

# WORKING AFTER RETIREMENT



If you are considering returning to public sector work after retirement, it's important to understand how Idaho state law may affect your retirement benefit should you return to work.

As a PERSI retiree, you may work for any private-sector employer as long as you want and for as many hours as you want without affecting your retirement benefits. However, if you want to work for any employer belonging to PERSI, the following restrictions apply:

## Break in Service & No Promise of Future Employment

If you are an early retiree (younger than age 65, or 60 for police/PERSI firefighters), Idaho Code 59-1356 (1) requires that:

1. You have at least a 90-day break between retirement and reemployment with the same employer regardless of the number of hours worked,

AND

2. No promise of future employment with the same employer can be made to you when you leave employment,

AND

3) You will not be considered as having separated from service if you perform any work in any capacity for the same employer during the 90-day break.

Such a break is not required if you retire at age 65 or later (age 60 for police/PERSI firefighters).

**If you are an early retiree and return to work for the same employer within 90 days, any pension benefit payments received plus interest must be returned to PERSI.**

State Employees: The State of Idaho is considered one employer.

## 20-Hour Per Week Limit

If you want to work for a PERSI employer and continue to receive your monthly pension payments, you cannot work 20 hours or more per week (teachers working a half-time contract or more) for 5 consecutive months or more. Doing so means your monthly retirement payments must stop, and both employee and employer contributions must be paid to PERSI from the beginning

date of reemployment. You must also repay all benefit payments received after your reemployment date plus interest. This applies to all retirees, regardless of age.

Once employment ends, contributions stop and you may once again begin receiving your original pension benefits. A separate allowance based on your reemployment period will be added.

If your period of reemployment ends up being less than 5 months, PERSI will return contributions to you, your employer will get a credit for that amount, and you will receive retroactive benefit payments covering the reemployment period. If you are working less than 20 hours per week or less than 5 consecutive months, no contributions are required and you will continue to receive your monthly pension payments.

## Rules for Retired Teachers and Administrators

During its 2012 session the Idaho Legislature passed HB579, repealing a sunset provision that was part of earlier legislation (HB202). This new law stipulates that retired teachers and administrators can be rehired as "at will" employees without jeopardizing their PERSI benefits. Those who qualify must meet the following:

- You must retire as a **certificated** teacher or administrator, and be rehired in that same capacity.
- You will not be eligible for rehire if you receive an Early Retirement Incentive Program (ERIP) award when you retire.
- You must be age 62 or older when you retire.
- You must have retired with a **unreduced** benefit because you had either attained service retirement age (65) or met Rule of 90 at the time of your retirement.

Employers retain the right to make hiring decisions under HB579; therefore, reemployment is not guaranteed.

*Information presented herein is based on current law. If there is any discrepancy between this publication and the law, the provisions of the law will prevail.*

# SUBSTITUTE TEACHERS ARE NOT PERSI MEMBERS: UNDERSTANDING HB644

PERSI membership for substitute teachers changed July 1, 2010. HB644 amended Idaho Code 59-1302, changing the definition of employee for PERSI purposes by exempting substitute teachers from PERSI membership as follows:

"Any person not under contract with a school district or charter school, who on a day-to-day basis works as a substitute teacher replacing a contracted teacher and is paid a substitute wage as established by district policy or who, on a day-to-day basis works as a substitute assistant replacing a staff instruction assistant or a staff library assistant and is paid a substitute wage as established by district policy" are not employees for PERSI purposes.

The bill can be read in its entirety online at <http://www.legislature.idaho.gov/legislation/2010/H0644.htm>

## 90-Day Break

Confusion has already surfaced with teachers thinking they can retire from a school district and return almost immediately as a non-contracted substitute teacher for the district from which they just retired. The following is provided as clarification:

Subsection (1) of 59-1356 would apply to an early retiree (not service retirement age) school teacher who retires under PERSI and then returns to work within 90 days as a substitute [as defined in HB644] with the same employer.

If a retiring teacher is not service retirement age, he/she needs to wait 90 days before becoming a substitute at the same school district or he/she is not considered to have terminated employment. HB644 changed the

definition of employee, exempting substitutes generally. It was not intended, nor was it drafted, to provide an exception to the restrictions of 59-1356 (1) which requires early retirees to have a 90-day break in service without any guarantee of reemployment in any capacity with the same employer and also requires repayment of any retirement benefit payments received by the retiree if the 90-day condition is not met.

Simply put, the circumstances under which a retired teacher can go back to work (under HB644) as a substitute without adversely impacting his/her retirement are:

- (1) Be service retirement age (in which case the 90-day rule does not apply); OR
- (2) Wait 90 days before returning to the same employer (school district)

## QUESTIONS & ANSWERS

### Separation Benefit

Can substitutes who were PERSI members in the past, but who are now ineligible, withdraw their PERSI funds? Answer: Not unless there is a distributable event.

### Part-Time Employees Who Also Substitute

Is a member who works 20 hours per week doing a job other than teaching for the school district and works another 20 hours as a substitute during the week, PERSI eligible? Answer: Only the non-substitute hours count towards PERSI eligibility.

If you have questions about PERSI membership or about HB644, call the PERSI Member Services Answer Center toll-free at 1-800-451-8228 or 334-3365 from the Treasure Valley area.