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Dear Retiree:

Attached is a copy of M.G.L. chapter 32 sec 91 (b) & (c). This section of the law refers to post superannuation retirement earnings, from the Commonwealth, or any of its subdivisions. The intent of this law is to prevent the retiree from earning more from the Commonwealth than what they originally were earning as an employee.

Simply stated, if a retiree is re-employed in the service of the Commonwealth, or any of its counties, cities, or municipalities, his/her earnings for the first calendar year when added to the retirement allowance, cannot exceed the salary currently being paid for the position from which he/she retired. Thereafter, you cannot earn more than the difference between your exit base salary and your pension plus \$15,000 in a calendar year. Further the re-employment is limited to a period of up to 960 hours in aggregate, in any calendar year.

For example, if you retired from your position with an allowance of \$35,000, and that position currently pays \$55,000 then you may not earn more than \$20,000 and/or work more than 960 hours in the service of the Commonwealth in a calendar year.

If you work for a public entity of the State of Massachusetts, you must keep track of your hours and excess earnings. You are required to certify to your public employer the number of hours you have worked in a calendar year along with your earnings (Ch32, Sec 91 (c)). Please be aware that this provision also applies to Police Details.

If you have any questions regarding this section of chapter 32, please contact the retirement office at (413) 774-4837 for clarification.

By signing this document you are acknowledging the receipt of M.G.L. chapter 32 sec. 91 (b) & (c), and confirming that you understand the provision of the law.

Signature of Retiree

Date

Massachusetts General Law, Chapter Thirty Two, Section 91

Section 91(b) In addition to and notwithstanding the foregoing provisions of this section or similar provisions of any special law, any person who has been retired and who is receiving a pension or retirement allowance, under the provisions of this chapter or any other general or special law, from the commonwealth, county, city, town, district or authority, or any person whose employment, in the service of the commonwealth, county, city, town, district or authority, has been terminated, under the provisions of this chapter 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, county, city, town, district or authority without being entitled to any pension or retirement allowance, may, subject to all laws, rules and regulations, governing the employment of persons in the commonwealth, county, city, town, district or authority, be employed in the service of the commonwealth, county, city, town, district or authority, including as a consultant or independent contractor or as a person whose regular duties require that his time be devoted to the service of the commonwealth, county, city, town, district or authority during regular business hours for not more than nine hundred and sixty hours in the aggregate, in any calendar year; provided that the earnings therefrom when added to any pension or retirement allowance he is receiving do not exceed the salary that is being paid for the position from which he was retired or in which his employment was terminated plus \$15,000; provided however that in the first 12 months immediately following the effective date of retirement, the earnings received by any person when added to any pension or retirement allowance the person is receiving shall not exceed the salary that is being paid for the position from which the person was retired or in which the person's employment was terminated.

(c) Each person referred to in paragraph (b) shall certify to his employer and the treasurer or other person responsible for the payment of the compensation for the position in which he is to be employed, the number of days or hours which he has been employed in any such calendar year and the amount of earnings therefrom, and if the number of hours exceeds nine hundred and sixty, in the aggregate, he shall not be employed, or if the earnings therefrom exceed the amount allowable under paragraph (b), he shall return to the appropriate treasurer or other person responsible for the payment of compensation all such earnings as are in excess of said allowable amount. The amount of any excess not so returned may be recovered in an action of contract by the appropriate treasurer or other person responsible for the payment of the compensation of any such person.



Frequently Asked Questions

Post Retirement Earnings

for MA retirees working for a governmental unit

1. I retired from the Commonwealth of MA; can I take employment with any city, town or other MA governmental employer?

Yes, but there are two strict limitations on further public employment in the Commonwealth following your retirement from a public service position. You will be limited to 960 hours in a calendar year and also your earnings will be limited during the calendar year. It applies to any public employment, regardless of whether or not it occurs in the same governmental unit from which the employee retired.

