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Return To Work Program FAQs (for NMERB Retirees Only)

Q: What are the requirements for a member who retired after January 1, 2001?

A: A member who retired after January 1, 2001 must complete a twelve month layout period. During this layout period the retired member must not have been employed in any capacity by an NMERB employer. This includes full time employment, part time employment (including employment where earnings *are equal to or less than* \$15,000 or a .25 full time equivalency), services as a volunteer which in the past have been performed by a paid employee, substitute teaching, services rendered as independent contractor and/or employment with an independent contractor. See Section 22-11-25.1(A) NMSA 1978 and 2.82.5.15(A)(1)(2)NMAC.

Q: What are the requirements for a member who retired on or before January 1, 2001?

A: A member who retired on or prior to January 1, 2001 and has not since that time suspended retirement benefits (eg. voluntary suspension for the purpose of increasing one's service credit) or been required to suspend benefits, (eg. suspension of benefits imposed by ERB due to earnings exceeding limits of RTW exception rule, i.e. earning an amount equal to or more than the greater of .25 FTE or \$15,000) is eligible to return to full time employment without affecting retirement benefits. A layout period is not required. See Section 22-11-25.1(B) NMSA 1978 and 2.82.5.15(G) (1-4) NMAC.

Q: What are the requirements for a member who retired before January 1, 2001 and subsequently voluntarily suspended or was required to suspend retirement benefits?

A. A member who retired prior to January 1, 2001 and has since suspended retirement or had retirement benefits suspended is eligible for the Return to Work program if a twelve month layout period was completed anytime after the initial retirement and prior to engaging in the Return to Work position. In addition, the member must, if currently employed, terminate employment, re-retire and complete a minimum 90 day waiting period. The 90 day waiting period is counted from the effective date of the latest retirement and shall not include any scheduled breaks, vacations, paid administrative or sick leave, or holidays consisting of more than two business days. The 90 day period shall not include any portion of the period used to satisfy the 12 month consecutive month layout period. (If the retiree has not had a consecutive 12 month layout period after the first retirement and the suspension of benefits, the retiree will need a 12 month consecutive layout period after the second retirement before he/she is eligible for Return to Work.) See Section 22-11-25.1 (F) NMSA 1978 and 2.82.5.15 (B) NMAC.

Q. What happens after acceptance into the Return to Work program?

A. If you qualify for the Return to Work Program after submitting an application, you may work for an ERB local administrative unit without affecting your retirement benefit. You will not be subject to a requirement that you earn a minimum or maximum amount of earnings.



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Return To Work Statute (Section 22-11-25.1 NMSA 1978) (Excerpted provisions)

Section 22-11-25.1(A)

Except as provided in subsections B and F of this section, beginning January 1, 2002, and continuing until January 1, 2022, a retired member may begin employment at a local administrative unit and shall not be required to suspend retirement benefits if the member has not rendered service to a local administrative unit for at least twelve consecutive months after the date of retirement. If the retired member returns to employment without first completing twelve consecutive months of retirement, the retired member shall remove himself or herself from retirement.

Section 22-11-25.1 (B)

A retired member who was retired on or before January 1, 2001 and has not since suspended or been required to suspend retirement benefits pursuant to the Educational Retirement Act [22-11-1 NMSA] may, at any time prior to January 1, 2022, return to employment for a local administrative unit and shall not be required to suspend retirement benefits.

Section 22-11-25.1 (D)

A retired member shall not be eligible to return to employment pursuant to Subsection A, B, or F of this section unless an application to return to work, on a form prescribed by the board, has been submitted to, and approved by, the board and the applicant has complied with such other rules and promulgated by the board.

Section 22-11-25.1 (F)

Beginning July 1, 2003 and continuing until January 1, 2011, a retired member who retired on or before January 1, 2001, who subsequently voluntarily suspended or was required to suspend retirement benefits and who has not rendered service to a local administrative unit for at least ninety days may begin employment at a local administrative unit without suspending retirement benefits if the retired member was not employed by a local administrative unit for an additional twelve or more consecutive months after the initial date of the retirement; provided that the ninety day period shall not include any part of a summer or other scheduled break or vacation period.

* * * *

House Bill 129 of the 2011 NM State Legislature amends Section 22-11-25.1 to require retired members who return to employment with a Local Administrative Unit (LAU) pursuant to Subsections A, B, or F of Section 22-11-25.1 to pay contributions to the Educational Retirement Fund equal to member contributions that non-retired employees make pursuant to Section 22-11-21. The contributions will not be refundable to the retired member. (LAUs will continue to make the employer contributions as specified by statute.)

*Please Note - Retirees who wish to be employed without affecting their retirement benefits and without application to the Return to Work Program may do so but earnings will be limited to the greater of \$15,000 in a fiscal year or the amount possible under .25 FTE (a quarter of a full time position). See 2.82.2.11(B) NMAC. This is known as the Return to Work Exception rule.