



NH Retirement System
54 Regional Drive
Concord, NH 03301
Phone: (603) 410-3500
www.nhrs.org

For Immediate Release: August 29, 2011

Contact: Denise M. Call, Director of Employer Services, 603-410-3516; denise.call@nhrs.org

Disclaimer: While it is the goal of NHRS is to provide information that is current, correct, and complete, NHRS does not make any representation or warranty as to the current applicability, accuracy, or completeness of any information provided below. The information herein is intended to provide general information only, and should not be construed as a legal opinion or as legal advice.

NHRS Frequently Asked Questions Concerning New Law Governing Part-Time Employment of Retirees

Updated August 29, 2011

(This document replaces the FAQ dated July 29, 2011)

Here are answers to some frequently asked questions NHRS employers and retirees may have concerning recently enacted legislation regarding the part-time employment of retirees by an NHRS participating employer.

What does the new law say?

Section 178 of House Bill 2, enacted into law on June 29, 2011, reads:

Retirement System; Part Time; Group I and Group II. Amend RSA 100-A:1 by inserting after paragraph XXXIII the following new paragraph:

XXXIV. "Part-time," for purposes of employment of a retired member of the New Hampshire retirement system, but excepting per diem court security officers and court bailiffs, means employment by an employer depending on the group classification of the employment as follows:

(a) For group I, part-time employment of the retired member shall not exceed 32 hours in a normal calendar week; except for group I employment which in some instances may exceed 32 hours in any normal calendar week. In such case the part-time employment of the retired member shall not exceed 1,300 hours in a calendar year, so long as such part-time employment does not occur outside of a 5-consecutive-month period in any 12-month period.

(b) For group II, part-time employment of the retired member shall not exceed 32 hours in a normal calendar week; except for group II employment which in some instances may exceed 32 hours in any normal calendar week. In such case the part-time employment of the retired member shall not exceed 1,300 hours in a calendar year, so long as such part-time employment does not occur outside of a 5-consecutive-month period in any 12-month period.

When does this law take effect?

July 1, 2011.

Whom does it affect?

Anyone who retired from an NHRS participating employer, is currently receiving a pension benefit, and is working part-time for an NHRS participating employer. The law applies to all member classifications (Employee, Teacher, Police, Fire).

Part-time employees who are not receiving a pension benefit from NHRS are not affected by the change and remain subject to the Minimum Participation Standards contained in the NHRS Administrative Rules (302.5).

Does the law prevent NHRS retirees from working more than 32 hours per week for a non-NHRS employer?

No. The 32-hour limit only applies to retirees working part-time for an NHRS participating employer. There is no limit on how much an NHRS retiree can work for an employer that does not participate in the retirement system.

If an NHRS retiree was working in a part-time position regularly scheduled for more than 32 hours per week prior to the passage of House Bill 2, does their employer have to reduce their hours to 32 or fewer?

Yes, in order to comply with RSA 100-A:1, XXXIV.

If a retiree works part-time for multiple NHRS participating employers, is the retiree limited to a total of 32 hours per week?

No, the 32-hour limit is per employer.

Note 1: Multiple school districts in the same School Administrative Unit (SAU) are considered a single employer.

Note 2: For the purposes of this act, individual state departments and agencies are considered separate employers.

If a retiree works part-time in a Group I position and part-time in a Group II position for the same employer, are those hours counted together?

No. Per the statute, hours worked in a Group I (Employee and Teacher) position and hours worked in a Group II (Police and Fire) position are counted separately.

If an individual employer has a personnel policy that defines part-time employment as something fewer than 32 hours per week, may an NHRS retiree exceed that employer's definition of part-time?

No. If an individual employer defines part-time as, for instance, "no more than 28 hours per week," the employer's policy controls the number of hours part-time employees are allowed to work, not RSA 100-A:1, XXXIV.

Conversely, if an individual employer has a personnel policy that defines part-time employment as something greater than 32 hours per week, may an NHRS retiree exceed 32 hours per week and still be considered part-time?

No. RSA 100-A:1, XXXIV, sets the ceiling on part-time hours for NHRS retirees.

Note: In this example, part-time employees not receiving an NHRS pension are allowed to work more than 32 hours per week, so long as they do not exceed the Minimum Participation Standards contained in the NHRS Administrative Rule 302.05.

