



Employees' Retirement System of Rhode Island

ERSRI Board:

May 5, 2015

Seth Magaziner
General Treasurer
Chair

VIA EMAIL ONLY

William B. Finelli
Vice Chair

Gary R. Alger

RE: Public Records Request

Daniel L. Beardsley

Dear Mr. [REDACTED]

Frank R. Benell, Jr.

Roger P. Boudreau

Michael R. Boyce

We write in response to your follow up question related to your April 8, 2015 request for information pursuant to the Rhode Island Access to Public Records Act (APRA). In a conversation with Andrew Roos, you made a follow up request for:

Mark A. Carruolo

All the correspondence and public documents during the term of Treasurer Gina Raimondo (2011-2014) concerning people who had their pensions suspended for post-retirement employment.

Michael DiBiase

John P. Maguire

John J. Meehan

Enclosed please find documents responsive to your request. Please note pursuant to Rhode Island General Laws §38-2-2(A)(I)(b) confidential personal individually-identifiable information has been redacted from the records.

Thomas A. Mullaney

Claire M. Newell

Louis M. Prata

Jean Rondeau

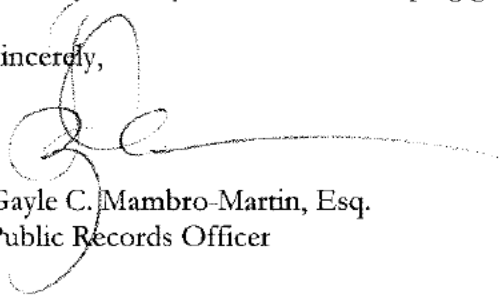
If you contend you have been denied access to public records, pursuant to RIGL §38-2-8, you may appeal this decision to Frank J. Karpinski, Executive Director of the Employees' Retirement System of Rhode Island, 50 Service Avenue, 2nd Floor, Warwick, RI 02886. You may also file a complaint with the Department of the Attorney General, 150 South Main Street, Providence, RI 02903 or the Rhode Island Superior Court of the county where the records are maintained.

Frank J. Karpinski
Executive Director

Additional information regarding the Access to Public Records Act may be found at <http://www.riag.ri.gov/civil/opengovernment>.

Thank you for your interest in keeping government open and accountable to the public.

Sincerely,


Gayle C. Mambro-Martin, Esq.
Public Records Officer



Memorandum

To: Roxanns Donoyan, ERSRI
From: Brian Silvia, Finance Director
Date: 6/9/2014
Re: Lee Drury, Town of Cumberland

This letter is to inform you as requested, that Mr. Leon Drury has reached his 75th working day and that his pension should now be suspended until the end of this year, calendar year 2014.

Brian M. Silvia
Finance Director
Town of Cumberland, RI

ERSRI
2014 JUN 10 AM 11:32



Employees' Retirement System of Rhode Island

October 22, 2007

91 7106 2133 3934 8296 4933

ERSRI Board:

Frank J. Capron
General Treasurer
Chairman

Pasquale Sorvillo
Cranston, RI 02920

William B. Falletti
Vice Chairman

Dear Mr. Sorvillo:

Gary R. Alger

Our office has recently completed its review of the 75-day rule monthly reporting memos submitted by the City of Cranston on your behalf.

Daniel J. Benoitley

Frank R. Benoit Jr.

§36-10-36 Post-Retirement Employment provides (in relevant part):

Rosemary Booth Gallego

Roger P. Benoitian

Michael R. Boyer

M. Carl Hentz-Livian

John P. Maguire

John J. Meschan

(b) Any member who has retired under the provisions of titles 16, 36 or 45 may be employed or re-employed by any municipality within the state for a period of not more than seventy-five (75) working days or one hundred fifty (150) half-days with half day pay in any one calendar year without any forfeiture of or reduction of any retirement benefits and allowances the member is receiving or may receive as a retired member. Pension payments shall be suspended whenever this period is exceeded. No additional contributions shall be taken and no additional service credits shall be granted for this service. Notice of employment shall be sent monthly to the retirement board by the employer and by the retired member.

Thomas M. Prata

Thomas C. Rinaldi

Susan K. Rodriguez

Jean Rodrigue

These guidelines clearly state that all retirees are limited to 75 days of work in a participating municipality and that ERSRI has a right to suspend the pension of any retiree who exceeds the yearly calendar limit.

In accordance with §45-21-54 the City of Cranston reported that you have continued to work over the 75-day limit. As of September 2009, you have exceeded the 75-day limit by an additional 106 days. Therefore, it is the intent of this office to suspend your pension benefits.

Frank J. Karpinski
Executive Director

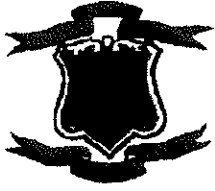
There is no provision that allows a municipal retiree to be re-employed by a municipality of this state more than 75 days in any one calendar year and collect a monthly pension benefit from ERSRI. Therefore, it is the intent of this office to suspend your pension benefit, effective November 1, 2009.

Reinstatement of your pension benefit may be accomplished by providing this office with a notice of termination from the City of Cranston. Upon reinstatement of your pension benefit, you will also be subject to a reduction based on the number of additional days worked in excess of the 75-day limit prior to suspension of your pension. Our office sent you a letter on September 10, 2009 indicating that you had exceeded the 75-day rule by 23 days as of June 2009. Subsequently, your pension benefit was reduced by \$383.87 for the 23 days worked over the statutory limit stated in §45-21-54. We are now in receipt of an additional Post Retirement Form from the City of Cranston indicating you worked 8 days in September. As of September 2009, you have exceeded the 75 day limit by an additional 8 days. Therefore, it is the intent of this office to reduce your pension benefit by \$133.52 once we receive the termination notice from the City of Cranston.

