

Compass

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SPRING 2009

A MESSAGE FROM TREASURER CAPRIO



As we leave winter behind and prepare for spring, it's a good time to contemplate the year ahead. Since the recent election cycle, it is clear that the message of change has swept the nation, inspiring citizens across the political spectrum. Still in its early months, 2009 promises to be a year of new beginnings and positive change and, here at Treasury, we are working hard to ensure a smooth transition to our exciting new prospects. We are all ready for the im-

provements that come from a focus on quality and efficiency - two points we always strive to uphold within the Treasury Department.

In 2008, we made a series of changes that will improve our operations in the years to come. We worked to restructure and reorganize so that our retirees and ERSRI members will have better access to our services in the future. The fruits of our efforts will be evident in 2009, as we offer an even more organized department which will include faster response times, a centralized call system and more group counseling sessions.

Many of our retired members have expressed concern regarding the stability of the Pension Fund. I want to reassure you that the Fund is sound, and that the receipt of your basic benefits will not be endangered by the current economic climate.

ERSRI, like all retirement systems, is a long-term investor. It is inevitable that there will be bad market years, however, our Fund is properly diversified and designed to weather the storms. Well-managed retirement programs, such as our own, with pooled investments and trust fund oversight, are the best means of ensuring retirement security for members.

As always, our office stands ready to assist you, so please contact us with any concerns, suggestions or complaints. We strive for optimal customer service and hope that, with these changes, we can provide an effective, timely service to meet your needs.

ERSRI GOING GREEN!

ERSRI is going green! In an effort to continue to find ways to save the environment and reduce expenses, in the near future ERSRI will begin distribution of its newsletter via email. If you don't have an email address in our system, simply go on-line to www.ersri.org and create an account. Once in, go to the **Change Web Profile** tab and update or add your email account!

To be sure to get your newsletter in the future, please sign up soon. See you in cyber space!

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Post-Retirement Service

If you're collecting a benefit from the Employees' Retirement System (ERS) or the Municipal Employees' Retirement System (MERS), you are subject to restrictions on employment with the State of Rhode Island, any RI public school, or any RI municipality participating in MERS. The article on *Page 2* is a synopsis of what you can and cannot do for post-retirement employment according to Rhode Island General Law.

If you are able to engage in some post-retirement employment, check out *Page 3* for news on IRS limitations.

POST-RETIREMENT SERVICE—WHAT YOU CAN AND CAN'T DO

What you CAN do and still collect your benefit:

Teacher/Certified Re-Employment (includes teachers, administrators, guidance counselors, coaches, tutors): You may substitute in a RI public school for up to 90 days (or 180 half-days of 3 hours or less) in the school year. The literal meaning of "substitute" is utilized; you must be working in place of a regular employee who is absent. You may be hired to fill a vacant position. The position may not be for more than 90 days (or 180 half-days of 3 hours or less), or more than 0.5 in a 180-day school year, if it is an appointment for the entire school year. You may be employed in a vacant position if the school certifies in writing to its collective bargaining units and to the Retirement Office they have made a "good faith effort" to fill the position with a non-retiree. **NOTE:** ERSRI counts a school year, for post-retirement purposes, from the beginning of the school year (generally September 1 - August 31, but may vary between school departments) for all positions, including administrative. Certainly, some school departments begin the first day of school in August and thus the counting of days worked in that school year would include those days.

OR, You may be employed by a state school or college to teach a course, advise students, coach, or teach driver or motorcycle education for wages not to exceed \$15,000 in a calendar year.

Participating (MERS unit) Municipal Re-Employment

You may work in a municipal position for a participating RI municipality for up to 75 days (or 150 half-days of 3 hours or less) in a calendar year. If you work in a municipal (non-certified) position in a school department, the 75 days will be counted on a school year basis, September 1-August 31, for ease of reporting. *Exception:* You may work full time in a participating municipality in the position of mayor, town or city administrator, town or city manager, chief administrative or executive officer of the city or town, without suspension of your benefit, provided you did not retire from that position. Retirement contributions will not be deducted from your wages and you will not earn any additional service credit for this employment.

Non-MERS Employment

There are no limitations for working in a municipality that is not part of MERS.

Registered Nurses

If you retired from the state as a registered nurse, you may work on a per-diem basis for MHRH as a registered nurse, with gross wages not to exceed \$12,000 per calendar year.