2. I retired this past June, what can I earn in a calendar year from a public employer after retirement?

Your public employment earnings for the period of post-retirement employment in any calendar year, when added to your retirement allowance, cannot be greater than the salary currently being paid for the position from which you retired plus \$15,000. However, the additional \$15,000 is not applied in the calculation for the first full calendar year following the retirement date but each calendar year thereafter.

3. What happens if I reach 960 hours during a calendar year but I have not reached my earnings limit?

Your public employment must cease when either limitation is reached for the remainder of the calendar year.

4. Is this based on calendar year, fiscal year, or school year?

The earnings and hourly limits on post-retirement public employment, MGL c.32, §91(b), are based on a calendar year period, January – December.

5. Who will keep track of the hours and earnings amount?

The responsibility of monitoring both the hours and the earnings amount lays with you the member and your employer.

6. How do I find out the current salary, and what should be included in that amount?

You must contact your former employer; from where you retired from to find out what your salary would be had you remained in service. Any compensation that was considered pensionable at retirement, such as longevity and education incentives, should be included in the current salary amount.

7.

I work for more than one public employer, can I work 960 hours for each?

No. All hours and earnings must be added together from all MA governmental units worked. Cumulatively they cannot exceed the 960 hours or earnings limits.

8.

Does my “retirement allowance” used in calculating my earnings limit include my annuity as well as my pension portion of my annual benefit?

Yes, the “retirement allowance” used in calculating your earnings limit does include both your annuity amount as well as your pension portion of the annual benefit.

9.

I pay child support and my ex-spouse receives a portion of my retirement allowance, does that get included in the calculation of what I can earn?

Yes, the gross retirement allowance is the figure used.

10.

What if the position that I retired from no longer exists?

General normal increases will be added to the last paid salary that you received at the date of retirement.

11.

I retired and my employer privatized my position and I am now serving in such capacity as a private consultant or independent contractor; am I subject to these limitations?

Yes, you are subject to public employment earnings limits. It is irrelevant whether an employee-retiree chooses to classify him or herself as a “consultant” or “independent contractor” — the earnings limitations still apply if in fact the nature of the relationship is as an employee.

This issue is case specific, please contact PERAC directly for more guidance.

12.

I am a surviving beneficiary of a public retiree, am I subject to public employment earning limits?

No, public employer earning limitations apply only to retirees, not survivors or beneficiaries.

13.

I am a disabled retiree; can I add the additional \$15,000 to my earnings limit for public employment?

No, you may only add an additional \$5,000 to your total annual earnings from either public or private employment because of a separate legal limitation applied to all disabled retirees.

14.

I retired on December 3, 2010 from state government and since then have started my own engineering company and act as a consultant and independent contractor for the state and some municipalities. Am I subject to the public sector earning limits?

Yes, for persons who retire after July 1, 2009, earnings as a consultant or an independent contractor are limited. A retiree may not avoid the limitations by forming a company if the primary reason for the formation is to avoid the limitations.

15.

Is there any public sector re-employment that is not affected by these limitations?

Yes, you may:

- be paid for jury duty;
- be paid for services as an election officer;
- hold certain paid appointive positions; and,
- certain emergency employment may be authorized.

In addition, you may be elected to office by a direct vote of the people following your retirement, and be paid for the same without limitation; provided the position from which you retired was not the same elective office. If the position from which you retired was the same elective office, then the earnings limitations will apply to you unless at least one year has passed from the last day you held said public office and the commencement of your post-retirement elective office.

16.

I am a retired police officer and do “private details” for the town, the compensation for these details are from fees collected from private companies. Am I subject to these limitations?

Earnings for “details” which are paid by city or town payroll are included in these limitations, regardless of whether the city or town ultimately bills a private entity for the work.

17.

I was a member of a retirement system for 25 years when my public employer outsourced my job to a private company and I continued to work full-time for the new company performing the same duties and responsibilities. After serving 8 years with this company I may want to take my public retirement. Would I be subject to the earnings and hours limit if I decided to take my retirement benefit?

Yes, persons who retire after July 1, 2009, and whose earnings are derived from duties that require service to a public entity during regular business hours, are subject to the earnings and the 960 hourly limit.