

# Hampshire County Retirement System

## Memo to Advisory Council Members

May 23, 2012  
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May 23, 2012

To: Advisory Council Members

From: Mary Baronas, Administrator

**RE: PENSION REFORM ISSUES – PERAC ISSUES NEW DOCUMENTATION REQUIREMENTS FOR EMPLOYERS**

For the purpose of monitoring compliance with Pension Reform II (Chapter 21 of Acts of 2009), and the most recent Pension Reform III (Chapter 176 of Acts of 2011), PERAC (Public Employee Retirement Administration Commission) has created new directives, forms and documentation requirements for retirement boards and employers.

I. **Retirement Boards to Collect and Maintain Collective Bargaining Agreements and Employment Policies**

To monitor compliance with Chapter 21 of the Acts of 2009, which amended the definition of “Regular Compensation”, chapter 176 of the Acts of 2011 requires *Retirement Boards to Collect and Maintain Collective Bargaining Agreements*.

Specifically, *sections 37 and 54 of Chapter 176 require “ all employers of members of a Retirement System to provide the Retirement Board with copies of collective bargaining agreements pertaining to the members of the System. The Retirement Board is to review the agreements for consistency with Chapter 32 and to maintain copies of all agreements. The Retirement Board is to maintain a copy of all collective bargaining agreements and make them available to the Commission for review upon request. These sections became effective on February 16, 2011”*. Although the term “collective bargaining agreements”, typically connotes only union contracts, PERAC interprets the legislative intent to include all employment contracts (individual and non-union as well as union agreements) between the employer and any member of the retirement system.

PERAC auditors (“compliance officers”) are focusing on regular monitoring, documentation, and compliance of employers’ payrolls, submissions of retirement contributions and calculations of average 3-year salary to exclude compensation from retirement calculations that does not meet the specific criteria/definition of “regular compensation”. To be considered “regular compensation” it must be, 1) actually a payment made directly to the member; 2) is remuneration for services actually rendered; 3) is ordinary, normal, recurrent, repeated, and of indefinite duration; 4) is made pursuant to an official written policy of the employer or to a collective bargaining agreement; and 5) is made on a non-discriminatory basis and generally available for

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employees who are similarly situated relative to the purpose of the payment. The focus here being #4 – pursuant to an official written policy.

### **II. Employer verification of Payback of Shift Swaps**

Recently there were newspaper articles and editorials focusing attention on “shift substitution”. There was a highly controversial case in Boston involving a member who retired without performing service to pay back shift swaps. To receive creditable service and include compensation received as part of pensionable salary, there is a requirement that services must be performed. Since the member did not perform service for the swapped shifts, creditable service and the corresponding compensation received was excluded from the member’s pension calculation. To prevent similar situations from occurring, PERAC has ordered that in departments where shift swapping is allowed, employers must certify that swapped shifts have been repaid by the member and said repayment was in the form of performed service. Attached is PERAC Memo #30/2011, PERAC Memo #17/2012 and PERAC form Employer’s Certification of Creditable Service and Regular Compensation in Connection with Shift Substitution.

### **III. Monitoring Limitations on Post-Retirement Employment in the Public Sector and Increase to Monetary Limit After First Year in Retirement.**

Under Chapter 32, section 91, Retired Members may return to public sector employment with strict hour and earnings limitations. A retired member may be employed up to a maximum of 960 hours per calendar year and may be compensated up to a maximum earnings amount that is the difference between his pension amount and the salary being paid for the position from which he retired. In other words a retired member earnings when added to his pension cannot exceed what he would earn had he continued working.

Effective April 2, 2012, Chapter 176 of the Acts of 2011 (sections 50 & 51) increases the maximum earnings limit for retired members after the first year in retirement. The limitation on the hours that a retiree may be employed remains a maximum 960 hours per calendar year. In the first year of retirement, the limitation on earnings remains the same (i.e. difference between pension and salary of position from which retired). But after the first year of retirement a retiree may earn up to an additional \$15,000 (i.e. the maximum earnings of the difference between his pension and salary of position from which retired plus \$15,000). The limitation on hours remains a maximum 960 hours per calendar year.

