



GERS' ROLE IN MONITORING AND ADMINISTERING RETIREES RETURNING TO WORK

Explanation of Return to Work Law

The Government Employees' Retirement System (GERS) monitors and enforces the return to work policy based on the provisions in 3 V.I.C. §706, 3 V.I.C. 755 and Act No. 8029 which became law effective April 4, 2018.

Tier I Members Only:

- If a retiree returns to work for the Government of the Virgin Islands (GVI), any of its agencies, or independent instrumentalities, he/she may work for a maximum of 600 hours in any one-year period through August 30, 2019, without affecting his/her pension.
- The retiree's salary cannot exceed \$55,000.
- The retiree will be exempt from paying contributions.
- The retiree cannot work more than two (2) years (Lifetime Cap).
- If the retiree remains employed after 600 hours or exceeds the two (2) year cap, his/her pension payments will cease.

Act Nos. 6463 and 6110 were repealed which eliminated 16 positions in the education department and any retired Tier I law enforcement officer or other Tier I retired government employee employed by the Virgin Islands Police Department pursuant to a contract, either on a full-time or part-time basis, to return to work without losing their retirement benefits.

Tier II Members Only:

- No Tier II member is eligible to return to work.

Tier I and Tier II:

Effective August 30, 2019

- ***Only retired nurses, teachers, and police officers*** may work for the GVI for more than 600 hours in any one-year period not to exceed the maximum of two years and receive both their salary and annuity.

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- The retiree's salary cannot exceed \$55,000.
- The retiree will be exempt from paying contributions.
- The retiree cannot work more than two (2) years (Lifetime Cap).

Explanation of the Term Double Dipping

Any retiree returning to work is double dipping (receiving his/her pension and salary from the GVI) *legally* up to the period allowed by law, which is 600 hours. Double dipping becomes *illegal* when the retiree continues to receive his/her pension past the 600 hours or more than two (2) years as allowed by law.

Exception (Legal Double Dipping)

There are no hours or limit for a retiree who is receiving a pension from one branch of government and returns to work for another branch of government. For example, someone retires with 30 years of service with the executive branch and is receiving a pension from the executive branch and is elected as a Senator. As a Senator, he/she receives a salary from the legislative branch without having to give up the executive branch pension. After the Senator is no longer a member of the legislature, he/she can receive a legislative pension after three (3) terms, in addition to the executive branch pension. Likewise, the Executive Branch pension to Judicial Branch (Judge, or Magistrate), and Legislative Branch pension and vice versa. Also, from Legislative and Judicial Branch to Governor and Lieutenant Governor.

Casino Control Commission Members

32 VIC §407 provides “nor shall any retiree forfeit his retirement benefits, by accepting the office of either an ex officio or an appointed member of the Virgin Islands Casino Control Commission, provided, however, that the retirement annuity of any retiree who accepts an appointment to the Virgin Islands Casino Control Commission shall continue to be contributed and calculated at the same amount prior to his appointment.”

Monitoring Return to Work Retirees

The GERS would like to explain its role in monitoring retirees returning to work and ensuring that they comply with the law. At the beginning of each new administration and when necessary, a memorandum is circulated to all heads of departments and instrumentalities, all departmental human resources officers, with a copy to the governor explaining the law and the responsibility of all parties. The requirement is, if a retiree is returning to work, the retiree or the employing department/agency shall inform the GERS in writing and follow up with a Notice of Personnel Action (NOPA) or a copy of any contract. Compliance has become a challenge for the GERS if the retiree or the employing department/agency does not inform the GERS of the employment of the retiree or a copy of the NOPA is not received by GERS.

How GERS Determines a Retiree Returned to Work?

- The retiree is reported in the media to return to work in a high-profile position.
- The GERS receives a NOPA from the department/agency, and the required employee and employer contributions are deducted and forwarded to GERS.
- A copy of a contract is sent to the GERS for a retiree returning to work on a contractual basis.
- There is an anonymous tip that the retiree has returned to work.
- Referrals from the Inspector General's office.

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If none of the above occurs, the retiree can go unnoticed and continue to illegally receive his/her pension and collect a paycheck from the department/agency.

How Does GERS Monitor Retirees Returning to Work?

- Request a quarterly listing of all employees being paid by the central government from the Division of Personnel.
- Match the listing with GERS' listing of retirees receiving a pension.
This approach will only be effective if the retiree is returning to work as a bonafide employee with a NOPA that is processed through the central government's ERP system, and not outside of the ERP system.
Is not effective if the retiree is employed on a contractual basis as a consultant and the retiree is being paid through a third-party entity.

Consequences for Not Complying with the Return to Work Law

- Upon notification that the retiree is in noncompliance with the 600 hours, or the \$55,000 salary limit, the department/agency is contacted, and an accounting of the retiree's hours is requested.
- The retiree's pension is stopped immediately, and the retiree is notified in writing of the non-compliance with the law, and the ramifications (overpayment of his/her pension over the 600 hours, or in excess of the \$55,000 salary threshold).
- The retiree's pension is recalculated going back to the beginning of his/her employment, which includes any credit for excess annual or sick leave applied to his/her service time in the initial pension calculation that was granted without the payment of employee or employer contributions. Additionally, the excess pension payments are then calculated to include a 6% lost investment interest and 1.5% delinquency penalties.
- The retiree is afforded a reasonable installment repayment plan depending on his/her age.
- The excess pension payments and interest and penalties ***must be repaid*** to the GERS in full before the retiree can begin to receive any further annuity payments.
- If the retiree does not repay the overpayment, **all measures allowable by law will be taken to recoup the overpayment, to include a lien on his/her property.**

Enforcement

Enforcement of the Return to Work Policy cannot be effective without the cooperation of the chief executive, director of the division of personnel, heads of departments, agencies, and instrumentalities, and human resources professionals in the respective departments and agencies.