OFFICE OF THE INSPECTOR GENERAL
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Advisory

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Navigating the Post-Retirement Earnings Rules for Public Employees

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I. Introduction

The Massachusetts Office of the Inspector General (OIG) has a statutory mission under Chapter 12A of the Massachusetts General Laws to detect and prevent fraud, waste, and abuse of public funds at the state and municipal levels. Pursuant to this authority, the OIG is issuing this advisory to assist Massachusetts state and municipal retirees and Massachusetts state and municipal employers in navigating the statutory post-retirement earnings rules.

The earnings cap is designed to prohibit retirees from earning more through their combined pension and post-retirement job earnings than they would have if they continued to work in the public role from which they retired.

II. Problem

The public retirement system is designed to promote the economic stability of tenured public employees after they retire. Chapter 32 of the Massachusetts General Laws (Chapter 32) limits the amount that Massachusetts public retirees can earn in a post-retirement job with a Massachusetts public entity. The earnings cap prevents retirees from working full-time for the Commonwealth or one of its political subdivisions while simultaneously receiving a Massachusetts public pension.[1] Among several reasons this public policy was put in place is the fact that a public retiree continuing to work for a public entity does not contribute to the retirement fund as other public workers do.

Earnings cap calculations are complicated and unique to each retiree. Currently, there is no central agency or process to monitor compliance with Chapter 32's post-retirement earnings limits and no easy way for

[1] Chapter 32 does not limit the Massachusetts public sector earnings of federal government retirees, retirees from other states or municipal governments outside of Massachusetts, or private sector retirees.

public retirees, public employers, or pension boards to calculate individual earnings limits. The earnings cap is real, yet compliance currently depends on a self-monitoring honor system.

III. Background

Full-time Massachusetts public employees contribute a portion of their salaries to a network of retirement systems governed by Chapter 32. The Public Employee Retirement Administration Commission (PERAC) regulates this network, comprised of 104 independently governed retirement systems.[2]

Consistent with public policy that is codified into law, public retirees who return to work for the Commonwealth or one of its municipalities are statutorily limited in the amount of money they can earn in their post-retirement job.

The earnings limitation is sometimes expressed in hours, which may not reflect the number of hours that a specific retiree actually works. This is because Section 91(b) of Chapter 32 allows a public retiree to work up to 1,200 hours per year for a public employer, while also limiting the retiree's annual compensation from post-retirement public employment to the difference between their pension and the current "salary that is being paid" to the person holding their former job or the salary used to calculate their retirement allowance. After being retired for one full calendar year (January – December), that dollar limit may be increased by an additional $15,000.

The earnings cap is designed to prohibit retirees from earning more through their combined pension and post-retirement job earnings than they would have if they continued to work in the public role from which they retired.

Chapter 32 requires that public retirees returning to public service track their hours and earnings and inform their employer if they exceed either limit. If a public retiree reaches either the earnings or hours limit, that retiree must stop working for their public employer. In limited circumstances, a retiree may request a waiver from their earnings cap, but there should be no presumption that their retirement board will grant the request.

Retirees who exceed their earnings cap must pay back the amount they earned above the limits. If the retiree does not voluntarily return the excess earnings, Chapter 32 allows the employer to sue the retiree to recover the public funds.

IV. Recommendations

Massachusetts public sector employers and public sector retirees need to be well-informed on the post-retirement rules.

In its March 2024 report titled *Post-Retirement Earnings Limits for Massachusetts Public Employees – A Review of a Flawed System*, the OIG identified the difficulty in having individuals, even with the best of intent, calculate their specific post-retirement earnings allowance. Because data is not currently shared among

[2] The Commonwealth has a surprisingly large number of public retirement systems. Each has its own leadership, administration, overhead costs, and oversight responsibilities.

the 104 retirement systems, PERAC, or the Massachusetts Department of Revenue, it is difficult for Massachusetts public employers and Massachusetts public retirees to understand the earnings limitations under the existing statute. Conducting appropriate oversight is also very difficult and time-consuming for each individual investigation.

As a result of the OIG's post-retirement report and further advocacy, the Legislature passed, and the Governor signed, a bill creating a Fiscal Year 2025 task force to review the current state of the law, its challenges, and proposed changes. The OIG is optimistic that a comprehensive set of recommendations for systemic improvements will emerge from the task force by its deadline of June 30, 2025, for consideration by the Legislature.

In the meantime, the OIG strongly recommends that Massachusetts public sector retirees and Massachusetts public employers take the following steps to ensure compliance with Chapter 32's post-retirement earnings caps and avoid running afoul of the rules.

(1) Massachusetts state, municipal, and other public sector retirees returning to public service should:

A. Calculate their individual earnings cap by either subtracting their pension from the salary that is currently being paid for the position from which they retired or from the salary used to calculate their retirement allowance;

B. Notify their post-retirement employer of their earnings cap so the employer can determine an appropriate schedule and wage that complies with the earnings cap;

C. Notify their retirement board that they have returned to public service; and

D. Track their hours and stop working when they reach their earnings cap.

(2) Massachusetts state, municipal, and other public sector employers should:

A. Provide their retirees with the information necessary to calculate their earnings cap, whether the retiree is returning to work within the same public entity or in a different Massachusetts state agency, municipal agency, or other Massachusetts public entity;

B. Ensure that a public retiree's new work schedule and wages are compliant with their earnings cap;

C. Ensure a retiree's status as "post-retiree" in the hiring jurisdiction's payroll system, if such an option is available, or with the payroll administrator;

D. Track the hours of all public retirees employed and do not allow post-retirees to work beyond their earnings cap; and

E. Take action to stop further earnings if a post-retiree exceeds their earnings cap; also take action to recoup any overearnings and report overearnings to PERAC.

For more information, read the OIG's March 2024 report titled *Post-Retirement Earnings Limits for Massachusetts Public Employees – A Review of a Flawed System*.

The OIG periodically issues advisories as a way to succinctly share timely topics with key stakeholders, most notably the leaders within the Commonwealth's 351 local communities and the leaders of state government, state agencies, quasi-public agencies, and other public entities. The OIG hopes that these advisories will prompt dialogue and needed action on matters important to the Commonwealth.

If you have questions, please contact the OIG's technical assistance team at 617-722-8838. Also consider the OIG Academy's educational opportunities that will help you detect and prevent fraud, waste, and abuse of public funds.

RESOURCES

OIG Fraud Hotline
1-800-322-1323
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