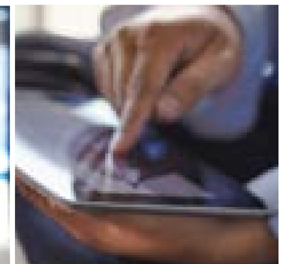
Balancing Objectives in Public Employee Post-Retirement Employment Policies:

Reassessing Barriers to Continued Work

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Introduction

Depending on applicable state law or the policies of a particular public retirement system, returning to work with a government agency after retirement can either be permissive or restrictive, and may further depend on the characteristics of individual employers and retirees.

Much of the attitude of policymakers and the public toward such post-retirement employment stems from perceptions that public sector workers, either in general or in certain high-profile cases, have taken advantage of loopholes by being paid a pension benefit as a retiree while still drawing a salary. A common term for cases like these is "double dipping." Concerns also have been expressed about "revolving door" agreements, wherein an employee approaching retirement may be promised a position post-retirement without first fulfilling an Internal Revenue Service (IRS) or retirement system required break in service.

In some cases, the restrictions placed on re-employment apply not only to the direct agency from which an employee retired, but also potentially to other government agencies or government contractors within the state.

While restrictions are rightfully enacted to address potential abuses, other approaches have attempted to balance the need for controls with a targeted policy of waiting periods, income limitations, exempted positions, or other provisions that assist employers in meeting their workforce needs. This can be particularly helpful when highly skilled workers are needed in labor markets where particular skills may be in short supply, such as, but not limited to, in rural areas or inner cities.

To get a better sense of the range of practice, the Center for State and Local Government Excellence (SLGE) and the National Association of State Retirement Administrators (NASRA) researched the post-retirement employment policies of eighty-three of the largest state pension plans in the United States—including those that cover state employees, public safety workers, teachers, and university faculty and staff. Where statewide plans included coverage for local government employees, such as under the public safety umbrella, or in a designated municipal retirement system, those plans were included in the analysis. Plans operated solely by an individual city or county were not considered.

This report presents a review of related research in the field; describes findings from data collected on the post-retirement employment policies of large retirement systems across the United States; and provides case studies on three pension systems that have taken varying approaches to the re-employment question as it affects their stakeholders.

The intent of this report is to provide additional resources for discussion among elected officials, pension plan administrators, labor unions, researchers, the media, the public, and any other interested party about the impacts that decisions around post-retirement employment can have on the ability of public employers to recruit, retain, and retire a talented and effective workforce, and about the approaches that have been and continue to be utilized around the country.

Literature Review

The Aging Workforce and Continued Work

As the baby boomer generation continues to delay retirement, and as millennials enter the labor force at later ages, older workers are the fastest-growing segment of the U.S. labor force.[1] While older workers comprised only 12 percent of the workforce in 1992,[2] in 2018, 20 percent of the workforce is older than 55, and the Bureau of Labor Statistics estimates that ratio will rise to 25 percent by 2024.[3] Estimates for the public sector workforce are comparable: in 1994, 13 percent of state and local government workers were aged 55 or older,[4] compared to nearly 20 percent of state and local government workers in 2018.[5]

Having such a substantial portion of the workforce retiring at the same time would be disruptive to public employers by creating gaps in the workforce. To avoid this scenario by promoting employee retention, especially among older individuals, policy options may include reforms to the pension plan design (e.g., increases in mandatory retirement age) and changes in the work environment (e.g., more options for phased and partial retirement, flexible scheduling programs).[6]

In addition to choosing to remain in the workforce for longer periods, individuals can also re-enter the workforce after retiring, either full time or part time, a concept often referred to as post-retirement employment, retirement reversal, or unretirement.[7] This late-career development stage can take the form of individuals who: (1) are fully retired and then commence full- or part-time paid work; or (2) begin full-time work following partial retirement. It may also include a bridge job, in which individuals return to paid work following retirement from the labor force. There is a gap between jobs, either to change employers to comply with pension/early retirement rules or due to involuntary retirement.[8]

As the global population ages, post-retirement employment is becoming increasingly important as a way to potentially reduce costs for public employers and help with projected labor shortages due to an aging workforce.[9] The growing trend of post-retirement employment is occurring in many countries (e.g., the United States, United Kingdom, Germany, Japan). Nearly half of retirees follow a nontraditional retirement path (partial retirement or post-retirement employment), and 26 percent of retirees later return to work.[10]

About half of all older workers in the United States who retire do so permanently, while about half phase into it through partial retirement (working fewer hours), bridge employment (working at different, lower-paying jobs), or unretirement (re-entering the workforce either full time or part time).[11] Among the nontraditional paths to retirement, approximately 26 percent of retirees unretire.[12] According to the 2015 results of RAND's American Working Conditions Survey (AWCS), 40 percent of workers age 65 to 71 have previously retired, and 46 percent of retirees age 50+ say they would return to work if the conditions were right.[13]

Despite the increasing prevalence of post-retirement employment in the United States among state and local government workers, the topic predominantly has been explored only in the context of the private sector, whether in the United States or in other (often European) nations. Few studies have specifically addressed post-retirement employment among state and local government workers. In recognition of this gap in the literature, this project uses the existing research on post-retirement employment, which is drawn mostly from the private sector, to better understand how this phenomenon applies to public sector workers.

Employees working past retirement eligibility or returning to work after retiring are not a homogeneous group and have different motivations for continuing to or returning to work.[14] In the sections that follow, we further explore the literature on the concept of post-retirement employment, from the perspective of both the employee and the employer. This discussion addresses the following questions:

(1) Who returns to work after retirement?

(2) Why do employees return to work after retirement?

(3) When do employees return to work after retirement, what is the duration of the work, and what jobs do they have?

(4) What are the benefits of post-retirement

employment to employees?

(5) How does post-retirement employment address employer workforce needs?

(6) What workplace policies promote post-retirement employment?

(7) What are the benefits of post-retirement employment to employers?

Who Returns to Work after Retirement?

Research consistently finds that men are more likely to work after retirement than women. Estimates range from men being 26 to 50 percent more likely to return to work than women, even after considering other relevant factors.[15] Women are more likely to return to work if they are unmarried, possibly due to economic necessity. Of those who return to work, men are more likely to return to work full time and women are more likely to return to work part time, mimicking work patterns from earlier in life. Spouses often choose to coordinate retirement: post-retirement employment is more likely if a spouse is still working.[16] Women's employment is strongly influenced by the employment of their partner—between one-fifth and one-third of couples choose to coincide retirement.[17]

Other individual characteristics that show a strong relationship with work after retirement are: education (those with higher education levels are more likely to work after retirement),[18] age (younger retirees are more likely to work after retirement),[19] and health status (those in better health are more likely to work after retirement).[20] While those with lower education levels may need to work longer out of economic necessity, they may opt to retire when their health makes continued work or a subsequent return to work impractical. The health status of a partner or an unexpected health shock of a partner can also influence retirement decisions.[21] Perhaps surprisingly, the relationship between financial status and work after retirement is not clear-cut. While employees often report improving finances as a motivator for working past retirement, some studies find higher income to be associated with a higher likelihood of work after retirement,[22] while others have not found a relationship.[23] In the next section, we discuss potential explanations for these inconsistent findings and other motives for post-retirement employment.

State and Local Workers vs. Private Sector Workers

The profile of a typical public sector worker shows some variation from that of a typical private sector worker. On average, public sector workers have higher levels of educational attainment than private sector workers do. In 2013, 53.6 percent of workers in the public sector had a bachelor's, advanced, or professional degree, compared to 34.9 percent of private sector workers.[24] Older public sector workers are also more likely to have access to quality health insurance while working than are their private sector counterparts. Eighty-nine percent of state and local government workers have access to health care benefits (medical, dental, vision care benefits, or outpatient prescription drug coverage), compared to 68 percent of private sector workers.[25] Both higher educational attainment and access to quality health care, which are more common among public sector workers, are associated with a higher prevalence of post-retirement employment.

Why Do People Return to Work after Retirement?