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If the retiree reaches the 960 hour limitation prior to reaching the new excess earnings limitation, such retiree must cease working even though the excess earnings limitation has not been exceeded. It must be noted that the retiree can only earn the maximum amount with the new \$15,000 increase, if the retiree does not exceed the maximum amount allowed within the 960 hour limitation.

Please note that the earnings limitations for disability retirees contained in G.L. c. 32, § 91A (difference between pension and current salary plus \$5,000) have not changed. The increase in earnings limitation does not apply to disability retirees.

While it is the Retired Members responsibility to comply with the restrictions on Post-Retirement Employment, it is also the Treasurer's responsibility to stop payment to a retired member when limitations have been reached. And if overpayment has been made, it is the Treasurer's responsibility to recover any overpayment. If the Treasurer fails to recover overpayment, the Retirement Board is obligated to withhold the member's pension in the amount of the overpayment.

PERAC has created an "Excel worksheet for Employers to use to help board administrators, public employers, and retirees better understand, enforce, and monitor this post-retirement earnings limitation". Attached are PERAC Memo #28/2011 and PERAC Memo #28/2012.

The "Post-Retirement Earnings Worksheet" and related instructions are attached and are also available in the 2012 Memo Section of PERAC's Website ([www.Mass.gov/perac](http://www.Mass.gov/perac)). The attached worksheet does not apply to disability retirees.

**A copy of this memo is available on our website [www.hampshireretirementma.org](http://www.hampshireretirementma.org) under the Employer section.**

**Discussion of this memo will be on the agenda for the June 14, 2012 Advisory Council Meeting being held at 2 p.m. at the Hatfield Town Hall. Please attend and bring your questions to the meeting.**

# MEMORANDUM #30, 2011

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

Five Middlesex Avenue, Suite 304, Somerville, MA 02145

Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | [www.mass.gov/perac](http://www.mass.gov/perac)

Domenic J. F. Russo, *Chairman*

*Auditor* Suzanne M. Bump | Alan Macdonald | James M. Machado | Donald R. Marquis | Robert B. McCarthy |

Gregory R. Mennis

Joseph E. Connarton, *Executive Director*

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Shift Substitution, Creditable Service and Regular Compensation

DATE: October 26, 2011

This memorandum pertains solely to the calculation of creditable service and regular compensation with regard to shift substitution or similar practices where the responsibility for filling a work shift is transferred between or among employees. This should not be construed to exclude other forms of authorized leave from the calculation of regular compensation or creditable service. Recent newspaper articles and editorials have focused attention on “shift substitution.” The practice of shift substitution is widespread and, if safeguards are not put in place by the municipality in question, it may adversely affect a member’s retirement allowance.

Shift substitution is a common practice across the state and can be a valuable tool in certain professions (i.e., firefighting, police, and corrections) where the ability to take a day off when personal matters arise may be difficult if not impossible. These public safety professions obviously need full staffing at all times, causing some departments to require that time off be taken in two week increments, and a member has no ability to take a day off here and there as the need arises. Shift substitution keeps public safety departments fully staffed and also gives individuals members flexibility in attending to personal matters.

In most cases, shift substitution works as follows, using a fire department as an example. Firefighter A wants to attend his child’s kindergarten graduation, but cannot take one day off. He contacts Firefighter B, a firefighter who has the same specialized training as he. Firefighter B agrees to work Firefighter A’s shift. The shift supervisor is informed and agrees to the substitution, and the proper notation is made on the duty log. Firefighter A will then repay Firefighter B by working a shift for him in the future.