Are retired Group II members appointed to work fixed terms as county sheriff's deputies allowed to "opt-out" of NHRS under RSA 100-A:3, I.?

No. The opt-out provision only applies to "Employee" members.

New: Do hours for which "Extra or Special Duty Pay," as defined by RSA 100-A:1, XXXII., is received by an NHRS retiree count toward the 32 hours per week per employer?

Yes.

An NHRS retiree works more than 32 hours per week for an employer whose "Employee" members did not participate in the retirement system at the time the retiree commenced employment. The employer later enrolled its "Employee" members in NHRS and, at that point, the retiree exercised the option to not participate in the retirement system pursuant to RSA 100-A:22 (Modifications). Does the retiree need to reduce his/her work hours to no more than 32?

No. Employees in this situation are not subject to the 32-hour limit.

An NHRS retiree works more than 32 hours as the chief municipal officer (i.e. city manager, town administrator, etc.) for an NHRS participating employer and upon hire the governing body (i.e., city council, board of selectmen, etc.) voted to exempt the position from NHRS participation pursuant to RSA 100-A:22 (Modifications). Does the retiree need to reduce his/her work hours to no more than 32?

No. Employees in this situation are not subject to the 32-hour limit.

Are retired teachers working in job-share positions affected?

Any teacher working in a job-share is automatically enrolled as an active contributing member per RSA 100-A:4, III-b. The new law does not supersede this existing provision.

Does HB 2 preclude an NHRS retiree from returning to full-time service for an NHRS employer under RSA 100-A:7 (Restoration to Service)?

No.

New: If an NHRS retiree returns to full-time service and becomes a contributing member, how will their future pension calculation be affected by HB 2?

Because a retiree must be vested to receive a pension benefit, a retiree returning to active NHRS membership is "vested prior to January 1, 2012" for the purposes of HB 2. Therefore, the future pension benefit will be re-calculated under the same formula used for the original retirement. Note: "Extra or Special Duty Pay" earned by retired Group II members who return to active service may be subject to Average Final Compensation limits in RSA 100-A:1, XVIII-a.

New: How does HB 2 impact NHRS retirees working on a "per diem" basis?

With the exception of per diem court security officers and court bailiffs, who are exempt from the 32-hour requirement, all other NHRS retirees working as per diem employees are subject to the 32-hour

provision in RSA 100-A:1, XXXIV. Employers are responsible for maintaining a record of hours worked by NHRS retirees employed on a per diem basis.

New: RSA 100-A:1, XXXIV., allows an NHRS retiree to work up to 1,300 hours per calendar year “so long as such part-time employment does not occur outside of a 5-consecutive-month period in any 12-month period.” Do hours worked by an NHRS retiree prior to July 1, 2011, count toward the 1,300 hours per calendar year provision?

No.

New: How has the law changed regarding NHRS retirees working in an unclassified Group I “Employee” position with no fixed term?

An NHRS retiree in receipt of a pension who is newly appointed to an unclassified Group I “Employee” position with no fixed term on or after July 1, 2011, must become a contributing member of the retirement system as a condition of employment; during such period of employment, the retirement benefit will be suspended. If the retiree is re-appointed to an unclassified Group I position that he/she held prior to July 1, 2011, this provision does not apply.

NOTE: A non-NHRS retiree appointed to an existing full-time unclassified Group I “Employee” position with no fixed term on or after July 1, 2011, may still opt out of the retirement system. However, anyone appointed to a newly created unclassified position after July 1, 2011, whether appointed with or without a fixed term, must enroll as a contributing member of the retirement system.

#

The New Hampshire Retirement System (NHRS) is governed by New Hampshire RSA 100-A, rules, regulations, and Federal laws including the Internal Revenue Code. NHRS also implements policies adopted by the Board of Trustees. These laws, rules, regulations, and policies are subject to change. Even though the goal of NHRS is to provide information that is current, correct, and complete, NHRS does not make any representation or warranty as to the current applicability, accuracy, or completeness of any information provided. The information herein is intended to provide general information only, and should not be construed as a legal opinion or as legal advice. Members are encouraged to address specific questions regarding NHRS with an NHRS representative. In the event of any conflict between the information herein and the laws, rules, and regulations which govern NHRS, the laws, rules, and regulations shall prevail.