

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES

Bureau of Human Resources

March 21, 2013

HUMAN RESOURCES MEMORANDUM 2-13

TO: All Agency Heads, Agency Human Resource Representatives

SUBJECT: Reemployment of Retired State Employees and the Minimum Wage

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Title 5 MRSA, Section 17859 (Retiring and returning to work) provides restrictions and requirements when reemploying a State Employee who has reached normal retirement age and who retires after September 1, 2011. One of the restrictions in that statute requires that compensation for the returned retiree must be set at 75% of the compensation established for the position (*step is determined by the appointing authority*)¹.

In some circumstances, implementation of this provision may create a situation which conflicts with Title 26 MRSA, Section 664 (Minimum Wages). In such circumstances, it has been determined that the latter statutory provision overrides the former. Therefore, whenever implementation of the 75% compensation provision causes the wage rate to fall below the statutory minimum wage, the returned retiree's compensation must be set at the minimum wage (currently \$7.50 per hour).

S/ Joyce A. Oreskovich

Joyce A. Oreskovich, Director
Bureau of Human Resources

¹This restriction does not apply to a retired state employee who is hired as a substitute teacher.