

Recently Enacted 2011 Legislation That May Affect NHRS Employers

Here are answers to frequently asked questions NHRS employers may have concerning recently enacted legislation.

On June 29, 2011, House Bill 2 (HB 2) became law (Chapter 0224, Laws of 2011). Some of the retirement system-related sections of HB 2 took effect upon passage, some sections take effect July 1, 2011, and other sections take effect Jan. 1, 2012.

NHRS sent out an official employer notification on the passage of HB 2 on June 29, 2011. The notice is available here: http://www.nhrs.org/documents/NHRS_Employer_Notification_HB2_06_29_11.pdf

Additional employer information will be provided. (As it is developed.)

HB 2 increases member contribution rates effective July 1, 2011. When should employers begin using the new rate?

Employers must use the new rate on any payroll paid to the employee on or after the effective date. For example: If the pay period 6/17-6/30/2011 will be paid on 7/1/2011, NHRS will expect 7 percent contributions on Group I member wages in this payroll.

The new employee rates are:
Group I Employee and Teacher: 7 percent.
Group II Police: 11.55 percent.
Group II Fire: 11.8 percent.

What are the contribution rates employers should begin paying July 1, 2011?

The fiscal 2012-13 rates adopted by the NHRS Board of Trustees last fall take effect July 1, 2011.

Political subdivision employer rates are available here:
http://www.nhrs.org/documents/2012_2013_contribution_rates_municipal.pdf

State employer rates are available here:
http://www.nhrs.org/documents/2012_2013_contribution_rates_state_FINAL.pdf

The State of New Hampshire has traditionally contributed a portion of municipal employer contributions for Teacher, Police, and Fire members. How does that change as result of HB 2?

HB 2 eliminates the state's cost sharing and requires employers to pay 100% of the employer contribution rate.

However, HB 2 also authorizes the state to spend \$3.5 million in Fiscal Year 2012 toward political subdivision employer contributions for Group I Teachers and Group II Police and Fire members; NHRS is still determining how this appropriation will be disbursed. By way of comparison, \$46.8 million was budgeted by the state in FY 2011 for this purpose.

For all compensation paid on or after July 1, 2011, local employers must pay the full contribution rates determined by the actuary and approved by the Board of Trustees. If an employer withholds payment, they will be billed for the remaining balance.

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Are the employer rates taking effect July 1, 2011, expected to change at a later date?

Section 188 of HB 2 directs NHRS trustees to recertify employer rates “as soon as possible after July 1, 2011.”

However, on June 28, 2011, the NHRS Board of Trustees voted, 7-5, to seek a court injunction regarding the employer rate certification contained in Section 188 of HB 2. The vote reflected the majority’s concern that Section 188 usurps the board’s authority under Part I, Article 36-a of the New Hampshire Constitution.

The court did not grant NHRS’ request for an injunction; the case is scheduled to be heard in October.

Regardless of the legal action, the rate recertification process was expected to take between one and three months. The retirement system’s consulting actuary is currently developing draft employer rates based on the recertification language contained in HB2.

More information on the board’s action is available here:

http://www.nhrs.org/News/Files/06_29_11_NHRS_Board_Action_on_HB2.pdf

The Board of Trustees’ action does not affect the timing of the implementation of the other retirement system provisions in HB 2. However, a coalition of public employee groups filed a separate, unrelated motion regarding the implementation of new member rates and new employer rates. The court is scheduled to hear this case in August. In the meantime, employers should continue to use the member and employer rates cited above.

If new employer rates are certified within a few months, will there be any adjustment for previous payments made at the current rate?

The rate recertification language in HB 2 is not retroactive.

Can I hire retirees collecting a pension from NHRS for part-time employment?

HB 2 defines “part-time” for NHRS retirees in receipt of a pension as no more than 32 hours per week, with an exception for employment within a five-consecutive month block of any 12-month period. For all other part-time employees, the current administrative rules governing part-time employment remain in effect, provided they do not conflict with any legislation enacted into law.

What is the status of the so-called “spiking” legislation?

House Bill 462 (HB 462) has been passed by the Legislature and signed by the Governor. HB 462 delays the effective date of any “spiking” assessment until July 1, 2012.

NHRS Law Book

As a courtesy to its participating employers, NHRS will be providing each employer with a copy of the 2011 NHRS statutory provisions book (“law book”). Employers are encouraged to retain a copy of the law book as a reference. Town administrators, finance directors, and personnel managers often find the law book to be a helpful reference. The law books are not expected back from the printer until later in the year.

