

MEMORANDUM #24, 2008

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
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MEMORANDUM

TO: All Retirement Boards
Public Employers in Massachusetts

FROM: Joseph E. Connarton, Executive Director

RE: Restrictions on Post-Retirement Public Sector Employment in Massachusetts

DATE: July 2, 2008

The retirement laws for public employees in Massachusetts impose limitations on post retirement earnings from the Commonwealth, or any of its subdivisions [G.L. c. 32 § 91(b) & (c)]. The limitations apply to all persons retired from the public sector in Massachusetts who are receiving a retirement allowance, both superannuation and disability retirees. There are several exceptions to the limitations, for example retirees who are elected to office by a direct vote of the people. This memorandum is not intended to discuss the exceptions.

If a retiree is re-employed in the service of the Commonwealth, or any of its counties, cities, municipalities or political subdivisions, his or her earnings for the calendar year when added to the retirement allowance he or she is receiving, cannot exceed the salary currently being paid for the position from which he or she retired. Further, public sector re-employment is limited to a period of up to 960 hours in aggregate, in any calendar year.

For example, a retiree is receiving an allowance of \$40,000, and the position from which he or she retired is currently paying \$55,000. The retiree may not earn more than \$15,000 and/or work more than 960 hours in the service of the Commonwealth or a political subdivision thereof in a calendar year.

The responsibility for monitoring post-retirement earnings is placed upon the employer and the retiree [G.L. c. 32, § 91(c)]. The retiree shall certify to his or her employer and the treasurer or person responsible for the payment of compensation, the number of days or hours which he or she has been employed in any calendar year and the amount of earnings from this employment. If the number of hours exceeds 960, the retiree shall not continue to be employed. If the earnings exceed the amount allowed, the retiree shall return to the appropriate treasurer or person responsible for the payment of compensation all earnings in excess of the allowable amount. The amount of any excess not returned may be recovered in an action in contract by the treasurer or person responsible for the payment of the compensation to the retiree.

The court has ruled that if the employer does not seek or receive the reimbursement from the retiree, the Retirement Board that paid may recoup the excess payments, [*Flanagan v. Contributory Retirement Appeal Bd.*, 51 Mass.App.Ct. 862, 750 N.E.2d 489 (2001)]

We urge all public employers to periodically review the hours of employment and earnings being paid to public sector retirees. Retirement Boards should share this memorandum with the employers who make up the governmental units in the Retirement Systems.

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