One way to categorize post-retirement employment, either full-time or part-time, is as either a previously planned decision or an unplanned decision (based on one's experiences after retiring). For example, post-retirement employment that is previously planned may arise from individuals wanting to spend more time with their families or needing to care for a family member, but then planning to return to work. Some older workers may want to take a break before beginning a different type of career (bridge employment). When unplanned, a return to work can be due to having an unpleasant experience being retired, various "shocks" (e.g., personal health issue, an unexpected financial loss), or feelings of social isolation or low self-esteem ("social shock").[26]

For most individuals, post-retirement employment is a planned activity. For 82 percent of those who return to work, it is anticipated—and not a result of financial shocks, poor planning, or low wealth accumulation. For those for whom it was not planned, the decision to return to work is generally due to "preference shocks" (e.g., discovering that one does not enjoy retirement as much as anticipated).[27]

One possibility is that post-retirement employment is the result of a "burnout and recovery" experience. As the number of years that an individual is in his or her career increases, one becomes more burned out. As the importance of leisure increases, it eventually passes the value of work, and it is at this point that a person retires. Once they retire, the recovery process begins, and eventually the marginal value of leisure falls below the marginal value of work. It is at this point that individuals may choose to return to work. Burnout and recovery can be influenced by unexpected events, and those who find retirement less satisfying than expected may return to work sooner.[28]

An alternative view of post-retirement employment is that it represents the fulfillment of different types of needs. These needs could be social (the need for social contact and camaraderie), personal (the need for personal growth and development), financial (the need to survive), or a combination thereof.[29] People often report financial motivations, as well as the loss of social contact and daily rhythm, not enjoying retirement, appreciating intrinsic values of work, and being asked to help.[30] One study looking at the relationship between the meaning of work and post-retirement employment found that, unsurprisingly, retirees who reported higher social and personal meanings of work were more likely to engage in work after retirement.[31]

As mentioned previously, the relationship between financial need and post-retirement employment is somewhat complex. While finances may be a motivator for working later in life, research suggests that the rate or incidence of post-retirement employment is actually lowest among the poorest segment of the population, which suggests that those most concerned about finances may not be able to find work. Financial shortfalls later in life are associated with lower levels of education and poorer health, both of which may make it more difficult to find employment. Further, if people think they will gain only small earnings working after retirement, they may not feel that working after retirement is worthwhile.[32] While employment rates are lowest among the poorest, having outstanding debts or a mortgage does increase the likelihood of returning to work after retirement.[33]

When Do People Return to Work after Retirement, What Is the Duration of the Work, And What Jobs Do They Have?

While estimates vary slightly by country and sample, post-retirement employment is most likely to occur fairly soon after retirement. About 35 percent of retired workers return to work within two years of their retirement.[34] The likelihood of returning to work after retirement for men and women increases steeply and peaks at two years post-retirement, then declines steadily.[35] This pattern supports the notion that generally returning to work after retirement is not due to financial shocks. For early retirees, there is an increased likelihood of post-retirement employment for the first five years after retirement. For this group, it is more likely that they have retired involuntarily and that they have an interest in returning to the workforce.[36]

When older workers do return to work after retirement, on average they do so for two to four years.[37] They tend to work in occupations similar to ones they held previously and generally do not become self-employed.[38] Most workers also re-enter into the type of job (full-time or part-time) that they held before retiring.[39] In the United States, older workers tend to be less confined to hard-to-fill, low-paid jobs than are older workers in other countries. However, when older Americans with poorer health return to work, they tend to work longer hours, possibly due to the need to obtain health insurance that covers medical costs. Those with health limitations may have access to more work if they have higher education levels.[40] The median hourly wage for partial and post-retirement employment is significantly lower than the median pre-retirement wage, possibly reflecting a loss of human capital from having left the workforce or from career changes.[41]

Knowledge Workers

As the jobs and skills needed in the 21st century continue to shift from performing physical tasks to collaborative thinking to solve complex problems, it is important to consider how post-retirement employment trends may vary between manual laborers and "knowledge workers." A phrase coined by Peter Drucker in 1959, "knowledge worker" refers to "high-level workers who apply theoretical and analytical knowledge, acquired through formal training, to develop products and services."[42] These individuals work in fields such as information technology, research and science, finance and accounting, and engineering and design. The nature of many state and local government jobs means that many public sector employees would be classified knowledge workers. There are several reasons that knowledge workers may be more likely to engage in post-retirement employment than other employees. For example, due to the generally less physically demanding nature of their work, knowledge workers often have a greater likelihood of being able to continue work or return to work as they continue to age.[43] For manual labor positions, on the other hand, workers at a certain point may not be able to continue the rigorous physical demands of the job, even if they would still like to continue the work. Knowledge workers are also more likely to have jobs with the possibility of flexibility (e.g., part-time schedules, remote work), which is a key consideration for individuals in deciding whether to return to work.[44] Finally, due to the specialized skills required for knowledge worker positions, these individuals may have accumulated more in earnings or retirement benefits, allowing them to take lower-paying jobs that are often associated with post-retirement employment.[45]

What Are the Benefits of Post-Retirement Employment to Employees?

According to research, post-retirement employment can be positive for employees in that retirees who feel the financial, social, or personal need to return to work, and who are physically able to work do so, leading to increases in income for those individuals, and greater labor force participation.[46] Working post-retirement also can lead to healthier and happier lifestyles and mental well-being, and can increase an individual's financial position, which can help alleviate the problem of people outliving their retirement savings.[47] Older employees who work post-retirement have been found to be healthier and happier than their nonworking peers.[48]

These findings are in line with research discussed earlier indicating that the personal and social meaning of work are the strongest predictors of post-retirement employment.[49] Post-retirement employment enables older workers to continue learning by building upon existing skills or to develop a new skill; to have a sense of purpose; to contribute meaningful work; and to pass on their knowledge and expertise to younger, less experienced workers. Jobs held after retirement are typically less stressful and physically demanding than jobs held prior to retirement.[50] Older workers can continue to work, but often under less stressful conditions. Nontraditional arrangements associated with post-retirement employment may offer more flexibility and autonomy, which are particularly desirable to older workers.[51]

In addition to having a variety of benefits for employees, post-retirement employment can be of value to employers. In the sections that follow, we consider post-retirement employment from the perspective of the employer, exploring how policies that promote post-retirement employment can benefit employers.

How Does Post-Retirement Employment Address Employer Workforce Needs?

As the public sector workforce ages, and an increasing number of older workers are nearing retirement, state and local government employers face the prospect of a shortage of skilled and experienced workers needed for a variety of professions. Since 2009, the Center for State and Local Government Excellence—in coordination with the International Public Management Association for Human Resources (IPMA-HR) and the National Association of State Personnel Executives (NASPE)—has conducted surveys on workforce issues facing state and local employers. Results from the most recent report, which in addition to looking at data from 2018 also present ten-year trends, indicate that fewer public sector employees are postponing retirement. While 44 percent of respondents in 2009 reported plans to postpone their retirement, this percentage has steadily declined, with only 21 percent of respondents reporting plans to postpone retirement in 2018.[52]

Simultaneously, employers are reporting that a number of critical positions are difficult to fill, most frequently policing, engineering, IT, and skilled trades. A number of these positions (e.g., police,[53] fire, engineering) are showing an increase in the difficulty in being filled over time. While one might expect interest in these jobs to remain fairly stable, factors such as the increase in the number of retirements, a declining interest in pursuing a career in public service, and increased opportunities in the private sector may be contributing to this trend.[54]

While a significant amount of attention is rightfully being paid to recruitment and succession planning, it is worthwhile for employers to consider policies that promote the continued work or return to work of older employees, who often have the institutional knowledge, skills, experience, and interest to continue partaking in meaningful work. This is in line with results from the 2018 workforce survey indicating that two of the three top skills that public sector employers are seeking in state and local government workers are interpersonal skills (70 percent) and written communication skills (51 percent).[55]

What Workplace Policies Promote Post-Retirement Employment?

Employer policies that promote post-retirement employment can range from the informal to the formal. For example, access to part-time and flexible work arrangements and expanding the range of jobs available may promote working past retirement, as choice is important to older workers.[56] Enhancing access to training and other professional development opportunities, promoting safer workplaces, and promoting employee health may also assist with this objective. A number of countries, including the United States, have implemented policies that protect older workers from age discrimination. This also may raise employment rates among older individuals.[57] Another approach that some countries have taken is to create incentives for partial retirement to delay full retirement. See **Appendix A** for an example of one such policy.

