

Commonwealth of Massachusetts Human Resources Division

Post Retirement Employment Guidelines



Updated October 2021
Effective July 2021

Introduction

The terms and conditions of employment for post-retirement employees are set forth in the General Laws of Massachusetts, [Chapter 32, Section 91](#). The guidelines, updated to reflect changes made to [Chapter 32, Section 91A](#) effective July 1, 2021, are to be followed by Executive Branch departments and supersede any previous guidelines regarding post-retirement employees.

Definition of a Post Retirement Employee

A person who has been retired and who is receiving a pension, disability pension or retirement allowance from the Commonwealth of Massachusetts or from any county, city, town or district may be employed in the service of the Commonwealth for up to 1,200 hours in the aggregate in any calendar year. Such person shall serve at the will of the Appointing Authority.

Job Classification

Post retirement employees may be rehired into their former job title or other job titles in accordance with the services they will provide.

Positions

Executive Branch post retirement positions must be established with a position type of PR (Post Retirement). Non-Executive Branch departments are not required to use position type PR, but are encouraged to do so to ensure consistent practices and accurate reporting. This category of employee is included in the agency official FTE count.

Compensation

Limitations on compensation include:

Employment may not exceed 1,200 hours per calendar year and/or total earnings per calendar year cannot exceed the difference between the retirement allowance and the current pay rate for the position from which the employee was retired or terminated prior to their retirement. If a retiree has been retired for more than 12 months such retiree may earn an additional \$15,000 in each calendar year following such 12 month period.

It is strongly recommended that each agency keep documentation in its files on the rationale for each post retiree's compensation limitation. It is also strongly

recommended that agencies complete and provide post-retirement employees with Post Retirement Employment Statement of Earnings form (see Appendix B) and require their signature on the form on or before the first day of their employment during each calendar year. Post-retirement employees may negotiate their compensation rate with their employer so long as their calendar year earnings are in compliance with M.G.L.Ch 32 section 91. Post-retirement employees are not eligible for collectively bargained step increases, COLAs, bonuses, or differentials. Post-retirement employees are not eligible for Executive Branch management or Technical Pay Law pay increases. Post retirement pay rate, including differentials, is negotiated between the employee and the employer.

Post-retirement employees may be reimbursed for mileage expenses incurred in the course of their work at rates negotiated between the employee and the employer.

Post-retirement employees who are collecting a disability pension are subject to M.G.L. Ch 32 section 91A. This section states that such employees may earn up to \$15,000 more than the difference between the retirement allowance and the current pay rate for the position from which the employee was retired or terminated prior to their retirement. In addition, such employees must annually file a statement of earnings from all earned income for the previous calendar year with the Public Employees Retirement Administration Commission (PERAC) on or before April 15th of each year.

Time and Attendance

Post retirement employees in non-exempt titles (titles covered by collective bargaining or Manager I-IV) are eligible for overtime under the Fair Labor Standards Act (FLSA).

Post-retirement employees are not eligible for paid time off: vacation, personal, holiday, compensatory time, or emergency office closing (WEA/SKE) time. Nor are they eligible for such paid leave programs as blood donation, school volunteer, mentoring, organ donation, jury duty, etc.

Under the earned sick leave law, eligible post-retirement employees may accumulate sick leave on an hourly basis at the rate of one hour of paid sick leave credit for every 30 hours of work (in increments of 2 minutes per hour), up to a maximum of 40 hours of sick leave credit during the calendar year.

Post-retirement employees will be eligible for up to 12 weeks unpaid FMLA leave in the 52 weeks following retirement only if they meet the required criteria (serious health condition etc.)

Benefits

Post-retirement employees are not eligible for union provided benefits, i.e. dental/vision, insurance, or other supplemental coverage. Questions regarding Group Insurance Commission (GIC) retirement benefits should be directed to the GIC.

Payroll Deductions

- Mandatory- All post retirement 1,200-hour appointments are subject to Medicare Tax regardless of status prior to retirement.
- Voluntary-Post-retirement employees are eligible for the following payroll deductions: MBTA Charlie card and Charlie ticket; COMECC, SMART plan, and UFUND.

Related Policies and Documents

Massachusetts General Law:

- [Chapter 32, Section 91](#)
- [Chapter 32, Section 91A](#)

HR/CMS Job Aids/Resource Documents:

- [Smart HR - Rehire Transfer Add New Employee Instance.docx \(sharepoint.com\)](#)
- [Earned Sick Leave](#)
- [Official State Position Types](#)

Public Employee Retirement Administration Commission (PERAC) Memos and Tools:

- [Memorandum #30- Enforcement of Post-Retirement Limits on Retirees of Public Retirement System who Take Employment with any Public Entity in Massachusetts \(mass.gov\)](#)
- [Memorandum #11: New Post-Retirement Limits on Employment for Disability Retirees \(mass.gov\)](#)
- [Massachusetts Public Employee Retirement Guide for Public Employees Who Became Members Prior to April 2, 2012](#)
- [Frequently Asked Questions Post Retirement Employment \(PERAC\)](#)
- [Post-Retirement Earnings Calculator \(PERAC\)](#)
- [Instructions For Post-Retirement Earnings Worksheet \(PERAC\)](#)

State Retirement Board:

- [Working In Retirement \(MSRB\) | Mass.gov](#)

Comptroller Policies:

- [Employee-Employer Relationship: State Employees](#)
- [Types of Employees](#)
- [Mandatory and Voluntary Deductions](#)

Frequently Asked Questions

Q: Who determines maximum allowable earnings in the calendar year?