What you CANNOT do:

There is no "mixing and matching." You cannot work under the provisions of more than one statute, i.e., only one of the several employment possibilities is allowed with its specific restrictions. For example: you cannot substitute 90 days in a public school under the 90-day limit, and teach a course at CCRI under the

\$15,000 limit. Or, if you're working 75 days for a municipality, you cannot also coach or teach at a public school under the 90-day limit.

Corporation, Consultant, and Third Party Employment

You cannot do as a corporation, consultant, or as an employee hired by another party what you cannot do as an individual. Thus, if you are a consultant working in the school, you are still subject to the employment limitations and reporting requirements of any other retiree. While collecting your ERSRI or MERS benefit, you may only be employed in a RI public school, state school or college, or participating municipality if there is a provision for that reemployment in the retirement statutes. You cannot be hired by a company that places you into a position from which you are otherwise prohibited, without suspending your benefit. For example, a retiree may not work for Company ABC in a position where he/she will be placed in state employment.

State Employment Prohibited

The only provision for returning to state service is the limited employment described on the reverse side under the \$15,000 restriction for state schools and colleges. No other state employment is permitted under current retirement statutes. You cannot work for the state if you are collecting an ERSRI or MERS benefit, and you cannot work as a consultant, contract employee, or be hired by a company for state employment from which you are otherwise prohibited.

What you MUST do

If you return to work in any capacity allowed by the retirement statutes, both you and your employer must notify this office monthly of your employment. The Retirement Office provides the reporting forms to all schools and participating municipalities, and the forms are also available to all retirees on the ERSRI website, www.ersri.org. Click on the "ERSRI Forms" link on the left side of the ERSRI home page to access all forms for download. Forms are updated as the provisions for post-retirement employment change. Please make sure you and your employer are submitting the most current version of the form, as it appears on the website.

This information is provided as a summary of the statutory restrictions affecting the majority of retired members, and is not intended as a substitute for prevailing Rhode Island General Laws. Disability retirees are also subject to additional statutory wage limitations. If you have a question on post-retirement employment that is not answered by this publication, please visit our website at www.ersri.org and click *contact us* to email your question or, you may write to us at ERSRI Communications Office, 40 Fountain St., 1st Floor, Providence RI 02903-1854 for a written reply.

POST-RETIREMENT SERVICE FOLLOWING TERMINATION OF EMPLOYMENT —WHAT YOU SHOULD KNOW

One item of consideration that requires attention is the application of post-retirement employment and §401(a) of the IRS Code regarding “in-service” distributions. Before pension payments may commence, the IRS requires a legitimate, bona fide termination of employment. To be compliant, retired members of ERSRI may be re-employed by a school department or participating municipality without adversely affecting the status of ERSRI as a qualified plan under Section 401(a) of the Code, as long as certain requirements are met:

- The employee must retire and terminate employment.
- Notice of the post-retirement employment or reemployment shall be sent monthly to ERSRI by the employer and by the retired teacher or municipal employee.
- Any employment or reemployment may begin no earlier than 30 days after retirement.
- No additional pension credits may be earned.
- No additional contributions shall be made by or on behalf of the retired member.

We have specifically highlighted the requirement that the employee must retire and terminate employment. This is a fundamental requirement of the Code. There should be a clear separation from service and subsequent re-employment that is not pre-arranged or so short in duration as to raise a legitimate issue of whether there has been a true separation. The termination should be consistent with any other retirement and termination, i.e., discontinuance of benefits (unless benefits are otherwise provided during a limited severance period or during retirement for employees who are not re-employed) and the payment of any accrued vacation, sick leave or other benefits that are paid in the course of termination of employment by state law or state employment practices.



Rhode Island
Senate Chambers

2008 LEGISLATIVE CHANGES

2008 was a challenging year for the Rhode Island Legislature. In order to bridge a large budget gap without imposing overly drastic changes on government services or raising taxes, many difficult decisions had to be made. The following is a summary of the main changes passed in the 2008 session that affect the ERSRI:

Last year's Supplemental budget, H 7204, submitted by the Governor, amended retirement health care benefits. Under the new statutory provisions, all retirees who retire on or after October 1, 2008, with 20+ years of creditable service will be limited to a subsidy of 80% of the cost of the selected health plan provided the retiree is at least 59 years old. For employees not meeting the minimum requirements of age 59 and 20 years of service credit, you will not be eligible now or at any time in the future for any state subsidized medical coverage. You will, however, be eligible to purchase medical coverage through the State at the full plan cost.