Some public and private sector employers in the United States have also implemented policies to address the issue of returning to work after retirement. One example is the Plumbers & Pipefitters National Pension Fund (PPNPF), which requires a six-month waiting period after retirement until one may return to work in order to continue to receive his or her pension benefit. If an individual is under age 65 and returns to work for a PPNPF Contributing Employer, his or her pension would be suspended.[58] (Employees who are above age 65 and working less than 40 hours per month do not have their pension suspended.) However, if there are positions that cannot be filled by non-retirees, a waiver for suspension of benefits can be granted. The waiver is for a specific job and a specific amount of time, and the employee still must have had a six-month separation prior to re-employment. During this period of re-employment, employees can earn additional pension credit, and benefits will be recalculated once the employee re-retires.[59]

Another example is the Teamsters Union, which developed pension plan re-employment rules specifying under what conditions a retired employee may return to work and still receive benefits. These conditions vary by age, re-employment industry, and number of hours working. For example, individuals aged 65 or older may work in any position for any number of hours as long as (1) they have retired and have been receiving a pension for at least twelve months; and (2) they have not worked in any "Restricted Reemployment" positions for at least twelve consecutive months immediately preceding age 65 or in the twelve months preceding the retirement date (whichever is earlier). If an individual does not meet these criteria, his or her benefits would be suspended for any month in which he or she works more than the allowed hours in a Restricted Reemployment position. However, this suspension of benefits will not apply to those who work less than forty hours per month, those whose work isn't considered in the "Same Trade or Craft," or those whose work isn't considered in the same "Geographical Area covered by this Pension Plan."[60]

When considering policies that promote post-retirement employment, it is important to focus on the ease with which individuals can work while receiving a pension, especially if older workers want to work part time but need to supplement their earnings.[61] This is particularly relevant for state and local government workers. Although benefit reforms since the Great Recession of 2008 shifted much of the responsibility for retirement savings from the employer to the employee, most of the public sector workforce is still covered under traditional defined benefit plans. Navigating the intricacies of working while receiving a pension can make it difficult for public workers to pursue post-retirement employment.

What Are the Benefits of Post-Retirement Employment to Employers?

Recently retired individuals are a good pool of potential labor for the right position.[62] As mentioned previously, with a variety of hard-to-fill positions in the public sector workforce, hiring or retaining an older employee with the knowledge, skills, and ability to do the job can reduce a workforce shortage and facilitate succession planning.

Post-retirement employment can produce economic gains through more production of goods and services associated with labor force participation. It also can potentially help reduce Social Security deficits by delaying benefits payouts, and it can create additional employment tax revenue that can help support other government programs.[63]

While there is limited research specifically on post-retirement employment among public sector workers, given the continued increase in the average age of the state and local government workforce and the potential benefits of continued work for both employers and employees, it is critical to better understand policies that promote continued work or return to work among older public sector workers.

Data Collection Summary

Some retired public employees return to work after retiring. Whether for personal, social, or financial reasons, post-retirement employment represents a departure from the "traditional" career trajectory, which pursues a linear path from employment to retirement. For public employees, returning to work can be complicated because it can have significant implications for a retiree's financial position. Retirees who seek to return to work also have effects on public employers: public pension plans were designed to accumulate assets during employees' working careers and then to pay out those assets upon employees' retirement. Retirees who return to active employment with an employer that is participating in the same pension plan create challenges to this retirement benefit financing arrangement.

Click here for the full data set of Post-Retirement Employment Policies.

As with providing a retirement benefit, the purpose for developing a post-retirement employment policy also is to meet the objectives of stakeholders. Crafting and implementing such a policy involve the consideration and balancing of multiple stakeholders and their objectives. Generally, retirees seek the flexibility to return to work if desired, while continuing to receive both their retirement benefit and a salary for the position in which they are re-employed. Public employers seek the ability to fill a vacancy with the most qualified candidate; in many cases, that candidate is a retiree. The public retirement system tasked with administering the policy seeks to ensure both that the plan complies with relevant statutes and rules and that the plan does not experience any costs or negative actuarial expense as part of retirees returning to work. Balancing these objectives can be a challenge, as at times they may complement, and at other times, conflict with one another. For retirees who elect to return to work while continuing to receive their retirement benefit, and for the employers that hire them, various rules and laws must be followed to promote balance of these basic stakeholder objectives, depending on factors such as the employer to which a retiree returns to work and the type and conditions of employment.

Restrictions on public employees returning to work while also receiving their retirement benefit are intended to accommodate two often competing objectives: protecting and maintaining the integrity of the pension plan, while also enabling public employers to attract and retain the qualified employees who are needed to provide essential public services.

Pension plans help promote key human resources objectives. In addition to attracting and retaining, traditional pension plans also are intended to enable public employers to promote an orderly turnover of workers. This means that a well-designed pension plan will foster retirement by employees at an appropriate point in their life and their career. The employee benefits by being able to retire in a timely manner; the employer benefits through reduced salary costs and opportunities for new employees to join the organization and younger workers to be promoted. This is a virtuous cycle created by a well-designed retirement plan.

Restrictions on retirees returning to work are intended to protect this framework. If employees were permitted to simultaneously work and earn a salary while also receiving a pension, the actuarial integrity of the pension plan would be imperiled. In such a scenario, workers would have an incentive to retire as soon as they are eligible, knowing they could return to work and simultaneously receive both a paycheck and a pension check. Without restrictions, such an arrangement would quickly drive up the cost of the pension plan, as plan participants would retire sooner than most otherwise would, resulting in longer pension payout periods and higher plan costs.

At the same time, often the sole or primary qualified candidate available to fill certain public positions is a retired public employee. In addition, many retirees want, for one or more of many reasons, to return to work. Post-retirement employment policies, which usually require a break in service and impose limitations on how much a retiree may work, earn, or both, seek to find a balance between these competing objectives. Successful policies are those that protect the actuarial soundness of the plan, enable employers to fill their positions, and accommodate retired public employees who wish to remain active and to earn income in retirement. This report aims to identify state laws and public retirement system policies in place for eighty-three statewide retirement systems related to members returning to work after retiring, entering a phased retirement program, or continuing to work after becoming eligible to retire, while receiving both a salary and their regular retirement benefit.

Eligibility to Return to Work

Retired public employees in every state may work for a public employer in a different state and continue to receive their pension benefit. In most cases, retired public employees in every state may return to work for another public employer in the same state that does not participate in the retirement system from which the employee retired, without impairing their ability to earn a salary while also receiving their retirement benefit.[64]

With one exception,[65] retired public employees are able to return to work for a public employer that participates in the same retirement system as the employer from which they retired while receiving both their retirement benefit and a salary, provided certain rules are adhered to. In some cases, the ability to return to work for an employer in the same system is contingent on other factors, such as the type of employer and the circumstances of the retiree's re-employment. One such example is Rhode Island, where retired state employees may not return to work with a state employer; however, they may return to work with a non-state employer (i.e., municipal or educational employer) that also participates in the **Employees' Retirement System of Rhode Island**.

Rules Governing Retired Employees as Independent Contractors

Rules differ among states, and between retirement systems within the same state, with regard to the application of post-retirement employment rules to retirees who return to work for a system-covered employer as an independent contractor or through a private staffing agency. For some systems, such as the **Maryland State Retirement and Pension System**, **Ohio Public Employees'**

Retirement System, and **South Carolina Retirement System**, post-retirement employment rules apply to retirees re-employed by a system-participating employer, such as a state agency, city, or school district. For other systems, such as the **Delaware Public Employees' Retirement System**, I**ndiana Public Retirement System**, and **Teacher Retirement System of Texas**, the rules in most cases apply to retirees re-employed by either a system-participating employer or those re-employed through a third-party employer.

Some systems make a distinction between the application of post-retirement employment rules to different types of third-party employment. For example, the **Georgia Employees' Retirement System** post-retirement employment rules apply to third-party as well as system-participating employers, excepting only retirees who are rehired as qualified independent contractors after meeting specific criteria. Similarly, the **New Hampshire Retirement System** policy directs the system to review private placement arrangements on a case-by-case basis.

Break in Service

All retired public employees who seek to return to the same employer from which they retired, or who work for another public employer that participates in the same retirement system from which they retired, are required to observe a "break in service" between their retirement and their return to work. This is a requirement set forth in IRS regulations and further specified in state laws and retirement system policies.

These regulations, laws, and policies define the period of time that must lapse between the employee's date of retirement and their hiring date. IRS rules do not specify the length of time that represents a break in service; guidance provided by the IRS states only that there must a bona fide break in service with no arrangement for re-employment. In addition to these specific federal and state standards, a break in service is generally considered to be legitimate or bona fide only in the absence of an explicit agreement to return to work between the individual and their employer. A retiree who returns to work for a system employer before completing the required break-in-service period is not considered to have legitimately retired. If such retirees wish to continue working, typically they will be restored to active service; have their retirement benefit suspended; and be required to pay back to the system any benefit payments received since the time they returned to work.

Considerable variation exists among public retirement systems in the required length of a break in service. Some states do not specify the length of time that constitutes a break in service; others maintain a standard requiring only a relatively brief break-in-service period; and some, at the other extreme, require a lengthier break in service of six months to one year.

Federal law requires individuals participating in a qualified retirement plan to begin receiving a distribution from the plan by age 70½.[66] Therefore, members who have reached age 70 when they retire may continue working while receiving their retirement benefit without observing a break in service. Different occupations may be subject to different rules regarding the required break in service. For example, some states require teachers or other school employees who seek to return to work in an educational institution to observe a break in service in accordance with the school year, rather than the calendar year.

A categorization of the required length of break-in-service periods among the systems examined for this study is shown in Table 1.