Shift substitution is provided for in numerous collective bargaining agreements throughout the state and the country. There is at least one software provider who offers “shift substitution” software for employers. This common practice is mentioned in the Fair Labor Standard Acts of 1938, or “FLSA.”

The practice of substitution shifts is sanctioned by the FLSA. FLSA does not require documentation of a shift swap, or that the shift “substituted” ever be paid back. However, the FLSA concerns itself with wages, overtime and child labor. That Act is not focused on retirement benefits, and the practice of shift substitution has the potential of adversely affecting a member’s retirement allowance. This is because a collective bargaining agreement may not alter the dictates of G.L. c. 32. See, generally, G.L. 150E, § 7. The provisions of G.L. c. 32, §§ 1 and 4 prohibit the grant of regular compensation or creditable service for time during which the member did not work.

Massachusetts General Laws, Chapter 32, Section 1, as amended by Chapter 21 of the Acts of 2009, provides as follows:

"Regular Compensation", during any period subsequent to June 30, 2009, shall be compensation received exclusively as wages by an employee for services performed in the course of employment for his employer.

Massachusetts General Laws, Chapter 32, Section 4(1)(a) provides as follows:

(1) *Qualifications for Credit for Service.* -- (a) Any member in service shall, subject to the provisions and limitations of sections one to twenty-eight inclusive, be credited with all service rendered by him as an employee in any governmental unit after becoming a member of the system pertaining thereto; provided, that in no event shall he be credited with more than one year of creditable service for all such membership service rendered during any one calendar year.

Where shift substitution occurs, there must be safeguards in place to assure that an individual, prior to retirement, has "repaid" all shifts owed by him.

When a member applies to retire and the retirement board is aware that the member's employer permits shift substitution, the retirement board must request and receive documentation that the member has actually worked the requisite number of shifts in a calendar year to qualify for all regular compensation and creditable service claimed. This documentation should be readily obtainable in departments with restrictions and safeguards on this practice.<sup>1</sup> In other departments where safeguards are not in place yet, a member may have a difficult time establishing his entitlement to creditable service and regular compensation when attempting to calculate his or her retirement allowance.

Because it is so imperative that no one retire utilizing creditable service for which they have not worked or regular compensation which they have not earned, PERAC has constructed a new form which is attached to this memorandum. This form must be utilized whenever a member who has engaged in shift substitution seeks to retire.

We are in the process of adding to the "Application for Voluntary Superannuation Retirement" form the following question: "Have you ever engaged in the practice of shift substitution?" If the answer to that question is yes, the new "Employer's Certification of Creditable Service and Regular Compensation in Connection With Shift Substitution" form must be filled out by the Employer prior to the calculation of a retirement allowance for the member.

We trust the foregoing will be of assistance to you.

enclosure

<sup>1</sup> While the FLSA does not mandate documentation, an Employer may require this, and an Employer must always agree in advance to the substitution of a shift. This is why documentation should be readily obtainable.

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# MEMORANDUM #17, 2012

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

Five Middlesex Avenue, Suite 304, Somerville, MA 02145

Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | [www.mass.gov/perac](http://www.mass.gov/perac)

Domenic J. F. Russo, *Chairman*

*Auditor* Suzanne M. Bump | Alan Macdonald | James M. Machado | Donald R. Marquis | Robert B. McCarthy |

Gregory R. Mennis

Joseph E. Connarton, *Executive Director*

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Shift Substitution, Creditable Service and Regular Compensation  
(Follow up to PERAC Memorandum #30/2011)

DATE: January 25, 2012

On October 26, 2011, the Commission issued Memorandum #30/2011, dealing with the practice of shift substitution. Memorandum #30/2011 also introduced a new form entitled “Employer’s Certification of Creditable Service in Connection with Shift Substitution.” Since that Memorandum was issued, a question regarding shift substitution has been added to the application for voluntary superannuation retirement form, and a question in regard to shift substitution will soon be added to our disability application forms as well.

