**94-411 MAINE PUBLIC EMPLOYEES RETIREMENT SYSTEM**

**Chapter 410: RETIREES RETURNING TO WORK**

---

**SUMMARY:** This Chapter sets out requirements and guidance regarding retiree reemployment while receiving a MainePERS retirement benefit.

---

## SECTION 1. DEFINITIONS

1. **Actuarial Equivalent Rate**. "Actuarial Equivalent Rate" means the actuarial discount rate adopted by the MainePERS Board of Trustees.

2. **Bona Fide Termination of Employment.** "Bona Fide Termination of Employment" means that the retiree terminated employment in good faith without any explicit understanding or agreement to return to work with the Same Employer.

3. **Early Distribution Tax**. "Early Distribution Tax" is an additional ten percent (10%) federal tax on retirement benefits paid prior to age 59 ½.

4. **Normal Retirement Age.** "Normal Retirement Age" has the same meaning as defined in 5 M.R.S. §17001(23).

5. **Same Employer.** "Same Employer" as used in this Chapter means the employer for whom the retiree last worked prior to retiring who provides the MainePERS retirement plan from which the retiree retired. It does not include other employers that participate in the same retirement program.

## SECTION 2. RESTRICTIONS AND EARLY DISTRIBUTION TAX

Retirees may be subject to restrictions on their ability to return to work with the Same Employer and may be subject to an Early Distribution Tax on their service retirement benefit as follows:

1. Except as set forth in subsections 4 and 5, a retiree who has reached age 59 ½ may return to work as an employee with the Same Employer without restriction and without an Early Distribution Tax on the retiree's service retirement benefit.

2. A retiree who has not reached age 59 ½, but has reached Normal Retirement Age, may return to work with the Same Employer. However, the retiree's service retirement benefits are subject to an Early Distribution Tax until the retiree reaches age 59 ½ if the retiree has not had a Bona Fide Termination of Employment.

3. A retiree who has neither reached age 59 ½ nor Normal Retirement Age may return to work for the Same Employer only after a Bona Fide Termination of Employment, and any such return to work is limited to no more than 90 days in any one year.

4. In no case may a retiree return to work with the Same Employer before the effective date of retirement.

5. In addition to the above requirements, a retired State employee or teacher may not return to work with the Same Employer for at least 30 days after termination of employment.

6. A judge or justice who has terminated employment and becomes an active retired judge or an active retired justice before the effective date of retirement is not considered a retiree returning to work for the Same Employer and is not required to terminate employment again to subsequently qualify for retirement.

**SECTION 3. REPORTING REQUIREMENTS**

1. MainePERS is required to report to the Internal Revenue Service whether retirement benefit distributions are subject to the Early Distribution Tax. For purposes of determining whether there has been a Bona Fide Termination of Employment, if the retiree is below age 59 ½, both the retiree and employer must certify to MainePERS at the time of retirement whether there is an explicit understanding or agreement that the employee will be reemployed after retirement.

2. An employer who provides retirement benefits through a MainePERS retirement plan is required to identify and report to MainePERS all retirees from the plan who have returned to work with the employer, regardless of whether the employer is the Same Employer under Section 1, subsection 5.

**SECTION 4. BENEFIT SUSPENSION AND RECOVERY**

1. The service retirement benefit must be suspended during any time period when a retiree fails to comply with the requirements in Section 2, subsections 3 or 4.

2. Any payment of retirement benefits made to a retiree during a period of non-compliance with Section 2, subsections 3 or 4, will be considered an overpayment. MainePERS may recover the overpayment plus interest at the Actuarial Equivalent Rate by adjusting any future benefit payments or as otherwise permitted by 5 M.R.S. § 17054(3).

---

STATUTORY AUTHORITY: 5 M.R.S. §§ 17103(4), 17603(9), 18205(9); 18801

EFFECTIVE DATE:
April 17, 2004

AMENDED:
August 30, 2009 – filing 2009-444

REPEALED AND REPLACED
August 3, 2026 – filing 2026-178