

MEMORANDUM

TO: All Retirement Boards,
State, County and Municipal Officials

FROM: John W. Parsons, Esq., Executive Director

RE: Post Retirement Work Waiver During the State of Emergency Extended to 2021

DATE: December 16, 2020

As you know, Chapter 53 of the Acts of 2020 waived the M.G.L. c. 32, § 91 earnings and hours restrictions for superannuation public retirees working in the public sector. Chapter 53 was applicable in calendar year 2020 during the period of the Governor's State of Emergency, which began on March 10, 2020.

With the signing of the FY 2021 budget into law on December 11, 2020 as Chapter 227 of the Acts of 2020, the waiver on earnings and hours restrictions for superannuation public retirees working in the public sector has been extended to calendar year 2021, pursuant to Section 68 of this Act. As it had worked for 2020, the waiver is in place for the duration of the Governor's State of Emergency, or the end of Calendar Year 2021, *whichever occurs first*.

As has been the case since Chapter 53 was signed into law, the waiver does not apply to disability retirees.

It is important to note that this accommodation to the demands on the public work force applies regardless of whether the individual is involved in COVID-19 related employment.

There had been many questions about knowing when the State of Emergency ends. It is an official declaration the Governor will make. It also will generate significant news coverage. PERAC will be monitoring the situation and will issue a memo when the Governor takes such action.

Chapter 53 of the Acts of 2020, as amended by Chapter 227, now reads as follow (new language in bold):

SECTION 14. (a) Notwithstanding any general or special law to the contrary, subsections (b) and (c) of section 91 of chapter 32 of the General Laws shall not apply in calendar **years**



MEMORANDUM – Page 2

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2020 and 2021 to the following 2 categories of persons for hours worked and earnings received during the governor's March 10, 2020 state of emergency:

(i) any person who has been retired and who is receiving a pension or retirement allowance, pursuant to said chapter 32 or any other general or special law, from the commonwealth or a county, city, town, district or authority; or

(ii) any person whose employment in the service of the commonwealth or a county, city, town, district or authority has been terminated, pursuant to said chapter 32 or any other general or special law, by reason of having attained an age specified in said general or special law or by the rules and regulations of any department or agency of the commonwealth or a county, city, town, district or authority without being entitled to any pension or retirement allowance.

These 2 categories of persons may, during the state of emergency and subject to all other laws, rules and regulations governing the employment of persons in the commonwealth or a county, city, town, district or authority, be employed in the service of the commonwealth or a county, city, town, district or authority, including as a consultant or independent contractor or as a person whose regular duties require that such person's time be devoted to the service of the commonwealth, county, city, town, district or authority during regular business hours.

(b) This section shall not apply to individuals retired under a general or special law on disability.

As an example, if the State of Emergency ends on June 30, 2021, the hours accrued and earnings received during the first six months of Calendar Year 2021 would be excluded from the calculation of a retiree's earnings for Calendar Year 2021. In determining a retiree's earnings for Calendar Year 2021, the retiree and employer should apply the work restrictions to the remaining six months of the year.

Adherence to the post-retirement restrictions in any calendar year are the statutory responsibility of the employee and the employer. If employers or employees have questions relative to these temporary provisions, please contact this office or your local retirement board.