NHRS is governed by statute (NH RSA 100-A) and administrative rules. Both the statute and rules may be accessed from the NHRS website at: <http://www.nhrs.org/PlanAdministration/Details.aspx>.

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.

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

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.

Who does it affect?

Anyone who retired from an NHRS participating employer and is currently receiving a pension benefit.

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

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.

I am receiving a pension from NHRS and working more than 32 hours for an employer that did not have its Employee members participate in the retirement system at the time I commenced employment. My employer subsequently joined NHRS, but I exercised my option to not participate in the retirement system pursuant to RSA 100-A:22 (Modifications). Do I need to reduce my hours?

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

Retirement System Member Education Sessions

NHRS offers retirement education sessions to teachers, employees, firefighters, and police officers throughout the state who are NHRS members, not yet retired. During these general information programs, members of all ages and in various stages of their career are provided with information about NHRS benefits, including an overview of NHRS as a defined benefit plan; service, early, disability, and vested deferred retirement; pre-retirement and post-retirement death benefits; and other important

aspects of NHRS retirement benefits. Please note that personalized account information, pension estimates, and information about retiree health insurance are not offered during these sessions.

If you would like to host one of these sessions for your employees please contact the Public Information Office at: public_relations@nhrs.org

Reminders from NHRS Employer Services

► The enrollment date for any teacher who occupies an NHRS-covered position is always the first day the teacher begins working full-time. This can sometimes cause confusion for school district employers because a teacher's NHRS enrollment date may not be the same as his/her contract commencement date.

For example, if an employer enters a teacher's contract commencement date of September 1st as the enrollment date, but the teacher actually started working and began to be paid as of August 25th, an exception (error) will occur when the employer submits the wage and contribution information to the NHRS Employer Reporting System (ERS). This is because the wages were paid before the enrollment date.

Employers must record the enrollment date for teachers as the first day actually worked for which they will receive pay, regardless of the effective date of the contract.

► The ERS will not download a file that contains a double file extension, for example, "1145.xml.xml". This issue is caused by a setting within Windows called "Hide extensions for known file types" (Windows Explorer\Folder Options\View).

When this feature is checked, it hides from view the extension of all known file types, which include ".XML". Since the user is unable to see the extension, he or she may inadvertently add it, resulting in a file with a double extension.

To display the file extension, open Windows Explorer (not Internet Explorer), choose Folder Options from under the Tools menu, click on the View tab, uncheck "Hide extensions for known file types," and hit OK.

This setting may also be accessed through the Control Panel. Open the Control Panel, click on Folder Options, click on the View tab, uncheck "Hide extensions for known file types," and hit OK.

► Salary continuance payments for which both the employee and employer contributions are remitted electronically through the employer's monthly file do not require the completion of a salary continuance form.

However, if an employee who has terminated employment continues to receive employer-sponsored long-term disability/short-term disability (LTD/STD), the employer

must continue to report/remit for that employee and submit a salary continuance form. It may be necessary for the employer to contact the insurance carrier to determine how much the member receives in order to complete the salary continuance form.

Visit the Employer Resources section of the NHRS website to locate the salary continuance form on the Forms page. <http://www.nhrs.org/Employers/Forms.aspx>

If assistance is needed, employers may contact an Employer Services representative.

► NHRS is aware that some employers continue to report "payments in lieu of health insurance." As of August 29, 2008, this payment type is not reportable to NHRS pursuant to the definition of Earnable Compensation. Employers are requested to notify an Employer Services representative if they have inadvertently reported these payments since that date.

► NHRS now offers an Electronic Funds Transfer option for the retirement system's payment of post-retirement medical premiums to employers or third-party administrators. Visit the Employer Resources section of the NHRS website to locate the application on the Forms page. <http://www.nhrs.org/Employers/Forms.aspx>

► Employers are encouraged to review NHRS post-retirement medical payments, the corresponding Insurance Deduction Register and any additional backup materials to ensure the accuracy of the payment. It is important that any discrepancies be immediately reported to an Employer Services Insurance representative. NHRS reserves the right to recover any overpaid Medical Subsidy benefits.

► Pursuant to RSA 100-A:50, employers are reminded that retiring political subdivision employees must be permitted, upon retirement, to continue to participate in the same medical insurance or health care group or plan as active employees and that retired employees must be deemed to be part of the same group as active employees for purposes of determining medical insurance premiums.

Employers using a third-party administrator such as LGC, Schoolcare, or Primex are advised to ensure compliance with the above referenced statute.

NHRS Email Updates

To receive important NHRS related information, please visit the NHRS website at www.nhrs.org to sign up for Email Updates.