In some cases, the length of the required break-in-service period is different within the same system, depending on the retiree's age or length of service at retirement (or both). For example, those who elect to retire from the **Public Employee Retirement System of Idaho** before meeting the age and service criteria for normal (unreduced) retirement must observe a ninety-day break before returning to work, while those retiring after attaining eligibility for normal retirement must observe only a twenty-four-hour break in service.

Restrictions on Terms of Re-employment

A retiree who returns to work may be treated differently depending on the circumstances of their

Table 1. *Required length and frequency of break-in-service period*

Required length of break-in-service period	Number of systems	Example
A break in service of unspecified length is required	9	State law requires retirees of the **Retirement Systems of Alabama** to separate from service before returning to work with a participating employer, but does not specify the time period.
< 2 months	33	The **North Carolina Retirement System** requires retirees of the Local Government Employees' Retirement System (LGERS) to complete a one-month break in service before returning to work for an LGERS employer.
2 months to < 6 months	21	The **Kansas Public Employees Retirement System** requires retired general employees age 62 or older to observe a break in service of 60 days before returning to work as a general employee or teacher for a participating employer.
6 months to < 1 year	11	The **California State Teachers' Retirement System** require retirees to observe a break in service of 180 days before returning to work with a participating school district employer.
≥ 1 year	9	The **Florida Retirement System** requires re-employed retirees to observe a 12-month break in service in order to continue receiving their retirement benefit during re-employment.

Some systems maintain different break in service requirements for different plans.

re-employment. Generally, if a retiree accepts employment that is less than full time or permanent, and at a commensurate salary, they may continue to receive the retirement benefit during the period of re-employment, although restrictions often limit the number of hours or length of employment or the amount of salary that may be earned while continuing to receive their pension benefit. Depending on state law or the rules of the plan, in most cases, if a retiree returns to work in a full-time, permanent position covered by the retirement system from which they retired, the retiree is considered to have not completed retirement from the system and their retirement benefit is suspended for the duration of re-employment.

Most states impose restrictions on various terms of employment for re-employed retirees to determine who is eligible—and who is not—to receive their retirement benefit while re-employed. These restrictions may address the number of days or hours a re-employed retiree may work or the maximum duration of the re-employment period. Other restrictions specify a maximum salary that may be earned by a retiree during his or her period of re-employment.

Thirty-five systems impose earnings limitations on re-employed retirees. Such limitations generally fall into one of five broad categories based on different factors, as detailed in Table 2.

Forty-two systems impose restrictions on the amount of time a re-employed retiree may work. Such restrictions may include a fixed number of hours or days that may be worked within a given period, such as a calendar year, school year, or number of consecutive months. In some cases, this limitation is expressed as a specified percentage—for example, 50 percent—of the number of hours or days corresponding with full-time employment for the position for which the retiree is

Table 2. *Basis of earnings limitations*

Basis of earnings limitation	Number of systems	Example
Fixed-dollar	16	The annual earnings limit for re-employed retirees of the **Retirement Systems of Alabama** is $31,000 in 2018, indexed annually for inflation.
A portion of a retiree's monthly retirement benefit	2	Most re-employed retirees in the **Louisiana State Employees' Retirement System** who have not attained age 70 with 30 years of service credit are subject to an annual earnings limitation equal to 50 percent of their retirement benefit.
A portion of a retiree's final salary at the time of their retirement	6	Retirees who return to work for a position covered by a system employer while receiving a benefit from the **Tennessee Consolidated Retirement System** may earn a salary no greater than 63 percent of their preretirement earnings, indexed by 5 percent per year.
A portion of current salary for the position to which the retiree is hired	7	Retired teachers who return to work with a school district employer in the **Vermont Teachers' Retirement System** are subject to an earnings limitation of 60 percent of the current average teacher's earnings.
Multiple factors	4	The earnings limit in place for re-employed retirees of the **Utah Retirement Systems** is determined by the lesser of $16,000 or one-half of the retiree's final average salary during a calendar year.

hired. Some systems restrict re-employed retirees' hours or days to an unspecified number or percentage as long as they remain below the designated thresholds for full-time employment.

A breakdown of restrictions on the amount of time a re-employed retiree may work is shown in Table 3.

In some cases, re-employed retirees are subject to different restrictions on the amount of time they may work depending on other factors. For example, re-employed retirees of the **Connecticut State Employees' Retirement System** may work up to 120 days in a calendar year, with graduated limits of hours that may be worked depending on the position.

Consequences for Violating Restrictions on Terms of Re-employment

In most cases, if a re-employed retiree is determined to have violated restrictions on the number of hours or the duration of their re-employment, their pension benefit is frozen and remains suspended as long as the individual remains in violation. For example, if

Table 3. *Limitations on time or length of service*

Basis of time limitation on post-retirement employment	Number of systems	Example
Fixed number of days	9	Teachers rehired by school districts participating in the **West Virginia Teachers' Retirement System** may work no more than 140 days in a school year unless exempted under a critical shortage provision.
Fixed number of hours	23	The **Washington State Department of Retirement Systems** limits re-employed retirees to a maximum of 867 hours each year.
Fixed time period	4	Teachers rehired by school districts participating in the **Georgia Teachers' Retirement System** may work up to 3 months in a full-time position within each fiscal year.
Specified level of work below full-time employment	12	Post-retirement policy for the **Virginia Retirement System** limits nonexempt re-employed retirees to part-time positions, which typically require less than 80 percent of the hours for comparable full-time positions.

Some systems employ multiple of the stated methods for limiting the amount of time retirees may work after become re-employed. As a result, the subtotals here exceed the total of forty-two plans with limitations in place.

a re-employed retiree of the **Wisconsin Retirement System** is determined to be employed in a position over the threshold for full employment (corresponding to the specific position), the monthly benefit is suspended and they are restored to active service.

A typical consequence of violating an earnings limitation is to freeze and suspend the pension benefit and, in some cases, require a repayment to the retirement system. The **Iowa Public Employees' Retirement System** policy stipulates that a benefits overpayment exists when a re-employed retiree exceeds the $30,000 annual earnings limit. The overpayment amount is determined by the lesser of 50 percent of the earnings over $30,000 or the retirement benefit amount for the rest of the calendar year beginning with the month the earnings limit was reached. The **Hawaii Employees' Retirement System** is authorized to collect any retirement allowance received by a retiree in violation of the terms of re-employment, with 8 percent interest. Further, both the retiree and their employer are required to remit pension contributions associated with any period of work in which the retiree was in violation, with 8-percent interest.

In some cases, different consequences apply to different scenarios. Consequences for re-employed retirees of the **Montana Public Employees' Retirement System (PERS)**, for example, depend on the age of the retiree: for PERS members under age 65, the benefit is reduced by one dollar for each dollar earned from PERS-covered employment when the retiree exceeds 960 hours worked in a calendar year for a PERS-covered employer. For PERS members age 65 to 70½, the benefit is reduced by one dollar for each dollar earned from employment exceeding either the 960-hour limitation or an earnings limitation, whichever is higher, in a calendar year.

In many cases when a re-employed retiree has their benefit suspended as a consequence of violating the terms of re-employment, the individual is re-enrolled, either automatically or by choice, as an active, contributing member of the retirement plan pertaining to their employment. Under this scenario, upon re-retirement, the retiree's benefit would be recalculated to reflect the additional salary and service.

Exemptions from Restrictions on Terms of Re-employment

Nearly three-quarters of system policies in this analysis identify some form of exemption to restrictions on the length of time a re-employed retiree may work or on earnings during the period of re-employment. Some exemptions apply to specific, targeted groups, such as retirees that have attained a certain age or members of specific occupational groups. Others are broad-based exemptions based on designated critical shortages or employer needs. Select examples are identified below:

- Retirees of the **Minnesota Public Employee Retirement Association** who attain the age of eligibility for normal retirement, which is tied to the Social Security normal retirement age, may return to work for a system employer without being subject to an earnings limitation.
- New Jersey statutes provide for exemptions for certain retirees of the **New Jersey Teachers' Pension and Annuity Fund** and the **Public Employees' Retirement System**. Specifically, this applies to certificated superintendents and certificated administrators hired by the Department of Education or a local board of education in a position of critical need.
- The **Oregon Public Employees' Retirement System** provides a lengthy list of exemptions to the limitation on the number of hours a re-employed retiree may work, based on the specific position and, in some cases, the employer, that a retiree returns to work for.[67]

Some systems' policies are characterized by a broad exemption that provides for different labor situations that might arise for employers and retirees. Often referred to as a "critical shortage" exemption, re-employment under these types of provisions is typically subject to periodic review and verification to determine whether the conditions that precipitated the declaration of a labor shortage persist. For example:

- Retired teachers in Massachusetts who return to work for an employer in the **Massachusetts Teachers' Retirement System** in a position deemed necessary due to a "critical shortage" are not subject to restrictions on hours or earnings.
- The respective governing authorities of employers participating in the **Nevada Public Employees' Retirement System** may approve certain positions as "critical shortage positions," which effectively exempt them from post-retirement employment rules. Such positions must be reviewed and recertified every two years.
- Retirees who become re-employed in a position covered by the **New York State & Local or Teachers' Retirement Systems**, and whose post-retirement earnings will exceed the statutory limits, may apply for a waiver of up to one year from the entity with jurisdiction over their employment.
- Pennsylvania state law permits the 95-day emergency rehire of annuitants to positions covered by the **Pennsylvania State Employees' Retirement System** under specific circumstances.