In Memorandum #30/2011 we wrote:

When a member applies to retire and the retirement board is aware that the member’s employer permits shift substitution, the retirement board must request and receive documentation that the member has actually worked the requisite number of shifts in a calendar year to qualify for all regular compensation and creditable service claimed. This documentation should be readily obtainable in departments with restrictions and safeguards on this practice. In other departments where safeguards are not in place yet, a member may have a difficult time establishing his entitlement to creditable service and regular compensation when attempting to calculate his or her retirement allowance.

Questions have arisen in regard to certain aspects of this policy, especially its retroactive or prospective effect. Several boards have asked how far back they should go in seeking documentation from an Employer, and whether this policy is prospective from the date of Chapter 21 of the Acts of 2009, or prospective from the date Memorandum # 30/2011 was issued on October 26, 2011.

In accord with the Commission’s clearly expressed intent that policy is to be applied prospectively only, inquiries regarding shift substitution should only be made in regard to those individuals who apply to retire on or after October 26, 2011. Inquiries about whether shifts substituted have been repaid should only be made in regard to shifts which are substituted and not repaid on October 26, 2011 and thereafter.

Going forward, employers will need to certify the repayment of shifts for the entire period of a member’s employment after October 25, 2011. As you are well aware, when an individual retires their allowance is based on an average of their three or five highest consecutive years of regular compensation<sup>1</sup>, and on all their creditable service. Therefore, both regular compensation and creditable service are implicated.

Since shifts must be tracked only on or after October 26, 2011, we are confident that all employers and systems will develop the record keeping procedures they need to certify that shifts have been repaid. The Board may want to issue guidance to its Employers, instructing them that this practice must be tracked for shifts scheduled on or after that date. There is plenty of time and notice for Employers to develop a tracking system to meet these needs.

We trust the foregoing will be of some assistance to you.

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1In accord with Section 13 of Chapter 176 of the Acts of 2011, those who become members on or after April 2, 2012 will have their retirement allowance based on the average annual rate of regular compensation for the five highest consecutive years. Those who became members prior to April 2, 2012 will have their allowance based on the three highest years, with the exception of some termination allowance calculations.



# Employer's Certification of Creditable Service and Regular Compensation in Connection with Shift Substitution

October 2011

**Retirement Board:** Please place your address and phone number here. ▶

<input type="text"/>	<input type="text"/>	<input type="checkbox"/>	<input type="text"/>
Applicant's Last Name	First	M.I.	Former or Maiden Name (If different)
<input type="text"/>			<input type="text"/>
Street Address			Social Security #
<input type="text"/>	<input type="checkbox"/>	<input type="text"/>	
City	State	Zip	

Massachusetts General Laws, Chapter 32, Section 1, defines "regular compensation" as "compensation received exclusively as wages by an employee for services performed in the course of employment for his employer." "Shift Substitution" is a widespread practice, which permits a member to work a shift for another similarly situated employee. Given the dictates of Chapter 32, §§ 1 and 4(1)(a), it is imperative that a member repay shifts prior to retirement so that the member is able to utilize all available creditable service and regular compensation in calculating his or her retirement allowance.

Therefore, if a person who has engaged in shift substitution seeks to retire, his/her Employer must certify that all shifts have been repaid for the time period in question.

This should not be construed to exclude other forms of authorized leave from the calculation of regular compensation or creditable service.

I, (name)  am the Employer of the above-named employee at  (place of employment) and hereby certify that he or she has engaged in the practice of shift substitution, but that all shifts worked for this employee have been repaid by the employee.

I am attaching documentation to this effect.

In the absence of documentation, I am attaching my sworn affidavit and/or the affidavits of others.

The statements and facts contained in this document are correct, complete and accurately presented to the best of my knowledge and belief.

