

MEMORANDUM #19, 2008

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
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MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Former Members Returning to Public Employment

DATE: April 29, 2008

The Commission has received several inquiries recently regarding the treatment of former members of a retirement system who return to public employment. Following is a brief summary of several scenarios.

Former Member Withdrew Funds From System:

A current member of a retirement system, who had prior public service but who had withdrawn his or her funds from the system before a retirement benefit was paid to him or her, may make a buyback of the previously withdrawn funds to receive credit for the prior period of service. The payment would be made to the retirement system pertaining to the governmental unit for which he or she is currently employed and would equal the money withdrawn along with buyback interest. The buyback interest rate is one-half (1/2) the actuarial assumed interest rate of the system where the redeposit is being made. If the actuarial assumed interest rate is 8.25%, the buyback interest rate would be 4.125%.

For example, assume a member was separated from service and withdrew funds in the amount of \$45,000 on January 1, 2000. In January, 2007, he or she again becomes a member in a retirement system (note: this system may or may not be the same as the prior system). Upon again becoming a member, he or she may redeposit this money (along with buyback interest) in the new retirement system to purchase his or her prior service. If we assume the actuarial assumed interest rate is 8.25% in the new system, he or she would owe approximately \$59,900 (the initial amount of \$45,000 plus compound interest of \$14,900 determined at the rate of 4.125% for 7 and 1/12 years).

Please note that pursuant to the provisions of G.L. c. 32, §3(2)(a)(iv), a former member who had withdrawn his or her funds from the system would again become a member of the retirement system upon his or her subsequent employment in a governmental unit. This section states in pertinent part that, "Any person...who enters or re-enters the service as an employee of the commonwealth, a teacher as defined in section one, or an employee of any political subdivision of the commonwealth for which a system established under the provisions of such sections, or under corresponding provisions of earlier laws, is in operation on the date when he becomes an employee,...shall become a member in service upon his entry into service." He or she will be entitled to all rights in effect as of his or her most recent date of membership, including but not limited to the contribution rate.

Please note that any member who withdraws his money from a system but later rejoins a system (could be the same system or a different system) by repaying money as provided for earlier, is not eligible to receive a Superannuation retirement allowance, an Ordinary Disability retirement allowance or a Termination retirement allowance unless and until he or she shall have been in active service for at least two consecutive years, including any period or periods of

leave of absence credited as membership service, subsequent to the date that his or her new employment commenced.

Retired Members

Retired Member Repays Retirement Benefits to Re-establish Membership (Section 105):

A member retired from a Chapter 32 retirement system. Later, he or she returns to employment in a public entity. M.G.L. c. 32, §105 allows the retiree to pay back all retirement benefits together with actuarial assumed interest (at the actuarial assumed interest rate of the system from which the retiree retired).

For example, assume a member retired on January 1, 2002 with an annual benefit of \$45,000. In January 2007, he or she is hired by the State (State Retirement System). To re-establish membership he or she would repay to the system from which he or she retired all retirement benefits received together with actuarial assumed interest. If we assume the actuarial assumed interest rate of the system from which he or she retired is 8.25%, he or she would owe approximately \$278,000 (\$225,000 in benefits + \$53,000 in interest).

The employee must return to work and membership for 5 years before he or she is eligible to receive an increased retirement benefit under this provision.

If the employee does not complete 5 years of "reinstatement service", he or she would receive a refund of the money paid to the retirement system (without additional interest). Also, if the employee did a make-up or buyback payment after being reinstated, he or she would not receive any credited service for any of the make-ups or buybacks paid after reinstatement to service.

They would, however, receive the money used to do the make-up and/or buyback back without additional interest.

Retired Member Can Waive Receipt of Retirement Allowance:

A retired member who returns to public employment can waive the receipt of his or her retirement allowance and again work for a public entity.

There is no limit as to how many hours he or she can work per year or how much pay he or she can receive from the new position so long as the allowance is being waived. He or she will not be a member of the retirement system pertaining to the new position nor can he or she receive any additional Chapter 32 retirement benefits for this period of time.

As part of his or her new employment, he or she would be required to participate in an alternate retirement program (an OBRA plan), unless he or she returned to employment in the same system from which he or she retired. In this case, he or she would be considered a "returning annuitant" and would not be required to participate in an OBRA plan.

Retired Member Chooses not to Waive Receipt of Retirement Allowance:

A retired member who returns to public employment can decide not to waive the receipt of his or her retirement allowance while working for a public entity.

If he or she chooses not to waive receipt of his or her retirement allowance and is working in the public sector in Massachusetts, he or she can work a maximum of 960 hours per year and the pay that he or she receives from the new position is limited to the difference between the current salary of the position he or she retired from and his or her retirement allowance.

Retired Member Elected to Office or Directly Appointed:

Any retired member of a retirement system upon election to office by popular vote or direct appointment to a position for a term of years by the governor, or appointment to any position by the mayor, city council, selectmen or a sheriff may elect to become a member-in-service of the retirement system pertaining to the position to which they are elected or appointed provided that he or she repays into the system from which he or she retired the total amount of retirement

benefits received from that system (without interest) from his or her date of retirement through the date of his or her again becoming a member-in-service.

If a member previously retired for Superannuation is elected to office, that member can work without limitation even if they choose not to rejoin the retirement system. However, if a member previously retired under disability is elected and chooses not to join the retirement system, he or she would be subject to the limits provided for in G.L. c. 32, §91A.

Disability Retiree Returning to Service (Section 8):

In some instances, a member retired under a disability (accidental or ordinary) is later found to be able to perform the essential duties of the position from which he or she was retired. If the retired member is found able to perform the essential duties of the position within two years of the date of the disability retirement, he or she is to be restored to the position that he or she retired from. If the retired member is found able to perform the essential duties after two years from the date of the disability retirement, he or she should be restored to the position, if vacant, or put on a waiting list for the next available position to become available. If a retired member is restored to service, upon his or her subsequent retirement, he or she would receive creditable service for the period of time for which he or she was retired on a disability. No additional contributions or payments are necessary to be restored to service and/or receive such creditable service.

We trust the foregoing is of assistance. If you have any questions concerning this matter, do not hesitate to contact this office.

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