



North Carolina Retirement Systems

Guidance on Return-to-Work Laws for Members of the Local Governmental Employees' Retirement System (LGERS)

Revised March 2011

Over time, the North Carolina General Assembly has enacted, and amended, laws governing the return to work for all retirees of the North Carolina Retirement Systems.

Return-to-work laws apply differently to members of the Local Governmental Employees' Retirement System (LGERS) and the Teachers' and State Employees' Retirement System (TSERS), so before you decide to return to work for an employer under the Retirement System from which you retired, you should familiarize yourself with the laws governing return-to-work. As a retiree, you are responsible for knowing and abiding by the return-to-work laws that apply to your particular situation.

Please be aware that violation of the return-to-work laws could cause you to incur financial penalties, possible loss of retirement benefits and/or possible loss of health benefits.

The following return-to-work topics will be explained and discussed below, in separate sections:

- General information on return-to-work laws if you are an LGERS retiree who wishes to return to work for an LGERS employer
- Returning to work with a private entity
- Returning to work as a contributing LGERS member and therefore stopping your LGERS retirement benefit voluntarily
- Returning to work as a contributing LGERS member, violating any one of the return-to-work laws, and consequently having your LGERS retirement benefit suspended or cancelled involuntarily
- Returning to work for an LGERS employer in a position not eligible for LGERS membership, violating any one of the return-to-work laws, and consequently having your LGERS retirement benefit suspended or cancelled involuntarily
- Returning to work for an LGERS employer in a position not eligible for LGERS membership, following all return-to-work laws, and continuing to receive your monthly LGERS retirement benefit

If you are receiving a disability benefit from any System, you should contact the Retirement Systems Division for information on return-to-work laws that apply to you.

General Information on Return-to-Work Laws if you are an LGERS Retiree who Wishes to Return to Work for an LGERS Employer

You are not allowed to perform any services for an LGERS employer during the month in which your initial LGERS retirement became effective.

If you perform any services for an LGERS employer during the month in which your initial retirement became effective, your LGERS retirement benefit will be cancelled and all retirement benefits paid to you must be repaid to the Retirement System. If you have employer-provided health insurance, you may wish to discuss with your employer how the cancellation of your retirement benefit will affect the insurance coverage.

If you return to work with an LGERS employer in a position that does not require membership in the LGERS, you are subject to the earnings restrictions below. You can earn whichever is greater:

- 50% of your gross pre-retirement salary (excluding termination payments) or
- \$29,280.00 (for 2011).

The above amounts are adjusted annually on January 1 according to the Consumer Price Index, which is a national measure of increase in the cost of living from one year to the next. These earnings restrictions apply for the 12 months immediately following retirement and for each calendar year following the year of retirement.

I. Returning to Work with a Private Entity

If you are employed with a private-sector agency or a government agency that does not participate in the LGERS (i.e. the federal government, state government, or another municipality that does not participate in this Retirement System), your LGERS retirement benefit will continue uninterrupted until your death. In other words, the return-to-work laws do not restrict you from gaining employment in general, but rather these laws place certain restrictions on you if you return to work with an agency participating in the LGERS.

However, if you return to work for a private entity, such as a temporary agency or a Limited Liability Corporation (LLC), which then assigns or “leases” you back to an LGERS employer, you will be subject to the return-to-work laws when such an arrangement is merely a pass-through arrangement or is seen as an attempt to circumvent the applicable return-to-work laws. Please refer to Sections III and IV below.

II. Returning to Work as a Contributing LGERS Member and Therefore Stopping Your LGERS Retirement Benefit Voluntarily

If you go back to work in a regular contributing LGERS position which requires 1,000 hours or more per year, your LGERS retirement benefit must be suspended the month following the month in which you return to work, and you will again be a contributing member of the LGERS in the month in which you are restored to service. When you are no longer employed by a participating LGERS agency, your LGERS retirement benefits may be reinstated. However, you must re-apply for retirement.