<input type="text"/>	<input type="text"/>
Signature of Employer	Print Full Name

<input type="text"/>	<input type="text"/>
Title	Date





## MEMORANDUM #28, 2012

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission

Five Middlesex Avenue, Suite 304, Somerville, MA 02145

Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | [www.mass.gov/perac](http://www.mass.gov/perac)

Domenic J. F. Russo, *Chairman*

*Auditor* Suzanne M. Bump | Alan Macdonald | James M. Machado | Donald R. Marquis | Robert B. McCarthy |

Gregory R. Mennis

Joseph E. Connarton, *Executive Director*

### MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Updated Work Sheet for Post Retirement Limits on Public Employment for Retirees of a Public Retirement System who Retired for **Superannuation**. (Follow-up to MEMO #28 / 2011)

DATE: March 13, 2012

In accordance with Section 50 of Chapter 176 of the Acts of 2011, public retirees who return to public employment with any governmental entity in Massachusetts and have been retired for more than 12 months may earn an additional \$15,000 during a calendar year.

Effective April 2, 2012, superannuation retirees, who have been retired more than a year, will be allowed earnings of up to \$15,000 above the salary currently being paid for the position from which he/she retired when added to his/her retirement allowance. **Please note, the new law did not increase the number of hours of public employment that are allowed to be worked during a calendar year. It remains set at 960 annual hours.**

Since the calculation for post-retirement limits for public employment is based on a calendar year basis under the provisions of G.L. c. 32 § 91(b), adding the additional \$15,000 towards post-retirement limits during calendar year 2012 will be afforded to only those retirees whose retirement became effective **on or before April 1, 2011**. In subsequent calendar years, retirees who have retired before January 1st of the prior calendar year will be afforded the additional \$15,000 towards their post-retirement earnings limit.

The updated worksheet has been adjusted in order for individuals who retired **on or before April 1, 2011**, to receive the additional \$15,000 in earning capacity for public employment in calendar year 2012. This adjustment will also allow individuals retiring after April 1 to utilize the worksheet to calculate their earnings capacity for calendar year 2012. If you have downloaded the Worksheet that accompanied Memo #28 / 2011, it should be disregarded and replaced with the Worksheet accompanying this Memo #28 / 2012.

Thank you very much for your cooperation.

Enclosure

# MEMORANDUM #28, 2011

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission  
Five Middlesex Avenue, Suite 304, Somerville, MA 02145  
Ph 617 666 4446 | Fax 617 628 4002 | TTY 617 591 8917 | [www.mass.gov/perac](http://www.mass.gov/perac)  
Domenic J. F. Russo, *Chairman* | Suzanne M. Bump, *Vice Chairman*  
Alan Macdonald | James M. Machado | Donald R. Marquis | Robert B. McCarthy | Gregory R. Mennis  
Joseph E. Connarton, *Executive Director*

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Post Retirement Limits on Public Employment in Massachusetts for Retirees of a Public Retirement System

DATE: October 18, 2011

Massachusetts public retirees, who return to public employment with any governmental entity in Massachusetts, are subject to significant earnings and hourly service limitations under state retirement laws [G.L. c. 32 § 91(b) & (c)]. Any member who retired after July 1, 2009 and returned to the service of any governmental entity as a consultant or independent contractor or as a person whose regular duties require that his time be devoted to the service of the commonwealth, county, city, town, district, or authority during regular business hours is also subject to such earnings limitations. The limitations apply to all persons retired from the public sector in Massachusetts who are receiving a retirement allowance, both superannuation and disability retirees.

There are several exceptions to the limitations, for example, retirees who are elected to office by a direct vote of the people. This memorandum is not intended to discuss the exceptions, nor is it intended to discuss the separate limit on any earnings, public or private, to which disability retirees are also subject in Chapter 32, Section 91A.

Essentially, this post-retirement employment cannot exceed service in excess of 960 hours in a calendar year, nor can any compensation from a city, town, the Commonwealth, or any of its subdivisions, when added to his/her retirement allowance exceed the salary currently being paid for the position from which he/she retired.