Some broad critical shortage exemptions are limited, for example, by duration of re-employment or by the number of retirees that may be rehired under such a provision. For example:

- Certain school districts and higher education institutions participating in the **Colorado Public Employees' Retirement Association** may employ up to 10 retirees per year to work up to 140 days in a critical shortage position without reductions in pension benefits.
- Retired teachers and educational employees who return to work for a **Public School Retirement System/Public Education Employee Retirement System of Missouri** employer under a critical shortage exemption may work full time for up to two nonconsecutive years while receiving their retirement benefit. Employers are limited to no more than 10 percent of certificated staff hired under a critical shortage exemption, not to exceed five retirees.
- Statutes limit the number of critical shortage hires by school districts participating in the **Kentucky Teachers' Retirement System** to the greater of up to two members per local school district or 1 percent of the total active members.

Required Contributions and Benefits During the Period of Re-employment

Some systems require employers and/or retirees to make contributions during the period of re-employment to mitigate the potential for an adverse actuarial impact on the plan associated with their rehire. For example, a post-retirement employment policy that is too lenient could incentivize members to retire and begin collecting benefits earlier than they otherwise would, which could create an actuarial loss for the system (as well as possibly disrupt employers' ability to retain good employees). Additionally, if the position for which a retiree has been rehired would otherwise have been filled by an active, contributing member, contributions on the payroll of the re-employed retiree may be necessary to preserve the plan's covered payroll base and promote stability in contribution rates for all participating employers.

Thirty-five systems require employers to make contributions on the payroll of re-employed retirees during the period of re-employment. Some systems, such as the **Arkansas Public Employees' and Teachers' Retirement Systems**, and the **Public Employees' Retirement System of Mississippi**, require employers to contribute for rehired retirees at the same rate as for active members.

In many cases, the amount of employer contributions is tied to the plan's unfunded liability contribution rate. For example:

- Effective July 1, 2012, employers participating in the **Arizona State Retirement System** and **Arizona Public Safety Personnel Retirement System** are required to pay an alternate contribution rate (ACR) on the payroll of retirees who return to work "in any capacity and in a position ordinarily filled by an employee of the employer." A statutory requirement specifies that the ACR is equal to the employer's regular unfunded liability contribution rate.
- School districts participating in the **Michigan Public School Employees' Retirement System** are required by law to pay the full unfunded liability contribution rate for pension and retiree health care benefits for re-employed retirees.

In some cases, the amount of employer contributions is determined by other factors. For example:

- Employers that participate in the **Illinois State Universities' Retirement System** (SURS) who hire an "affected annuitant" (defined as re-employed retirees whose compensation exceeds 40 percent of the retiree's highest annual rate of earnings earned at a SURS-covered employer prior to retirement)[68] must make contributions to the system equal to the annuitant's annualized retirement annuity.
- School districts participating in the **Kentucky Teachers' Retirement System** that employ retirees must contribute to the system at a rate—determined by the system's actuary—necessary to offset any accrued liability resulting from the re-employment of those individuals.
- An employer in the **Wyoming Retirement System** that hires a retiree to a vacant, full-time position within the same plan from which the individual retired is required to make a "rehired retiree payment" equal to the applicable combined employee and employer contribution to the plan.

Sixteen systems require contributions from both employers who hire retirees and rehired retirees themselves. In most cases, contributions from rehired retirees are associated with the accrual of an additional retirement benefit. This additional benefit might be a second pension, a defined contribution plan, or a refund of the retiree's contributions with interest. Below are some selected examples:

- Re-employed retirees in the **Iowa Public Employees' Retirement System** are eligible for a second retirement benefit, which may be added to the retiree's original benefit, or provided as a lump sum, upon their second retirement.
- Re-employed retirees of the **Ohio statewide public retirement systems**,[69] and in some cases, their employers, contribute to a defined contribution plan during their re-employment, with the balance payable to the retiree upon re-retirement.
- The **Oklahoma Public Employees' Retirement System** requires both employer and employee

contributions during the period of re-employment. Retirees whose post-retirement service credit exceeds twelve months may have their original pension benefit recalculated to reflect their salary and service during the period of re-employment.

- The **South Dakota Retirement System** requires both employee and employer contributions during the period of re-employment. The employer contributions remain with the system, while the employee contributions are deposited in a deferred compensation account and provided to the employee upon re-retirement.

A few systems, including the **Colorado Public Employees' Retirement Association**, the **New Mexico Educational Retirement Board**, and the **North Dakota Teachers' Fund for Retirement** require rehired retirees to make contributions during their re-employment at the same rate as active members while not providing the opportunity to earn a second retirement benefit.

Systems that administer cash balance plans for broad groups of public employees in the state—such as the **Nebraska Public Employees' Retirement System**, for state and county workers, and the **Texas County & District Retirement System**—require re-employed retirees to enroll and begin contributing toward a second cash balance account.

DROP Plans and Phased-Retirement Programs

A deferred retirement option plan (DROP) or a phased-retirement program can be useful tools for employers to retain valuable employees who are eligible or nearing eligibility to retire. Most defined benefit plans incentivize participants to retire upon reaching the age and/or service requirements for a full— i.e., unreduced—retirement benefit. By providing an option for these employees to continue working beyond this point, a DROP or phased-retirement plan can minimize the disruption to employers that losing valuable employees would present.

A DROP refers to an arrangement under which an employee continues to work after becoming eligible to retire and to receive benefits under the rules of the plan in which they participate. Under a typical arrangement, after entering DROP status, the employee's pension is frozen, and an amount is contributed by the employer to an interest-earning individual account during the period of continued employment. Upon the employee's eventual retirement, he or she is entitled to receive the original retirement benefit as well as the accumulated balance of his or her DROP account.

A phased-retirement program refers to an understanding between an employee and the employer, whereby an employee who agrees to a gradual reduction in his or her work hours may begin to receive retirement benefits prior to terminating employment. A phased-retirement program can enable employers to more effectively manage their workforce, while providing employees with an incentive to continue working for a period of time, and at a reduced level, before their eventual retirement.

Sixteen systems in this analysis maintain a DROP. In some cases, a DROP is made available to all participants, and in other cases, only narrow groups of participants, such as state police officers, are extended the option to participate. Phased-retirement programs are less popular, with just two systems offering such programs on a trial basis.

Recent Changes to Post-Retirement Employment Policies

Post-retirement employment policies affecting forty systems in thirty different states have been substantively modified since 2009. Modifications are divided nearly equally between permissive changes (i.e., changes intended to ease restrictions on or to facilitate re-employment of retirees), and restrictive changes (i.e., changes imposing restrictions on post-retirement employment).

As an example of a permissive change, the Illinois Legislature in 2018 enacted a temporary increase to the amount of time retirees of the **Illinois Teachers' Retirement System** can teach and earn a salary while continuing to receive their retirement benefit. Through the end of the 2019-2020 school year, retired teachers will be able to work up to 120 paid days or 600 paid hours before their annuity is required to be suspended. Previous law provided for up to 100 paid days or 500 paid hours.

2018 legislation in Kentucky enacted restrictive changes to post-retirement employment policy affecting both the **Kentucky Employees' Retirement System** and the **Kentucky Teachers' Retirement System**. The law eliminated the option for members who retire from either system on or after January 1, 2019 to earn a second retirement benefit for their post-retirement service, which eliminated an incentive to return to work after retirement.

Some systems were affected by multiple changes of both types, and in some cases addressing post-retirement employment policies for different categories of public employees.

Conclusion

There is no standardized approach to designing and administering a post-retirement employment policy. Just as the pension plan design, fiscal arrangement, political and legal frameworks, etc. are unique in every state, so also are each state's policies and practices governing post-retirement employment. Indeed, each retirement system within states will be different, corresponding to different stakeholder objectives, labor force dynamics, and other factors. The following case studies provide background and detail regarding post-retirement employment policy and practices for three statewide retirement systems. These case studies may also offer insight into practical approaches that are working, or not working, for those systems.

GET THE FULL DATA SET
of Post-Retirement Employment Policies.

