

Superseded 5/10/2016

49-11-504 Reemployment of a retiree -- Restrictions.

- (1) As used in this section, "full-time" means:
 - (a) employment requiring 20 or more hours of work per week; or
 - (b) at least a half-time teaching contract.
- (2)
 - (a) Except for the provisions of Subsection (3), the provisions of this section do not apply to a person who is subject to the provisions of Section 49-11-505.
 - (b) This section does not apply to employment as an elected official.
- (3) A person who is not a retiree under this title is not subject to any postretirement restrictions under this title.
- (4) A retiree of an agency who is reemployed may not earn additional service credit, if the retiree is reemployed by:
 - (a) a different agency; or
 - (b) the same agency after six months from the retirement date.
- (5) A retiree of an agency who is reemployed on a full-time basis by the same agency within six months of the date of retirement is subject to the following:
 - (a) the agency shall immediately notify the office;
 - (b) the office shall cancel the retiree's allowance and reinstate the retiree to active member status;
 - (c) the allowance cancellation and reinstatement to active member status is effective on the first day of the month following the date of reemployment;
 - (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year period from the date of cancellation of the original allowance, and if the retiree retires again within the two-year period, the original allowance shall be resumed; and
 - (e) a reinstated retiree retiring after the two-year period shall be credited with the service credit in the retiree's account at the time of the first retirement and from that time shall be treated as a member of a system, including the accrual of additional service credit, but subject to recalculation of the allowance under Subsection (9).
- (6) A retiree of an agency who is reemployed by the same agency within six months of retirement on a less than full-time basis by the same agency is subject to the following:
 - (a) the retiree may earn, without penalty, compensation from that position which is not in excess of the exempt earnings permitted by Social Security;
 - (b) if a retiree receives compensation in a calendar year in excess of the Social Security limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;
 - (c) the effective date of a suspension and reinstatement of an allowance shall be set by the office; and
 - (d) any suspension of a retiree's allowance under this Subsection (6) shall be applied on a calendar year basis.
- (7) For six months immediately following retirement, the retiree and participating employer who are subject to Subsection (6) shall:
 - (a) maintain an accurate record of gross earnings in employment;
 - (b) report the gross earnings at least monthly to the office;
 - (c) immediately notify the office in writing of any postretirement earnings under Subsection (6); and
 - (d) immediately notify the office in writing whether postretirement earnings equal or exceed the exempt earnings under Subsection (6).
- (8)

- (a) If a participating employer hires a retiree, the participating employer may not make a retirement related contribution in an amount that exceeds the normal cost rate as defined under Section 49-11-102 on behalf of the retiree under Subsections (8)(b) and (c).
 - (b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid to a retiree-designated:
 - (i) qualified defined contribution plan administered by the board, if the participating employer participates in a qualified defined contribution plan administered by the board; or
 - (ii) qualified defined contribution plan offered by the participating employer if the participating employer does not participate in a qualified defined contribution plan administered by the board.
 - (c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not participating in a qualified defined contribution plan administered by the board, the employer may elect to pay the contributions under Subsection (8)(a) to a deferred compensation plan administered by the board.
- (9) A retiree who has returned to work, accrued additional service credit, and again retires shall have the retiree's allowance recalculated using:
- (a) the formula in effect at the date of the retiree's original retirement for all service credit accrued prior to that date; and
 - (b) the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.
- (10) The board may make rules to implement this section.