For example, a retiree is receiving an allowance of \$40,000, and the position from which he or she retired is currently paying \$55,000. The retiree may not earn more than \$15,000 and/or work more than 960 hours in the service of the Commonwealth or a political subdivision thereof in a calendar year.

Clearly, the above example is a very simplistic view of this post-retirement earnings limitation, however, in many cases the enforcement and monitoring is not as simple. For instance, the retiree may be receiving compensation from multiple employers requiring the collection of compensation to determine the total in the aggregate. Also, the information needed to calculate the limits may not be available from the respective retirement board or employer. In any event, the statute is clear, the responsibility for monitoring post-retirement earnings is placed upon the employer and the retiree [G.L. c. 32, § 91(c)].

If a public retiree is re-employed in the service of a city, town, the Commonwealth or any of its political subdivisions, the employer and respective treasurer or person responsible for the payment of compensation, should require the retiree to certify the number of days or hours which he or she has been employed and the amount of earnings in any calendar year. If the number of hours exceeds 960 in the aggregate, the retiree shall not continue to be employed or if the earnings exceed the amount allowed, the retiree shall return to the appropriate treasurer or person responsible for the

payment of compensation all earnings in excess of the allowable amount. The amount of any excess not returned may be recovered in an action in contract by the treasurer or person responsible for the payment of the compensation to the retiree.

The court has ruled that if the employer does not seek or receive the reimbursement from the retiree, the Retirement Board that paid his/her retirement allowance may recoup the excess payments. [Flanagan v. Contributory Retirement Appeal Bd., 51 Mass.App.Ct. 862, 750 N.E.2d 489 (2001)].

In an effort to help Board Administrators, public employers, and retirees better understand, enforce, and monitor this post-retirement earnings limitation PERAC has developed a post-retirement earnings worksheet in Excel. The "Post-Retirement Earnings Worksheet" and related instructions will be available in the 2011 Memo Section of our Website ([www.Mass.gov/perac](http://www.Mass.gov/perac)). In addition, this worksheet and the instructions for its use will also be electronically distributed separately to all Board Administrators to facilitate forwarding them to the employer units within their respective systems.

We urge all retirement boards and public employers to utilize this worksheet to ensure that the hours of employment and earnings being paid to public sector retirees are thoroughly scrutinized. Retirement Boards should share this memorandum with the employers who make up the governmental units in their Retirement Systems to make certain that the information is accurately conveyed and widely distributed.

Thank you very much for your cooperation.

enclosures

# Calculation Worksheet for Post-Retirement Earnings in the Public Sector

<b>Employer Unit / Department Name</b>	<b>2012</b>
----------------------------------------	-------------

*[Enter requested information in the shaded areas only for individuals who are receiving a Massachusetts (Chapter 32) pension payment]  
 [A copy of this completed worksheet should be submitted to the employees respective Retirement Board]*

Name of Retiree being Rehired:   
 Date(s) of Reemployment of Retiree:

**MA Public Pension Information:**

MA Government Entity from which Retired	
MA Public Retirement System from which Retired	
Title of Position from which Retired	
Date Retired (mm/dd/yyyy)	
Current Annual Salary of the Position from which the Individual Retired	
Total Retirement Allowance anticipated in the calendar year	
Projected Annual Earnings from other MA Government Entities	
Projected Number of Hours from other MA Government Entities	
Projected Non-hourly Annual Earnings from this Employer Unit	
Source of information provided above	

**Maximum Allowable Earnings for Calendar Year:**

a. Current Annual Salary of Position Retired From	\$0.00
b. Additional Earnings Allowance (c 32 § 91 (b) amended by c 176 § 50 of the Acts of 2011)	\$15,000.00
c. Projected Annual Earnings from other MA Government Entities	\$0.00
d. Projected Non-hourly Annual Earnings from this Employer Unit	\$0.00
e. Current Annual Retirement Allowance	\$0.00

