

28 **49-11-504. Reemployment of a retiree -- Restrictions.**29 (1) As used in this section:30 (a) "Different agency" means an agency of an employer that is not within the same
31 department, division, agency, office, authority, commission, board, institution, hospital, county,
32 municipality, school district, special district, state college, or university of the employer.33 (b) "Full-time" employment means employment requiring 20 hours of work per week
34 or more or at least a half-time teaching contract.35 (c) "Same agency" means an agency of an employer that is within the same department,
36 division, agency, office, authority, commission, board, institution, hospital, county,
37 municipality, school district, special district, state college, or university of the employer.38 [(+) (2) A person who retires from a nonparticipating employer is not subject to any
39 postretirement restrictions under this title.

40 [(2) (3) A retiree of an agency who returns to work at a different agency:

41 (a) is not subject to any postretirement restrictions under this section; and

42 (b) may not earn additional service credit.

43 [(3) For the purposes of Subsections (4) and (5), "full-time" employment means
44 employment requiring 20 hours of work per week or more or at least a half-time teaching
45 contract.]46 (4) A retiree of an agency who is reemployed on a full-time basis by the same agency
47 within ~~six~~ 12 months of the date of retirement is subject to the following:

48 (a) the agency shall immediately notify the office;

49 (b) the office shall cancel the retiree's allowance and reinstate the retiree to active
50 member status;51 (c) the allowance cancellation and reinstatement to active member status is effective on
52 the first day of the month following the date of reemployment;53 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year
54 period from the date of cancellation of the original allowance, and if the retiree retires again
55 within the two-year period, the original allowance shall be resumed; and56 (e) a reinstated retiree retiring after the two-year period shall be credited with the
57 service credit in the retiree's account at the time of the first retirement and from that time shall
58 be treated as a member of a system, including the accrual of additional service credit, but

59 subject to recalculation of the allowance under Subsection (9).

60 (5) A retiree of an agency who is reemployed by the same agency within [~~six~~] 12
61 months of retirement on a less than full-time basis by the same agency is subject to the
62 following:

63 (a) the retiree may earn, without penalty, compensation from that position which is not
64 in excess of the exempt earnings permitted by Social Security;

65 (b) if a retiree receives compensation in a calendar year in excess of the Social Security
66 limitation, 25% of the allowance shall be suspended for the remainder of the [~~six-month~~]
67 12-month period;

68 (c) the effective date of a suspension and reinstatement of an allowance shall be set by
69 the office; and

70 (d) any suspension of a retiree's allowance under this Subsection (5) shall be applied
71 on a calendar year basis.

72 (6) For [~~six~~] 12 months immediately following retirement, the retiree and participating
73 employer shall:

74 (a) maintain an accurate record of gross earnings in employment;

75 (b) report the gross earnings at least monthly to the office;

76 (c) immediately notify the office in writing of any postretirement earnings under
77 Subsection (4); and

78 (d) immediately notify the office in writing whether postretirement earnings equal or
79 exceed the exempt earnings under Subsection (5).

80 (7) A retiree of an agency who is reemployed by the same agency after [~~six~~] 12 months
81 from the retirement date;

82 (a) is not subject to any postretirement restrictions under this title; and

83 (b) may not earn additional service credit.

84 (8) If a participating employer hires a nonexempt retiree who may not earn additional
85 service credit under this section, the participating employer shall contribute the same
86 percentage of a retiree's salary that the participating employer would have been required to
87 contribute if the retiree were an active member, up to the amount allowed by federal law, to a
88 retiree designated:

89 (a) defined contribution plan administered by the board, if the participating employer

- 90 participates in the defined contribution plan administered by the board; or
91 (b) defined contribution plan offered by the participating employer if the participating
92 employer does not participate in a defined contribution plan administered by the board.
93 (9) Notwithstanding any other provision of this section, a retiree who has returned to
94 work, accrued additional service credit, and again retires shall have the retiree's allowance
95 recalculated using:
96 (a) the formula in effect at the date of the retiree's original retirement for all service
97 credit accrued prior to that date; and
98 (b) the formula in effect at the date of the subsequent retirement for all service credit
99 accrued between the first and subsequent retirement dates.
100 (10) This section does not apply to elected positions.
101 (11) The board may make rules to implement this section.

Legislative Review Note
as of 12-5-05 10:08 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel