



April 27, 2016

Retiree Return to Work

EDUCATIONAL BRIEFING

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OVERVIEW

LEOFF 2 members have increasingly expressed interest in returning to work after retirement. The Board asked staff to provide an overview of current post-retirement employment rules.

CURRENT POST-RETIREMENT EMPLOYMENT RULES

Post-retirement rules apply only after a member has fully retired. In all systems this requires fully terminating all employment with no agreement to return¹. The member must then remain absent for about a month, though the way that month is counted differs among systems. If a member fails to separate from service, he or she has failed to retire.

If a member successfully retires and returns to work in a position covered by a Washington State retirement system the first issue is whether they return to membership. If a member returns to membership in the system retired from, their benefit stops. If they do not return to membership, they may continue to work and draw a pension, with limitations as explained below.

The current retirement and return to work restrictions for retirees from LEOFF Plan 2, WSPRS, TRS, SERS PERS, and PSERS² are summarized below. A more detailed narrative description is attached as Appendix A.

¹ LEOFF Plan 2: RCW 41.26.490(5); TRS: RCW 41.32.010(42); SERS: RCW 41.35.450; PSERS: RCW 41.27.015(28); PERS: RCW 41.40.010(36)

² Respectively: the Law Enforcement Officers' and Firefighters' Retirement System Plan 2 (LEOFF Plan 2), The Washington State Patrol Retirement System (WSPRS) The Teachers' Retirement System (TRS), the School Employees' Retirement System (SERS), the Public Employees' Retirement System (PERS), and the Public Safety Employees' Retirement System (PSERS).

Return to Work Restrictions on All Retirees

System	Qualified Full Retiree	Return to Work Restrictions	
		Employed in position eligible for system retired from	Employed in position eligible for other system
LEOFF 2	Receive at least one retirement check ³	Mandatory return to membership – pension stopped.	Option to: <ul style="list-style-type: none"> • Join new system and have LEOFF pension suspended; or • Stay out of new system and continue LEOFF pension.⁴
WSPRS	Receive at least one retirement check ⁵	Mandatory return to membership – pension stopped ⁶ .	Retiree continues to receive pension; prohibited from establishing membership in second system ⁷ .
TRS, SERS and PERS	Remain absent for at least one full calendar month ⁸	Optional return to membership. <ul style="list-style-type: none"> • If retiree returns to membership, pension stops⁹. • If retiree does not return to membership – same restrictions as if he or she was employed in position eligible for other system. → 	<ul style="list-style-type: none"> • Prohibited from membership in second system⁷ • May work up to 867 hours (5 months) per calendar year • If retiree exceeds 867 hours pension stopped for remainder of year • Clock starts over with new calendar year⁹
PSERS	Remain absent for at least one full calendar month ⁸	Mandatory return to membership, pension stops ¹⁰ .	If retiree works in non-PSERS position, same return to work rules as TRS, SERS, and PERS. ↗

Additional Restrictions on Early Retirees in Other Systems

The Legislature increased the early retirement benefit for TRS 2, SERS, and PERS 2 in 2008¹¹. Prior to the change, members wishing to retire early were subject to a full actuarial reduction, roughly 8% for each year of early retirement¹². Under the 2008 law members with 30 or more

³ RCW 41.26.030(25)

⁴ RCW 41.26.500

⁵ RCW 43.43.120(4)

⁶ RCW 43.43.130

⁷ RCW 41.04.270

⁸ TRS 1: RCW 41.32.570; TRS 2: 41.32.802; SERS: 41.35.060; PSERS: 41.37.050; PERS 41.40.037

⁹ TRS 1: RCW 41.32.570; TRS 2: 41.32.802; SERS: 41.35.060; PERS RCW 41.40.037

¹⁰ RCW 41.37.180

¹¹ TRS 2: RCW 41.32.765(3)(b); SERS RCW 41.35.420(3)(b); PERS 2: RCW 41.40.630(3)(b).

¹² The actual reduction varies based on individual circumstances such as age.

years of service could take advantage of a significantly smaller early retirement reduction (3% per year vs 8%) by using the following subsidized early retirement factors (ERFs):

Retirement Age	Subsidized ERF for Retirees with 30 or more years	Full Actuarial Reduction for retirees with less than 30 years (approximate)
55	20%	80%
56	17%	72%
57	14%	64%
58	11%	56%
59	8%	48%
60	5%	40%
61	2%	32%
62	0%	24%
63	0%	16%
64	0%	8%

The subsidized ERFs were a significant benefit increase for qualifying members. The Legislature did, however, add a new restriction. If a person retiring under the subsidized ERFs returned to non-federal public employment prior to age 65, his or her pension would be immediately stopped regardless of the amount worked.

The Legislature modified the ERF pension suspension provisions in 2016 due to a need for substitute teachers (E2SSB 6455). TRS early retirees working as substitute teachers may work up to 867 hours per year without affecting their pension. This modification expires in 2020.

LEOFF Plan 2 and PSERS have a different set of subsidized early retirement factors.

- LEOFF Plan 2: a member with 20 or more years may retire between the ages of 50 and 52 with a 3% per year reduction¹³.
- PSERS: A member with 20 or more years may retire between the ages of 53 and 59 with a 3% per year reduction¹⁴.

The Legislature did not attach any special post-retirement employment restrictions to the LEOFF 2 or PSERS ERFs.

¹³ RCW 41.26.430(3).

¹⁴ RCW 41.37.210(3)

APPENDIX A: RETIREMENT AND RETURN TO WORK PROVISIONS BY SYSTEM

The retirement and return to work requirements for the retirement systems administered by the Department of Retirement Systems (DRS) are summarized below.