Case Studies

In addition to surveying all plans to provide a baseline comparison around various key provisions, this study also incorporates case studies developed from in-depth discussions with pension plan administrators and other stakeholders for a range of plans around the country

Case Study

Maryland State Retirement and Pension System

In Maryland, retirees may return to work and still draw a pension under certain conditions.

Active members:	190,960 (as of June 2018)
Total beneficiaries:	160,374 (as of June 2018)
Return to work allowed:	Yes, whether working within the same retirement system or in another within the state.
Waiting period:	45 days
Distinctive provisions:	Returning employees may collect a salary and a retirement benefit, subject to an earnings cap. The cap does not apply to certain teaching and health care positions and is also waived five years after retirement.

Policy Description

Re-employment provisions in Maryland are specific not only to the plan from which a member retires, but also their employer. Within the employees', teachers', and correctional officers' plans, employees that retire and return to work for the same employer from which they retire are subject to limitation on their earnings during the period of re-employment. All units of Maryland state government, including the University System of Maryland, are considered one employer for purposes of the earnings limitation.

In addition to the regular earnings limitation, early retirees are subject to an additional earnings cap for the first twelve months after the initial retirement date. No earnings limitation applies to those who have been retired for at least five years or whose average final compensation is less than $25,000. Other exemptions are provided for certain health care practitioners,[70] teachers and principals, parole and probation employees, correctional officers, judges temporarily recalled to serve or who are employed by the University Systems, and state employees whose compensation paid from their current employer does not include any state funds. Legislators may also be eligible to return to service, but in their case, the retirement benefits would be suspended as new service credit is earned for the duration of their re-employment.

The earnings limitation is equal to the participant's average final compensation at retirement minus the amount of their annual basic retirement benefit. Thus, if an employee's post-retirement earnings added to the basic retirement allowance exceeds the average final compensation at retirement, the retiree would be required to pay back the difference on a dollar-for-dollar basis. This earnings limit is calculated based on re-employment in a calendar year.

With the exception of retired legislators returning to active service in the same capacity, the current return-to-work policy offers no second retirement benefit to returning employees, so there is no employer or employee contribution requirement. However, a re-employed retiree may contribute, up to current federal contribution limits, to any supplemental retirement plans offered by their employer.

Adoption and Evolution of Current Re-employment Policies

Some form of re-employment has been allowed in Maryland for many years, and the potential for related financial abuse has been a legislative focus since at least 1980. Prior to 1994, there was no limit on a retiree's post-retirement employment earnings, but pension benefits were suspended and rehired retirees were required to pay back any benefits they had already received. This policy recognized the value of retired workers rejoining the workforce, and it did so in a way that was geared toward preventing any perception of financial double dipping.

Various laws regarding re-employment were enacted between 1999 and 2001 on a provisional basis, addressing the criteria for employing retired teachers, principals, and health practitioners. After these statutory provisions expired in 2004, the legislature enacted a revised re-employment policy in 2005 to apply to teachers, principals, and state employees more generally. This revised policy put additional rules in place, including provisions addressing bona fide separation from service.

Teacher unions and Maryland State Retirement Agency staff experts, working with the members of the Maryland General Assembly, have been the primary leaders of the evolution of the current policy, but as amendments to the policy have been proposed and enacted in some form, other groups, such as those representing correctional workers and state law enforcement officers, among others, also have become more involved.

The Maryland State Retirement Agency initially proposed to the legislature a one-year waiting period for retirees to return to employment, wanting to ensure the absence of pre-arranged returns in violation of IRS regulations. Eventually, in consultation with education groups, a compromise was struck, and a forty-five-day break-in-service requirement was enacted.

There was some opposition to the provision from the Department of Legislative Services at the General Assembly, which was concerned that it would not be possible to quantify the potential financial cost incurred by the system if employees were incentivized to retire sooner and therefore collect a pension for a longer period of time. Operationally, each re-employing agency is now required to collect and report data on re-employed retirees to the Department of Legislative Services so those impacts can be tracked for the legislature.

The most significant recent change lowered from nine years to five the time period away from employment after which returning employees would be exempted from the earnings cap.

Re-employment Policy and Workforce Management

The primary motivation for enabling post-retirement return to work has been to address areas of critical shortage, such as those among teachers, health care practitioners, parole and probation staff, and correctional officers. The provisions in place appear to address those needs while also limiting potential double dipping via the earnings cap. For those workers who wish to avoid the earnings cap, there remain options to either wait for the cap to be waived (five years post-retirement) or to work for another non-state agency (e.g., local or federal agencies, or a private employer).

Part of the rationale for the current structure has been to meet the state's workforce needs (in addition to avoiding worst-case scenarios of financially gaming the system). As the Joint Committee on Pensions has noted, retired teachers sometimes opt to return to work in a neighboring state—filling vacancies in Virginia, Pennsylvania, or Delaware—leaving Maryland school districts with a recruiting challenge.[71] The re-employment provisions and the exemptions to earnings caps for certain retirees help to fill those needs without the loss of talented individuals to out-of-state employers.

As of 2018, a phased retirement option is being studied over a two-year period. The goal of this effort is to help the state weather the "silver tsunami" of retirees and avoid losing too much institutional knowledge—allowing those preparing to head out the door a career coda to mentor their successors.

Re-employment Policy and Employee Preferences

It is assumed by the retirement system and legislative staff that the current policy is meeting the objectives of at-retirement employees. Outside of the employee groups mentioned previously, there have been no formal requests for material changes to the policy, aside from small technical corrections to reduce any ambiguity and to provide for administrative simplicity.

Policy Communications

The return-to-work policy is communicated as part of the Maryland State Retirement and Pension System's website, the pre-retirement communications package, newsletters, legislative updates, seminars, and a "Reemployment After Retirement" video.

When employees retire, they are required to sign a statement indicating that they understand the reemployment rules, and if they choose to return to work later, they are required to report that to the plan administrators. Communication by individual employers varies, as this spans all subdivisions of the state government, boards of education, community colleges, and public library employees participating in the teachers' systems, and over 125 participating governmental units. Regardless, all state resources are available online and labor groups also tend to provide related updates to their represented employees.

Evaluation and Results

Allowances for re-employment have been an area of some fine-tuning. Originally, a school district might only rehire a retired principal to work in a troubled school or rehire a retired teacher both (1) to serve in a troubled school, and (2) to teach in an area of critical shortage. As the re-employment program was originally drafted in 2005, a school district might also hire up to five additional retired teachers if they met only one of these requirements—either returning to employment in a troubled school or teaching in an area of critical shortage. This five-person limit was later increased to ten teachers for each school district. Further changes in 2016 now provide that each school district may hire up to five additional state pension system retirees that do not need to be retired teachers or principals to fill any job in any school.

The policies and outcomes continue to be evaluated, as are other policy options, such as a phased retirement option, which is currently being studied over a two-year period.

This past year the Maryland State Retirement Agency identified 77 retirees who were subject to and exceeded their earnings limit, and 124 retirees who qualified for an exemption from the earnings limit. Of those with exemptions, 8 are teachers or principals, 2 are employees hired by boards of education, 24 are judges, 6 are health care practitioners, 4 are elected or appointed officials, 45 are members of a deferred retirement option program for law enforcement personnel, and 35 are retirees whose average final compensation was less than $25,000.

Since so few retirees return to work, some in the legislature question whether there is a need for a re-employment option. In the late 1990s, the total returning numbered a few thousand, so one could surmise that the existing earnings cap regulations may serve to discourage employees from retiring too early. The fact that the numbers participating in the program are manageable and there has not been a groundswell of opposition from employee groups could also be indications that the program has struck the appropriate balance between multiple stakeholder objectives.

The actuary for the Maryland State Retirement and Pension System considers the fluctuations in retirement benefits paid to these re-employed retirees in the respective funds' gains and losses each year. Retirement benefits aside, there is an administrative cost to collecting the data to determine who is exceeding earnings caps. This is estimated to take two staff people approximately three to four months of recordkeeping.

To simplify the administrative tasks, all earnings are tracked on a calendar-year basis. So, if an employee retired in early 2018 and returned to work by the fall, earnings calculations would start the following January 1. This avoids the need to separate wages earned pre- and post-retirement within the same year.

The objective of the earnings limitation is not to make money off reimbursements from those exceeding the caps, but rather to establish clear standards, with potential penalties to discourage people from exceeding those standards, and limit the administrative burden on pension plan staff.

Lessons Learned

On the legislative side, time spent in careful drafting and review can help avoid problems or ambiguities down the road. In Maryland's case, the legislature has committed to a deliberate approach that considers the objectives of multiple stakeholders.

