, your LGERS retirement benefit will be retroactively suspended to the effective date of the violation once notice is received by the Retirement System, and all LGERS retirement benefits paid during this period must be repaid to the Retirement System. If the period of time that you are in violation of the return-to-work laws is extensive, the amount required to be repaid will be extensive as well. If you have employer-provided health coverage, you may wish to discuss with your employer how the suspension of the retirement benefit will affect the coverage.

#### **VI. Returning to Work After a 1-Month Break for an LGERS Employer in a Position Not Eligible for LGERS Membership, Not Exceeding your Earnable Allowance Limit, and Continuing to Receive your Monthly LGERS Benefit**

After the 1-month break, if you are not in violation of the return-to-work laws, you will receive your monthly LGERS retirement benefit as well as a paycheck from your new LGERS position. In order for you to continue receiving your monthly LGERS benefit, you must be reemployed by, or otherwise perform work for, an LGERS employer on a part-time, interim, temporary, or contractual basis, or otherwise perform services on any basis that does not require membership in LGERS, and not exceed your earnable allowance limit. You will be subject to return-to-work laws based on the nature of the particular work you perform for a participating LGERS employer, regardless of your job classification or your technical employment status (which may include being assigned work for a participating employer by a private company such as a temporary staffing agency, or working for a Limited Liability Corporation).

Please note that temporary and interim employment positions with an LGERS employer should have set employment ending dates; otherwise, these positions may not be considered to be temporary or interim. The agency's mere label for the position is not dispositive, as the facts may demonstrate something other than a temporary or interim position. As long as you are reemployed with, or otherwise perform work for, an LGERS employer in a position that does not require membership in the LGERS, you will not put any contributions into the Retirement System and, as such, will not accrue any new service credit, and will not get the benefits of a "second retirement."

### ***Return-to-Work Laws at a glance...***

**As a Local Governmental Employees' Retirement System (LGERS) retiree, if you wish to perform work for an LGERS employer and continue to receive your LGERS monthly retirement benefit, you must meet the following conditions:**

- You may not work during the month in which your initial retirement became effective.
- You must work in a position that does not require membership in LGERS. (NOTE: If you are reemployed in an LGERS position which requires at least 1,000 hours of work per calendar year, your retirement payment must be stopped and you will again become a contributing LGERS member.)
- You are subject to the earnings restrictions below. You can earn whichever is greater:
  - 50% of your gross pre-retirement salary (excluding termination payments) or
  - \$32,940 (2018 amount).

These earnings restrictions apply for the 12 months immediately following retirement and for each calendar year following the year of retirement.

### **Important Points to Remember:**

- If you return to work for an LGERS employer and you do not follow the return-to-work laws, your LGERS retirement benefit may be cancelled and all LGERS benefits paid to you may be required to be repaid to the Retirement System. If the period of time that you are in violation of the return-to-work laws is extensive, the amount required to be repaid will be extensive as well.
- If you have employer-provided health coverage, you may wish to discuss with your employer how the cancellation or suspension of your retirement benefit will affect your health coverage as a retiree.
- If you have any questions regarding the LGERS return-to-work laws or how they apply to your specific situation, you should contact the Retirement System Division's Member Services unit at 1-877-627-3287 (toll-free).

If you are receiving a disability retirement benefit from the LGERS, please visit the Disability section on our website at [www.myncretirement.com](http://www.myncretirement.com) and click on "LGERS Disability Retirement Benefits" to view the Frequently Asked Questions regarding returning to work.