A. Equals the maximum allowable amount for Public Retirees [ $A = ((a+b)-(c+d+e))$ ]: **\$15,000.00**

f. <b>Maximum</b> Number of <b>allowable</b> Hours for Public Retirees	<b>960</b>
g. Projected Number of Hours from other MA Government Entities	0
h. Projected Number of Hours Expected to Work from this Employer Unit	
i. Hourly Rate from this Employer Unit	
j. <b>Maximum</b> Number of Hours <b>allowable</b> at the Hourly Rate from this Employer Unit	

B. Proposed Estimated Hourly Earnings from this Employer Unit [ $B = (h*i)$ ]: **\$0.00**

C. Proposed Estimated Excess Earnings over 960 hours: **\$0.00**

D. Proposed Estimated Excess Earnings over maximum allowable amount: **\$0.00**

E. Estimated Amount deemed Excess: **\$0.00**

**If the amount in B exceeds the amount in A and / or the amount in C is greater than zero, the retiree is deemed an Excess Earner.  
 The amount in C is the excess earnings attributable to exceeding the 960 hours limit.  
 The amount in D is the earnings that exceed the maximum allowable amount in A.  
 The amount in E is the larger of or equal to C or D. If paid to the retiree, it must be recouped by the employer.**

<i>Retiree Signature</i>	<i>Date</i>
<i>Department Head / Treasurer Signature</i>	<i>Date</i>

## INSTRUCTIONS FOR POST-RETIREMENT EARNINGS WORKSHEET

### Limits on Public Employment in Massachusetts for Retirees of a Public Retirement System

Massachusetts public retirees, who return to public employment with any governmental entity in Massachusetts, are subject to significant earnings and hourly service limitations under state retirement laws. These limitations apply to all persons retired from the public sector in Massachusetts who are receiving a superannuation or disability retirement allowance. The attached Excel worksheet has been designed to accurately calculate the Massachusetts post-retirement earnings limitations to which employees or new hires are subject.

**Worksheet Instructions** Although it seems to be a cumbersome worksheet that may entail retrieving information from other governmental entities, it is essential that all the updated data is inserted into the top grid entitled “MA Public Pension Information.” This information should include total projected earnings and hours worked in other governmental entities. In accordance with the statutory earnings limitation provisions, the data should be based on a **calendar year** and should include all hours of work and all earnings received by the retiree from any Massachusetts governmental entity. If the employee is only being compensated by the respective employer on a non-hourly basis and such is stated within this top grid, as “Projected Non-hourly Annual Earnings from this employer Unit”, **do not include such amount prorated in either lines “g” or “h” of the lower grid.**

- The form is designed for you to include relevant data in each of the appropriate **yellow cells**, including the top line entitled “Employer Unit/Department Name and Calendar Year”.
- #### After inputting all the correct information into this top grid, the retiree’s maximum allowable earnings for the calendar year will be automatically detailed in the second grid and totaled below it in the line entitled:  
***“A. Equals the maximum allowable amount for Public Retirees”***
- #### Once this amount is calculated, all you need to do is insert the estimated number of hours the retiree would be working during the calendar year and the corresponding hourly rate in lines “g” and “h”(yellow cells) in the next grid below.
- #### Since retiree’s earnings limits are based on **both** total earnings and hours worked, the worksheet estimates excess earnings for each limitation. However, if a member is deemed in excess of both limits, only the larger applies. Such excess amount will be displayed in line :  
***“E. Estimated Amount deemed Excess 'p' Ecrgpct 'l gct”***

Under statutory post-retirement earnings limits, this excess amount is to be repaid by the retiree to the respective treasurer or paying entity. If this amount is not repaid by the retiree, the treasurer may recover it. (Please refer to PERAC MEMO #28 of 2011 for more details on retiree earnings limits on [www.mass.gov/perac](http://www.mass.gov/perac).)