

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
BUREAU OF HUMAN RESOURCES
March 21, 2002

HUMAN RESOURCES MEMORANDUM 2-02

TO: All Employees, Agency Department Heads, Human Resource Representatives

SUBJECT: AMENDMENT TO HR MEMORANDUM 7-01: IMPLEMENTATION OF PUBLIC LAW 2001, CHAPTER 442 - AN ACT TO EXPAND RETIREMENT BENEFITS FOR STATE EMPLOYEES AND TEACHERS RETURNING TO SERVICE

The purpose of this memorandum is to expand upon HR Memorandum 7-01 with respect to the reemployment of retired employees who return to certain unclassified positions that would otherwise be eligible for the "5% Retirement Option." (See page 2) There are no other changes to the original memorandum.

PL 2001, Ch. 442 provides a significant change with respect to retired employees who are rehired to State employment. The practical effect of this legislation is that a retired State employee may return to State service without a deduction (or proration, often referred to as the "earnings limitation") to his or her service retirement benefit. The effective date of these changes is September 21, 2001.

It is important to emphasize that this legislation primarily affects the relationship of future earnings from State employment to a retired employee's service retirement benefit by doing three things:

- Repeals the previous earnings limitations.
- Repeals the "restoration of service" provisions thus making the decision to retire irrevocable.
- Mandates that health insurance be provided as a retiree regardless of future employment situations. (Note: Dental insurance must be purchased as a retiree.)

This legislation does not provide re-employment rights to a previous position or other benefits beyond the removal of the retirement "earnings limitation." It is not a retirement incentive program and has no impact on the Civil Service Law, the provisions of *State of Maine Civil Service Rules*, or the bargaining agreements with respect to re-employment, the filling of vacancies, seniority, or other applicable employment situations.

Termination for purposes of retirement is a break in service. Consequently, if a retired employee is re-employed he or she (representative examples only):

- May not carry forward vacation leave credits and will accrue vacation at lower rates pursuant to *Civil Service Rules* and the bargaining agreements.
- Will no longer be eligible for longevity pay based on continuous service.

- Will not carry seniority forward.
- Must apply and be interviewed for reemployment pursuant to *Civil Service Rules*.
- May not be treated as "Agency Promotional" or "Statewide Promotional" for purposes of certification from registers.
- Will be a probationary employee upon reemployment.
- Requirements for posting vacancies, pursuant to the bargaining agreements, remain in full force and effect.
- May have previously unused sick leave balances restored upon re-employment, pursuant to *Civil Service Rules*. (Excluding any sick leave used toward retirement benefit.)
- May be re-employed at the same step if re-employed in a classification in which he or she was previously employed, pursuant to *Civil Service Rules*.

Continuation of the "5% Retirement Option" for certain unclassified positions is not authorized in this employment situation.

- The "5% Retirement Option" is only provided in lieu of a State payment toward retirement. Under the provisions of PL 2001, Ch. 442, there is no State payment of retirement contributions. Hence, there cannot be a salary premium in lieu of a State payment.
- If a retired employee returns to a position that is otherwise eligible for the "5% Retirement Option," the employee may not be paid the 5% option, and must be paid from the standard salary schedule for the classification.

A retired employee cannot be re-employed prior to his or her retirement date. For example, if an employee terminated to retire effective September 7 with an October 1 retirement date, he or she could not be re-employed before the October 1 retirement date.

Questions pertaining strictly to retirement should be directed to the Maine State Retirement System.

S/ Donald A. Wills

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