Also, the FY 2009 budget, H 7390, was passed by the General Assembly altering the benefit formulas for State Police and Judges. For state police hired after July 1, 2007, H 7390 changes benefits for members hired on or after July 1, 2007. These members would have to earn 25 years of service before becoming eligible for a retirement benefit. Currently, members of the SPRBT may retire after earning 20 years of service. For judges appointed on or after Jan. 1, 2009, the full retirement benefit would be reduced from 100% to 90%, and the reduced retirement benefit would be reduced from 75% to 70%.

Lastly, another change in the FY 2009 budget came under Article 40 in H 7390. This legislation modified section (f) of 36-8-20 to adopt changes promulgated by the IRS regarding section 415(b) of the IRS code. The new regulations provide that, in the case of annuity forms of benefits that are increased automatically each year pursuant to plan terms (i.e., the cost of living adjustment), no actuarial adjustment at commencement of the benefit needs to be made so long as the plan provides that the amount payable in any limitation year is not greater than the section 415 (b) limit applicable at the annuity starting date.

EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND

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Frank T. Caprio, General Treasurer

Chairman, ERSRI Board

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RETIREES: NEW TAX RULES THAT MAY AFFECT YOU

Many ERSRI retirees and beneficiaries saw slightly bigger benefit payments beginning with their April 1, 2009, payment. This was the result of new income tax withholding rates issued by the Internal Revenue Service (IRS), which may have ramifications when filing next year's income tax returns. Here are some facts:

- The federal economic stimulus plan recently signed into law provides for a "Make Work Pay" tax credit of \$400 for individuals and \$800 for families, lowering tax obligations by those amounts with the goal of giving taxpayers more disposable income to spend and thus stimulate the economy.
- The IRS issued new income tax withholding tables in February with lower withholding rates to reflect the lower tax obligation that would result from the tax credit. The IRS also ruled pension funds must use the new withholding rates for benefit payments.
- However, under the law, the Make Work Pay tax credit only applies to "earned income." **Pension benefits are not considered earned income, which means the tax obligation for pension benefits does not change.**
- This results in a situation for retirees and beneficiaries in which the tax withholding amount on their benefit payment goes down while their tax obligation has not actually been reduced.
- This situation could result in underpayment of taxes during the year that would have to be made up when filing income tax returns the following year, along with the possibility of penalties for underwithholding of taxes during the year.

Effective May 15th, the IRS issued additional withholding tables that apply only to retirement benefits. ERSRI will use these additional tables effective with the June 30 pension payment. This new change will help some pensioners avoid a smaller refund next spring or even a balance due in limited situations.

A wide variety of factors, such as outside jobs and other earned income, can affect how much, if any, withholding is needed by people receiving a pension to satisfy their annual tax liability.

So what do you do?

For plans like ERSRI that adopt the new procedure, the IRS states that withholding on pension payments will be automatically adjusted with no action needed by pensioners. Those who should pay particular attention to their withholding include married couples with two incomes, individuals with multiple jobs, dependents and some Social Security recipients who work. While the IRS points out that withholding on pension payments will be automatically adjusted with no action needed by pensioners, ERSRI encourages members who believe their current withholding is not appropriate for their personal situation to perform a quick check by using the IRS withholding calculator on www.IRS.gov or directly consult the IRS or a tax advisor.

These new rates will not affect you if you have told ERSRI to withhold a set dollar amount from your check.

If you wish to tell us specifically how much you would like withheld, based on this new information and your individual circumstances, you may print out and send in a *Certificate of Withholding Preference Or Withholding Tax Change* form or log on to the secure member section of the ERSRI website and make your necessary changes. This form can be filed at any time.

Please keep in mind that neither ERSRI nor its staff members are tax professionals and cannot give tax advice. We are simply providing this information as a courtesy to our members.

For information about the Making Work Pay Credit visit (www.irs.gov/newsroom/article/0,,id=204521,00.html) and Social Security Administration for information about the Economic Recovery Payment (<http://www.socialsecurity.gov/payment/>)