III. Returning to Work as a Contributing LGERS Member, Violating any One of the Return-to-Work Laws, and Consequently Having your LGERS Benefit Suspended or Cancelled Involuntarily

If the Retirement System is not notified immediately upon your return to work in a position in which you should have become a contributing LGERS member, all LGERS benefits paid to you beginning with the month following the month you returned to LGERS employment must be repaid to the Retirement System. You can choose to go back to work in any position at an agency that participates in the LGERS at any time, but if you work in an LGERS position which requires 1,000 hours or more per year, your LGERS retirement benefit must be stopped on the first day of the month following the month of reemployment and you will again become a contributing member of the LGERS in the month in which you are restored to service. When you are no longer employed by a participating LGERS agency, your LGERS retirement benefits may be reinstated. However, you must re-apply for retirement.

IV. Returning to Work for an LGERS Employer in a Position Not Eligible for LGERS Membership, Violating any One of the Return-to-Work Laws, and Consequently Having Your LGERS Retirement Benefit Suspended or Cancelled Involuntarily

If you abide by the waiting period rules but exceed the earnings limitation, your LGERS retirement benefit must be suspended on the first day of the month following the month in which you exceeded the earnings limitation and will remain suspended for the remainder of that calendar year. Your LGERS benefit will be reinstated on January 1 of the following year. If you do not inform the Retirement System at the time you exceed your earnings limitation, your LGERS retirement benefit will be retroactively suspended to the effective date of the violation once notice is received, and all LGERS retirement benefits paid during this period must be repaid to the Retirement System. If the period of time that you are in violation of the return-to-work laws is extensive, the amount required to be repaid will be extensive as well. Again, it is important to note that if you have employer-provided health insurance, you may wish to discuss with your employer how the suspension of the retirement benefit will affect the insurance coverage.

V. Returning to Work for an LGERS Employer in a Position Not Eligible for LGERS Membership, Following all Return-to-Work Laws, and Continuing to Receive your Monthly LGERS Benefit

If you are not in violation of the return-to-work laws, you will receive your monthly LGERS retirement benefit as well as a paycheck from your new LGERS position. In order for you to continue receiving your monthly LGERS benefit, you must be reemployed by an LGERS employer on a part-time, interim, temporary, or contractual basis, or otherwise perform services on any basis that does not require membership in the LGERS. You will be subject to return-to-work laws based on the nature of the particular work you perform for a participating LGERS employer, regardless of your job classification or your technical employment status (which may include being assigned work for a participating

employer by a private company such as a temporary agency, or working for a Limited Liability Corporation).

Please note that temporary and interim employment positions with an LGERS employer should have set employment ending dates; otherwise, these positions may not be considered to be temporary or interim. As long as you are reemployed with an LGERS employer in a position that does not require membership in the LGERS, you will not put any contributions into the Retirement System and, as such, will not accrue any new service credit, and will not get the benefits of a “second retirement.”

Return-to-Work Laws At a glance...

As a Local Governmental Employees’ Retirement System (LGERS) retiree, if you wish to perform services for an LGERS employer and continue to receive your LGERS monthly retirement benefit, you must meet the following conditions:

- You may not work during the month in which your initial retirement became effective.
- You must work in a position that does not require membership in the LGERS. (NOTE: If you are reemployed in an LGERS position which requires 1,000 or more hours per year, your retirement payment must be stopped and you will again become a contributing LGERS member.)
- You are subject to the earnings restrictions below. You can earn whichever is greater:
 - 50% of your gross pre-retirement salary (excluding termination payments) or
 - \$29,280.00 (for 2011).

These earnings restrictions apply for the 12 months immediately following retirement and for each calendar year following the year of retirement.

Important Points to Remember:

- If you return to work for an LGERS employer and you do not follow the return-to-work laws, your LGERS retirement benefit may be cancelled and all LGERS benefits paid to you may be required to be repaid to the Retirement System. If the period of time that you are in violation of the return-to-work laws is extensive, the amount required to be repaid will be extensive as well.
- If you have employer-provided health insurance, you may wish to discuss with your employer how the cancellation or suspension of your retirement benefit will affect your insurance coverage as a retiree.
- If you have any questions regarding the LGERS return-to-work laws or how they apply to your specific situation, you should contact the Retirement System Division’s Member Services unit at 1-877-733-4191 (toll-free), or (919) 733-4191 (Raleigh area only).

If you are receiving a disability benefit from the LGERS, you should contact the Retirement Systems Division for information on return-to-work laws that apply to you.