

If you are an ERS retirant considering returning to State or county employment, please review and consider the following information:

Effective January 1, 2011, all ERS retirees employed by the State or county must meet the following requirements under Section 88-9 (Act 179) , Hawaii Revised Statutes:

- (1) A six (6) consecutive calendar month break in State or county employment prior to the first day of employment if the retiree is employed in a position that is excluded from ERS membership. Examples include: short term employment of less than 50% full time equivalence (FTE), temporary employment of 3 months or 90 days or less, part-time positions of less than 20 hours per week, substitute teaching positions, etc. The 6 month break could have occurred at anytime after your retirement date

OR

- (2) A twelve (12) consecutive calendar month break in State or county employment prior to the first day of employment if the retiree is employed in a position specifically identified as a labor shortage or difficult-to-fill position.

State employers include, but are not limited to, the State executive branch, the University of Hawaii, the Research Corporation of the University of Hawaii, the Hawaii Health Systems Corporation, the Department of Education, the Office of Hawaiian Affairs, the Judiciary, and the Legislative branch of the State. County employers include the City and County of Honolulu and the Counties of Hawaii, Kauai, and Maui. In addition, the above section prohibits the employment of a retirant if the employer agreed, prior to the retirant's retirement, to employ the retirant after retirement.

Please be advised that the law does not prohibit the employment of retirants who are re-enrolled as active ERS members when they return to State or county employment. With these types of employment, retirants will be re-enrolled in their previous membership plan and pension and other retirement benefits will be suspended until the member retires again. Additional benefits accrued under re-employment will be "tacked-on" to the previous pension.

The purpose of the above statute is to protect and preserve the tax exempt status of the ERS by providing remedies for the ERS against the employer and retirant if the retirant is employed in violation of the statutes and Internal Revenue Code of 1986. Any violation of this law results in remedies against both the employer and retirant.

Before you accept re-employment with a State or county employer, clarify the type of position for which you are applying and discuss the re-employment requirements and consequences with your personnel officer. Retirants are required to complete the "ERS-209 – Certification of Compliance for Employment of a Retirant" form with their employer upon re-employment. Should you have additional questions, please contact the ERS prior to re-employment.