Massachusetts General Law Chapter 32 sections 91-91A determine the maximum allowable earnings.

Q: What can an employee earn in a calendar year from a public employer after retirement?

An employee's post retirement earnings, when added to an employee's retirement allowance, cannot be greater than the salary currently being paid for the position from which the employee retired. However, an employee may earn an additional \$15,000 each calendar year after the first 12 months immediately following the effective date of retirement.

Q: What must a 1,200-hour Employee do if they exceeds the maximum allowable earnings in the calendar year as determined by Massachusetts General Law Chapter 32 Sections 91-91A?

If a 1,200-hour Employee exceeds the maximum allowable earnings in the calendar year as determined by Massachusetts General Law Chapter 32 sections 91-91A, they must repay the excess amount to the agency in which they are employed.

Q: Can a post retirement employee be hired into a collective bargaining title? Do they have to be paid from the collectively bargained salary chart?

Collective bargaining titles can be used for post-retirement positions, but it is not required that the employee pay rate be from the bargaining unit salary chart. Post retirement pay rate, including differentials, is negotiated between the employee and the employer.

Q: Do post retirement employees have to pay union or agency fee dues?

No. Post retirement employees may donate to the Union on a voluntary basis but no contributions may not be made through a payroll deduction.

Q: Can a post retirement employee negotiate a higher pay rate than the rate they retired at? Can they receive a pay increase?

Yes, so long as their maximum calendar year earnings comply with M.G.L. Ch 32 section 91 maximum earnings definition.

Q: If an employee temporarily waives their retirement allowance and returns to full time employment do they resume contributions to state retirement plan?

Yes. It is also permissible for them to waive the receipt of their retirement allowance for the period of their full time employment so as to not violate the maximum allowable earnings limitations in M.G.L. Chapter 32 sections 91and 91A

Q: Is a post retirement employee eligible for unemployment benefits?

Post retirement employees may apply for unemployment compensation. The Division of Unemployment Assistance will determine their eligibility.

Maximum Earnings Calculation – Examples*

Non-Management Title

<i>Pay rate before retirement</i>	<i>56,500/year (grade 11, step 9)</i>
<i>Current pay rate for position title employee retired from¹</i>	<i>57,630/year (grade 11, step 9)</i>
<u><i>Retirement pension</i></u>	<u><i>45,200/year</i></u>
<i>Max 1200 hour earnings</i>	<i>12,430/year</i>

¹ New collective bargaining salary chart, may or may not include reclassification

Management Title

Pay rate before retirement	87,430/year (M8)
Current pay rate for position title employee retired from ²	90,052/year (M8)
<u>Retirement pension</u>	<u>69,944/year</u>
Max 1200-hour earnings	20,108/year

² The above calculation is based upon an average base salary increase of 3% for one year. Agencies may use average managerial base salary increases as a guideline for determining the current pay rate for management titles. There may be other legal alternative methods of calculating the current pay rate for the position from which the employee retired. Agencies may contact HRD if they wish to pursue these options. As indicated above, it is strongly recommended that agencies document their calculation method in case they become subject to audit.

*Retirees who have been retired for more than 12 months may earn an additional \$15,000 in each calendar year following such 12 month period.

Appendix B

**THE COMMONWEALTH OF MASSACHUSETTS POST
RETIREMENT EMPLOYMENT STATEMENT OF
EARNINGS**

A person who has been retired and who is receiving a pension, disability pension or retirement allowance from the Commonwealth or from any county, city, town, district or authority may be employed in the service of the Commonwealth for up to 1200 hours in the aggregate in any calendar year. Such person shall serve at the will of the Appointing Authority.

I am / am not (*circle*) receiving a pension or retirement allowance from the Commonwealth of Massachusetts; or from any county, city, town, district or authority.

Retirement Information:

Retired From: _____

Position Held: _____

Retirement Date: _____ Salary: _____

Pension: _____

1200-Hour Position Information:

Position Applied: _____

Hourly Rate: _____ Hours Per Week: _____

Maximum Annual Earnings: _____ (attach explanation of computation)

Weekly Schedule: _____

I understand that I am required to certify to my employer the number of days or hours that I have been employed in any calendar year and the amount of earnings during that calendar year. If the number of hours exceeds nine hundred and sixty, or if the earnings exceed the amount allowable under M.G. L. Chapter 32 Sec. 91 (b), I am required to 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.

Print Employee Name

Signature of Employee/Date

Supervisor Approval/Date

HR Approval/Date