When a policy is changed, such as the institution of an earnings limitation, there are a lot of implementation details to consider, such as how earnings data will be collected and how to assess compliance with the new policy. This can add to the initial cost, but once the new process has been fully automated, the information should be available to analyze annual performance and work with the legislature around any proposed future amendments. Currently, the Maryland State Retirement Agency's administration of the re-employment rules has only been partially automated and requires extensive manual effort. The agency hopes to enhance its use of automation in the future.

Looking ahead, Maryland State Retirement Agency staff hope to work with the system's actuaries to combine their own in-house data with comparable data for peer systems to assess their program criteria, based on factors such as the available pool of near-retirees and recent retirees, employer workforce needs, and financing. The agency also intends to focus on how the current re-employment policy may be augmented with a potential phased retirement option currently under study.

URL and Related Plan Documents

- "After You Retire" information sheet
  http://www.sra.state.md.us/Participants/Retired/Downloads/AfterYouRetire.pdf
- Benefit Handbooks
  http://www.sra.maryland.gov/Participants/Members/Downloads/BenefitHandbooks.aspx
- "Reemployment after Retirement" video:
  https://www.youtube.com/watch?v=Y1F-nNv_HzE

Interviews

R. Dean Kenderdine, Executive Director
Maryland State Retirement and Pension System, interviewed July 2, 2018

Phillip S. Anthony, Senior Policy Analyst,
and Dana Tagalicod, Senior Policy Analyst
Maryland General Assembly
Department of Legislative Services,
interviewed July 23, 2018

Case Study

Nebraska School Retirement System

School employees in Nebraska participate in a defined benefit pension plan administered by the Nebraska Public Employees Retirement System (NPERS).[72]

Active members:	41,950 (as of July 2018)
Total beneficiaries:	23,650 (as of July 2018)
Return to work allowed:	Yes, whether working within the same retirement system or another within the state.
Waiting period:	180 days
Distinctive provisions:	Returning employees continue receiving their retirement benefits, and they and their employers contribute toward a second retirement benefit.

Policy Description

A retiree of the Nebraska School Retirement System (SRS) may return to work for any public employer within the state without impacting their retirement benefit. If the individual chooses to return to an employer that participates in the School Retirement System, they may continue to receive the full pension benefit, and are also enrolled toward earning a second retirement benefit, with regular contributions required by both the employee and the employer.[73]

The individual would be eligible to retire again after revesting with the plan—either by accruing six months of service if they have reached age sixty-five or five years of service if they are under sixty-five. This second plan's years of service cover the re-employment period only, so the resultant benefit is considerably less than that of the initial retirement benefit. The base compensation for that second retirement benefit would be calculated on the average of either three or five highest earning years, depending on date of hire, which would potentially include years prior to their initial retirement.

One of the administrative and legal issues that is carefully watched in post-retirement re-employment is whether there has been a bona fide separation from service. For some states' pension plans, this can be construed to be as little as a single day. Most school-specific state retirement plans that offer a post-retirement return-to-work option often have a waiting period that requires employees to have been separated from service for 30 to 60 days, or less than the length of a summer break. In Nebraska, this waiting period is 180 days, which has the practical effect of ensuring that there are at least a few months of the school year during which the retired individual is not working.

In addition, the employee and employer are required to sign a statement at the time of retirement indicating whether there is a pre-arranged plan for that employee to return to work. Where such an arrangement is indicated, the employee may be denied their planned retirement. If a retired employee is rehired for more than intermittent, substitute assignments and is later determined not to have met the required 180-day break in service, the pension payments would cease and the employee would be required to pay back any benefits received, plus interest.

Once an employee does return to service, what distinguishes the Nebraska provisions from many other state plans is what is not required. There are no limitations on the number of hours or years that an employee may work and no maximum limit on the annual compensation they may receive. In addition, the fact that they have returned to work does not result in the suspension of their pension benefit nor does it trigger any requirement to pay back any pension benefits paid prior to their return.

Adoption and Evolution of Current Re-employment Policies

As a rural state, Nebraska is characterized by a challenging recruiting environment within which to find sufficient teachers to fill all available positions. The Nebraska SRS re-employment policy provides employers with the flexibility to fill vacancies with qualified and experienced staff as needs may arise.

The policy's authorizing legislation has been in effect since 1997 and predates the current plan administrator's tenure. The policy enjoys broad support from boards of education and teachers associations in the state, as it creates options that benefit both the organizations and the individuals. Opposition has been generic, focused on any perceived waste of government funds or "double dipping" by employees.

The most recent changes have been to require a signed affidavit attesting to the absence of any predetermined plans to return to work in place at the time of retirement and to raise the minimum retirement age to sixty for new employees hired after July 1, 2018.

Re-employment Policy and Workforce Management

A member may retire as early as age 55 under the "Rule of 85," which allows an employee to retire with a reduced benefit when the combination of their age and years of service reaches or exceeds 85. Thus, assuming someone is hired at age 25, it may be possible to retire at age 55 (30 years of service + 55 years of age = 85). From a practical point of view, some may feel ready to retire at that age for personal, health, or flexibility reasons, but when an opportunity arises due to unexpected vacancies or perhaps a job opening close to family, they may still be willing to serve as needed. This re-employment provision is particularly valuable where those with specialized skills are in demand, such as teachers of math, science, foreign languages, or technical skills.

Re-employment Policy and Employee Preferences

Rehiring is a fairly common occurrence, driven in part by labor market conditions under which there may be a short supply of skilled teachers to fill vacancies in rural areas. There are currently 300 individuals drawing a secondary retirement benefit under this plan.

Policy Communications

No formal methods are used to communicate the re-employment policy separate from overall retirement plan information. In general, all such information is included in member and employer handbooks and discussed in seminars for employers and for active members who are preparing for retirement.

Evaluation and Results

According to the plan administrator, the re-employment provisions have met the objectives of both the school districts and teachers within the state. Considering the fact that returning employees and their employing agencies must both contribute to fund the secondary retirement accounts that are opened for them, they are paying the same amounts they would have contributed had they continued working uninterrupted. And while they do receive a retirement benefit during the second employment period, they leave employment with no guarantee that there will be an opening for them after satisfying the six-month waiting period.

Overall, the Nebraska State Education Association (NSEA) reports satisfaction with the structure of the current provisions, seeing both a benefit for the employers and the retirees, while the requirements for continued contributions help preserve the overall sustainability of the system.

Lessons Learned

The administrator's advice for other states considering similar provisions is to ensure the enabling statute has sufficient guidelines to allow for effective management of the program. Such "bright lines" help to provide clarity on how special cases might be handled, addressing all types of employees who might be covered under the plan (e.g., teachers, principals, superintendents, and support staff) and all types of return scenarios (e.g., full-time, part-time, intermittent). The statutes and policies should likewise be carefully structured to limit double dipping, salary spiking, or other behaviors, so that both the plan administrators and beneficiaries can interpret those provisions consistently.

One specific policy area under discussion is how to address re-employment as a substitute teacher. The current language allows for retirees to work as substitute teachers on an "intermittent" basis during their 180-day waiting period, but there are no specific guidelines for how that is to be interpreted. As a result, it is possible for a teacher serving in such a role to be surprised if the state finds that their service has not been sufficiently intermittent, which would require the return of benefits received during that time. Establishing a clear definition and a process for keeping teachers informed about such limitations is a key priority for the NSEA in its work with the legislature.

URL and Related Plan Documents

- Nebraska Revised Statute 79-922, "Retiree; return to employment; effect; waiver of payments," https://nebraskalegislature.gov/laws/statutes.php?statute=79-922
- Nebraska School Employees Retirement System Handbook, http://npers.ne.gov/SelfService/public/howto/handbooks/handbookSchool.pdf

Interviews

Randy Gerke, Director
Nebraska Public Employees Retirement Systems, interviewed on July 17, 2018.

Jason Hayes, Director of Public Policy and Legislative Research
Nebraska State Education Association, interviewed on August 7, 2018.

Case Study

Employees Retirement System of Texas

For the Employees Retirement System of Texas (ERS), retirees may return to work and still draw a pension under certain conditions.

Active members:	141,629 (as of August 2017)
Total beneficiaries:	107,530 (as of August 2017)
Return to work allowed:	Yes, whether working within the same retirement system or in another within the state.
Waiting period:	90 days
Distinctive provisions:	Returning employees may collect a salary and a retirement benefit, with no hours or earnings cap.

Policy Description

ERS provides pension and other benefits to Texas state employees. Retired ERS members are able to return to work for the state after a ninety-day break in service with employers that participate in the system. With the exception of those that are elected to office after separating from service, re-employed retirees are not subject to any earnings or hours limitations that affect their annuity payments. For retirees elected to state-wide office, ERS annuity payments are suspended while in office and are recalculated based on any additional salary and service and resumed once out of office.