1. LEOFF (Law Enforcement Officers and Firefighters' Retirement System)

a. Plan 1:

- i. Qualifying as a retiree: To qualify as a retiree a LEOFF plan 1 member must completely separate from service by terminating all employment with an employer and receiving at least one retirement check.
- ii. Return to LEOFF position: A LEOFF Plan 1 retiree who returns to a work as a full-time fully compensated law enforcement officer or firefighter reenters LEOFF Plan 1 membership. His or her pension stops until reretirement.
- iii. Other public employment: A LEOFF Plan 1 retiree entering other public employment will continue to receive his or her LEOFF Plan 1 pension.

b. Plan 2:

- i. Qualifying as a retiree: To qualify as a retiree a LEOFF plan 2 member must completely separate from service by terminating all employment with an employer and receive at least one retirement check.
- ii. Return to LEOFF position: A LEOFF Plan 2 retiree who returns to a work as a full-time fully compensated law enforcement officer or firefighter reenters LEOFF Plan 2 membership. His or her pension stops until reretirement.
- iii. Other public employment: A LEOFF Plan 2 retiree who becomes employed in a position eligible for membership in another state public system¹⁵, may:
 1. Elect not to establish membership in the new system and continue to receive his or her pension; or
 2. Elect to establish membership in the new system and have his or her pension suspended until reretirement.

2. TRS (Teachers' Retirement System), PERS (Public Employees' Retirement System) Plan 1 and Plan 2, & SERS (School Employees' Retirement System):

- a. Separation from Service: To qualify as a retiree a TRS, PERS, or SERS member must completely separate from employment by terminating all employment with an employer with no agreement to return.
- b. Reestablishing membership: A retiree returning to work in a position covered by the system he or she retired from may elect to reenter membership, terminate his or her pension, and earn additional service credit.
- c. Other system position: If the retiree does not reenter membership and works in a position eligible for coverage by a DRS administered system¹⁴:
 - i. Less than one calendar month after the effective date of his or her retirement, then his or her pension is reduced by 5.5% for every 7 hours worked. This reduction will be applied until the retiree remains absent from employment for one full calendar month.
 - ii. More than one calendar month after the effective date of his or her retirement may work 867 hours in a fiscal year. A retiree who exceeds that limit will lose their pension for the remainder of the fiscal year. The benefit will start again:

¹⁵ Other than WSPRS

- a. When he or she stops working; or
 - b. At the beginning of the next fiscal year.
- d. TRS Plan 1 differences: The restrictions listed in subsection (2)(a),(b), and (c) only apply to TRS Plan 1 retirees working for certain employers.
- i. The reduction for returning to work less than 30 days after retirement effective date only applies to TRS Plan 1 members who return to work for a K-12 employer, a state agency, or an institution of higher education.
 - ii. A TRS Plan 1 retiree may work in public employment without limitation unless the employer is a public educational employer or a higher education retirement plan eligible position.

3. **PSERS (Public Safety Officers Retirement System)**

- a. Separation from Service: To qualify as a retiree a PSERS member must completely separate from employment by terminating all employment with an employer with no agreement to return.
- b. Reestablishing membership: A retiree returning to work in a PSERS position reenters PSERS membership. His or her pension will stop until reretirement.
- c. Other public employment: If a member who works in a position eligible for membership in DRS administered system¹⁴ other than PSERS:
 - i. Less than one calendar month after the effective date of his or her retirement, then his or her pension is reduced by 5.5% for every 7 hours worked. This reduction will be applied until the retiree remains absent from employment for one full calendar month.
 - ii. More than one calendar month after the effective date of his or her retirement may work 867 hours in a fiscal year. A retiree who exceeds that limit will lose their pension for the remainder of the fiscal year. The benefit will start again:
 - 1. When he or she stops working; or
 - 2. At the beginning of the next fiscal year.

4. **WSPRS (Washington State Patrol Retirement System)**

- a. Separation from Service: To qualify as a retiree a WSPRS member must completely separate from employment by terminating all employment with an employer with no agreement to return.
- b. Returning to WSPRS covered employment: The retiree's benefit is stopped until reretirement.
- c. Other public employment: No restriction.



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Return to Work Summary

System	Qualified Full Retiree	Return to Work Restrictions	
		Employed in position eligible for system retired from	Employed in position eligible for other system
LEOFF 2	{ Receive at least one retirement check }	{ Mandatory return to membership – pension stopped }	<ul style="list-style-type: none"> • Join new system and have LEOFF pension suspended; or • Not join and continue LEOFF pension.
WSPRS			Retiree continues to receive pension; barred from membership in second system
TRS, SERS and PERS	{ Remain absent for at least one full calendar month }	Optional return to membership. <ul style="list-style-type: none"> • If retiree returns to membership, pension stops • If retiree does not return to membership 	<ul style="list-style-type: none"> • Barred from membership in second system
PSERS		Mandatory return to membership – pension stopped	{ <ul style="list-style-type: none"> • May work up to 867 hours (5 months) per calendar year • If retiree exceeds 867 hours pension stopped for rest of year • Clock starts over with new calendar year }

Restrictions for Some Retirees

- TRS 2, SERS, PSERS, and PERS 2 members with 30 or more service years can retire with a subsidized early retirement factors (ERF).
 - Effective 2008
 - Significantly improved early retirement benefit.
- TRS 2, SERS, PSERS, and PERS 2 ERF retirees returning to work before age 65 will have their pensions stopped.

Subsidized ERF Retirees Without Additional Restrictions

- TRS ERF retirees can work as a substitute for up to 867 hours per year.
 - Exception from 2017 to 2020
 - Governor signed E2SHB 6455
- Subsidized reduction factors for LEOFF Plan 2 and PSERS do not have additional return to work restrictions.

Any Questions?

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