

**WSR 24-06-087
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed March 6, 2024, 10:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-02-074.

Title of Rule and Other Identifying Information: Making further revisions to retiree return to work rules.

Hearing Location(s): On April 15, 2024, at 11:00 a.m., online via Microsoft Teams <https://www.drs.wa.gov/sitemap/rules/#proposed-rule-hearings>, Meeting ID 249 132 356 819, Passcode zbBcRf; or phone 833-322-1218, Code 669 358 536#.

Date of Intended Adoption: April 22, 2024.

Submit Written Comments to: Bianca Stoner, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, by April 11, 2024.

Assistance for Persons with Disabilities: Contact Bianca Stoner, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, by April 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DRS recently completed rule making to implement three retiree return to work bills, including chapter 110, Laws of 2022, and chapters 99 and 410, Laws of 2023. After completing the rule, DRS identified further revisions that are necessary to correct conflicting rules to achieve full implementation.

Statutory Authority for Adoption: RCW 41.50.050; chapter 110, Laws of 2022, and chapters 99 and 410, Laws of 2023.

Statute Being Implemented: Chapter 110, Laws of 2022, and chapters 99 and 410, Laws of 2023.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Candice Myrum, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7124.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5) (a) (i) does not apply to this proposed rule and DRS is not voluntarily making it applicable to DRS.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Rules from DRS only affect members and beneficiaries of the state retirement systems and participating public employers. As a result, the rules do not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

March 6, 2024
Bianca Stoner
Rules Coordinator

OTS-5259.1

AMENDATORY SECTION (Amending WSR 23-24-091, filed 12/5/23, effective 12/7/23)

WAC 415-02-173 How is my benefit affected if I return to work and am impacted by more than one annual hourly limit? (1) How is my benefit affected if I return to work in positions with two different employers that qualify for more than one annual hourly limit?

If you return to work in more than one position, and the positions have different annual hourly limits, you will be limited to the highest annual hourly limit for all positions combined.

Examples: Don is retired from teachers' retirement system (TRS) 2 and returned to work as a teacher. Don's nonadministrative TRS position at a school district has an annual limit of 1,040 hours. While working at the school district Don also takes a position at a state agency. The state agency position is a public employees' retirement system (PERS) position and ~~((Don))~~ is subject to an annual limit of 867 hours. Don's annual hourly limit ~~((is lowered to 867))~~ remains at 1,040 hours ((while working in both positions)). Don ~~((then))~~ later separates from the ((state agency)) TRS nonadministrative school district position and Don's annual hourly limit ((will return to)) of 1,040 hours remains in effect for the remainder of the current calendar year. Don's limit will be 867 hours the following year if he continues in the PERS position.

Pat is a 2008 ERF retiree, who returned to work as a driver for the department of transportation (DOT) in a PERS position with an annual limit of 867 hours. Pat gets a second job, working as a bus driver for a school district. The nonadministrative position in the school employees' retirement system (SERS) is subject to an annual limit of 1,040 hours. Pat's benefit is governed by the ~~((lowest))~~ highest limit, in this case the ~~((PERS))~~ SERS bus driver position at ~~((DOT))~~ the school district. Pat's annual limit will be ~~((867))~~ 1,040 hours in a calendar year.

(2) If I receive pension payments from more than one DRS administered retirement system, and each system has different annual hourly limits, how will my benefit be affected?

If you are retired from multiple DRS systems, each of your benefits will be affected according to rules of the respective system.

Example: Alex retired from two systems, PERS and SERS, and returned to work as a bus driver in a SERS-eligible position at a school district after the mandatory 30-day break. Alex's two benefits will be impacted differently.

- PERS - To qualify for the 1,040-hour annual hourly limit in PERS, you need a 100-day break in service. Alex only has a 30-day break before returning to work, so Alex's PERS benefit will be ~~((limited))~~ subject to an 867-hour((s)) limit.

- SERS - Alex's SERS benefit does not require the 100-day break. So, Alex's annual hourly limit for the SERS benefit will be ~~((limited to))~~ 1,040 hours.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-02-170

How is my benefit affected if I return
to work and am impacted by more than
one annual hourly limit?