Adoption and Evolution of Current Re-employment Policies

The current re-employment policy has been in place since 2009.[74] For most of the 1980s, a retirement incentive initiative prohibited re-employment, which was then changed over the course of several years in the late 1980s to allow a retiree to receive six months of annuity payments when re-employed; this was later amended to nine months of payments. In 2001, all restrictions on re-employment were removed, with a legacy requirement of a thirty-day separation of service lasting until adoption of the current policy.

Re-employment Policy and Workforce Management

From the state's perspective, the current policy took shape from the feedback the Texas House and Senate legislative committees and the retirement system received from agencies facing persistent recruitment and retention challenges. For example, the Texas Department of Criminal Justice continues to have a difficult time retaining corrections officers, and the Texas Health and Human Services agencies have had wide-ranging recruitment and retention needs, from mental health professionals to state hospital staff.

These challenges were supported by the Texas State Auditor's Office (SAO) series of ongoing state workforce reviews, employment trend summaries, and workforce planning guides, which covered the aging demographics, turnover and retirements, and compensation of the state workforce.[75] A 2007 SAO report on the state workforce, released just prior to the adoption of the current re-employment policy, observed, "[T]here is greater emphasis on organizations to develop retention strategies for current and future workers. As part of the strategic plan required under Texas Government Code, Section 2056.002, state agencies must conduct a strategic planning staffing analysis and develop a workforce plan to ensure that the appropriate workforce will be available to provide quality services to the citizens of Texas."[76]

What Employee or Employer Contributions Are Required for Retirees Who Return to Work?

Once re-employed, the employee does not make contributions to the retirement system as no additional service credits are accrued and benefit payments are not adjusted. The employer is responsible for making monthly payments to the system equal to the regular contribution rate for active members. This employer contribution arrangement was adopted to ensure the policy did not have a negative financial impact on the system.

Re-employed members have the option of contributing to a supplemental 401(k)/457 retirement plan, known as Texa$aver, offered by the system. Those electing to participate can contribute pretax dollars to this supplemental plan, up to current IRS limits.

Policy Communications

The primary way the re-employment policy is communicated to members is via benefit coordinators located in Texas state agencies and other state governmental units whose employees participate in ERS. Information on the policy also is available in the system's newsletters to participants, and call center customer service representatives are trained to provide information on the requirements regarding returning to work.

When an employee elects to retire and begin receiving benefits, they are required to execute forms that outline re-employment policies and certify that a re-employment arrangement has not been established. This paperwork, coupled with system staff proactively investigating cases where it is believed a prearranged position may have been established, has made violations of the requirement for a legitimate separation of service prior to returning to work a rarity.

Evaluation and Results

Fiscal Year	Total Return-to-Work Retirees Employed
2013	5,782
2014	5,832
2015	5,914
2016	6,027
2017	5,765

The system has not received negative feedback on the current re-employment policy, and system staff interviewed think the policy is working as intended.

The fiscal note developed by the Legislative Budget Board related to HB2559, which established the current return-to-work policy,[77] including the ninety-day waiting period and the continuation of employer contributions, outlined that "The provisions of the bill would reduce the normal cost of the ERS retirement plan…and the annually required contribution rate…would have a significant impact in moving the fund toward actuarial soundness." It went on to note that "…there would be some costs associated with the return-to-work surcharge contribution requirements, but it is expected that they would not have a significant fiscal impact to the state."[78] It should be noted that this statement applied to the entirety of the bill, which included, but was not limited to, the return-to-work policy.

Lessons Learned

The ERS experience points to certain lessons learned that may be useful for other retirement systems and their sponsoring government(s) when evaluating and considering changes to their re-employment policies. First, the policy needs to be clear and well established in state law and/or system policy and fully compliant with IRS regulations.[79] The separation of service needs to be long enough to establish a bona fide separation and account for time needed for the new position's application process, while not being too long to allow for the re-employed worker's skill set and knowledge base to erode. More generally, ERS has found that if return-to-work policies are well crafted they can assist the public employer to more easily fill staffing gaps in times of low unemployment and high competition with other employers.

URL and Related Plan Documents

- "Retirees Who Return to Work" information sheet, https://ers.texas.gov/Retirees/Retirees-Who-Return-To-Work.pdf
- "Retired State Employees Who Resume State Employment," https://fmx.cpa.texas.gov/fm/pubs/paypol/general_provisions2/index.php?section=retire_resume&page=retire_resume

Interviews

Cathy Terrell, Deputy Executive Director
Shack Nail, Senior Policy Advisor
Jennifer Chambers, Director of Governmental Relations
Keith Yawn, Director of Strategic Initiatives
Robin Hardaway, Director of Customer Benefits
Employees Retirement System of Texas,
interviewed July 3, 2018

Next Steps

Given the available research, the survey data, and the more detailed case studies, how should individual plan administrators and state legislative leaders proceed?

Compared to private sector workers and the large share of knowledge workers among their ranks, public sector retirees may be more likely to return to work based on their higher education levels. At a time when public employees who possess institutional knowledge are nearing retirement eligibility, and state and local agencies are finding it difficult to recruit, succession planning and post-retirement employment both may have a role to play in ensuring a stable and skilled workforce.

Given the interest in post-retirement employment and the pool of available retirees, state and local agencies may find it worthwhile to consider how to further tap this resource via some of the strategies outlined in this report. For example:

- **Consider your goals.** Is re-employment itself a practice to be avoided altogether, or is the main concern actually the potential for abuse of the re-employment provisions? If it's the former, that may mean that a more active program of recruitment, salary, or benefit incentives needs to be available to attract non-retirees to fill hard-to-recruit positions.
- **Look at your competition**. If the retirement plan you are reviewing does not yet have any provisions for retirees to return to work, review the state-by-state matrix provided via the Public Plans Database to see what provisions are being tried elsewhere. You may also wish to consider what options are available for retirees to shift to local government or private sector employment without a loss of pension benefits or, where feasible, even to work across state lines. Where retirees have limited options within your system, that may take talented individuals out of your pool of available recruits, particularly for specialized positions (e.g., science teachers, IT workers).
- **Reconsider your system's break in service requirement.** Based on the positions covered by employers in your plan or the workforce issues your employers are trying to address, implement a break-in-service requirement that makes sense from the standpoint of avoiding revolving door retirements, while at the same time not being so long that requisite skills are allowed to erode or professional certifications lapse.
- **Evaluate any restrictions.** For example, where the employees in question have a physical fitness component to their pre-retirement job (e.g., police, fire, corrections), and thus may have decided to retire while still at a relatively young age, consider whether the re-employment provisions too narrowly restrict their ability to return to other, more administrative tasks, such as public safety management or emergency preparedness.
- **Establish a pilot program to evaluate certain changes.** A pilot program may be in order to forestall potential abuse and to ensure that the actuarial condition of the pension plan is not unduly placed at risk. This may limit participation to a number of individuals per employer (e.g., up to ten rehired educators per year for certain Colorado school districts); to specific positions (sheriff's department employees in Oregon counties under 75,000 in population); or to a prescribed time period (as with provisional legislation in Maryland that expired in 2004). The temporary or limited scope of such programs can also allow for effective experimentation with various financial options, such as for employers, re-employed workers, or both, to again contribute toward their retirement funds, or for fine-tuning of limits on hours worked or income earned.

By creative application of these and other approaches, states can continue responding to the challenges of maintaining a skilled public sector workforce while also protecting the integrity of the pension plan.

Appendix A – An International Approach to Creating Incentives for Partial Retirement

Germany is expected to face workforce shortages and an aging population similar to those facing U.S. employers. Germany introduced the Altersteilzeit (ATZ) [partial retirement] policy in 1996 with the goal of promoting gradual transitions to retirement, offering alternatives to early retirement, and encouraging the hiring of unemployed workers and trainees as older workers retire. ATZ requires partial retirees to be paid at least 70 percent of their prior salary and for pension benefits to accrue at a rate of at least 90 percent of pre-retirement pensions. Wage earnings of more than 50 percent of prior earnings were exempt from income taxes, participants were eligible for full pension benefits at age 60, and employers received federal subsidies to help meet new compensation minimums.

After the implementation of ATZ, part-time employment rates for men and women increased. When the Block Model option was introduced, which allowed individuals to qualify for ATZ through reductions in work over months or years instead of weeks, women did stop working earlier, while men continued to work an average of 1.8 years longer, which then dropped to 1.2. While six other European countries have implemented policies similar to ATZ and the results have been mixed, partial retirement incentives may be desirable for some older workers. Not only did ATZ's offer of alternatives to retirement lead to a savings in the pension system, but among men, extensions in employment duration from ATZ were large when compared with the effects of increasing normal retirement age.[80]

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Balancing Objectives in Public Employee Post-Retirement Employment Policies:

Reassessing Barriers to Continued Work

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