If you have any questions, please feel free to contact me.

Sincerely,

Frank J. Karpinski
Executive Director



Employees' Retirement System of Rhode Island

ERSRI Board: September 10, 2010

Frank T. Caprio
General Treasurer
Chairman

Joel D. Mathews

William B. Finelli
Vice Chairman

Woonsocket, RI 02895

Gary R. Alger

RE: Post Retirement Employment

Daniel L. Beardsley

Dear Mr. Mathews:

Frank R. Benell, Jr.

Rosemary Booth Gallogly

The Employee's Retirement System of Rhode Island (ERSRI) has received your letter of August 30, 2010 in which you request that your pension benefits be suspended for the period from September 13, 2010 to December 22, 2010 as you wish to continue post retirement employment on a temporary basis with the City of Woonsocket.

Roger P. Boudreau

Michael R. Boyce

M. Carl Heintzelman

John P. McGuire

Rhode Island General Law §36-10-36, *Post Retirement Employment*, provides that:

John J. Mechon

"Any member who has retired under the provisions of titles 16, 36 or 15 may be employed or re-employed by any municipality within the state for a period of not more than seventy-five (75) working days or one hundred fifty (150) half-days with half day pay in any one calendar year without any forfeiture of or reduction of any retirement benefits and allowances the member is receiving or may receive as a retired member. Pension payment shall be suspended whenever this period is exceeded. No additional contributions shall be taken and no additional service credits shall be granted for this service. Notice of employment shall be sent monthly to the retirement board by the employer and by the retired member."

Louis M. Prata

Uinda C. Rendean

Susan K. Rodriguez

Ivan Rendean

Frank J. Kaplanski
Executive Director

Therefore, should you exceed the 75 days allowed, your monthly pension benefit will be suspended as required by RI GL §36-10-36.

Furthermore, in addition to completing and submitting monthly reporting forms, there are other post-retirement service requirements in which both the employer and the employee must comply. (See enclosed Compass Newsletter Spring 2009). Before pension payments may commence, the IRS requires a legitimate, bona fide termination of employment. To be compliant as a qualified plan under Section 401(a) of the Internal Revenue Code(IRC) the following requirements must be met:

- The employee must retire and terminate employment;
- Notice of the post retirement employment or reemployment shall be sent monthly to ERSRI by the employer and by the retired teacher or municipal employee;

- Any employment or reemployment may begin no earlier than 30 days after retirement;
- No additional pension credits may be earned;
- No additional contributions shall be made by or on behalf of the retirement member.

The requirement that the employee must retire and terminate employment is a fundamental requirement of the IRC. There should be a clear separation from service and subsequent re-employment that is not pre-arranged or so short in duration as to raise a legitimate issue of whether there has been a true separation. The termination should be consistent with any other retirement and termination, i.e. discontinuance of benefits unless benefits are otherwise provided during a limited severance period or during retirement for employees who are not re-employed and the payment of any accrued vacation, sick leave or other benefits that are paid in the course of termination of employment by state law or state employment practices.

A review of the 75-day rule monthly reporting forms submitted by you and the City of Woonsocket indicates that you began your post retirement reemployment with the City of Woonsocket on May 17, 2010. Since you terminated employment on May 14, 2010 and retired, there was not a clear 30 day separation from service as required; therefore, ERSRI must recoup your pension benefit you received for the period May 17, 2010 through June 14, 2010. As a result, your pension will be suspended for the month of September. The pension will resume in the month of October. The 20 days you worked during that 30 day period will not be counted toward your 75 maximum.

Finally, please be advised that pursuant to the Qualified Domestic Relations Order in your file, ERSRI currently pays a portion of your pension to the Alternate Payee, Linda Mathews. Thus, her pension will also be suspended for the month of September and will resume in October. In the event it becomes necessary to suspend your pension benefit due to your exceeding the 75 day limit for this calendar year, the Alternate Payee's benefit will also be suspended.

If you have any questions, please feel free to contact me.

Sincerely,



Frank J. Karpinski
Executive Director

cc: Christina Duarte, Personnel Director
City of Woonsocket



Employees' Retirement System of Rhode Island

ERSRI Board:

September 23, 2011

Gina M. Raimondo
General Treasurer
Chair

Chief Paul Labbadia

William B. Finelli
Vice Chair

North Providence, RI 02911

Gary R. Alger

RE: Post Retirement Employment

Daniel L. Beardsley

Dear Chief Labbadia:

Frank R. Benell, Jr.

I am writing regarding your post-retirement employment with the Coventry Fire District, Anthony Fire Department. You recently contacted our office and spoke with our legal counsel regarding your employment.

Roger P. Boudreau

Michael R. Boyce

M. Carl Heintzelman

Richard A. Licht

As a retiree of the North Providence Fire Department in 2007, and a participant in the Municipal Employees Retirement System, you are subject to the laws governing post retirement employment. Rhode Island General Law (RIGL) §45-21-54 entitled *Reemployment of retirement members* and RIGL §36-10-36(b) entitled *Post retirement employment* set forth limits as to the number of days which may be worked in post-retirement public employment with a participating municipality before it affects a retiree's pension benefit. MERS retirees may work for a participating municipality for no more than 75 working days or 150 half-days in a calendar year. There are also reporting requirements.

John P. Maguire

John J. Meenan

Thomas A. Mullaney

Louis M. Prata

Linda C. Riendeau

Jean Rondeau

Frank J. Kerpinski
Executive Director

§ 45-21-54 Reemployment of retired members. – Any retired member of the system is permitted to reenter the service of the system for not more than seventy-five (75) working days in a calendar year without interruption of pension benefits. Pension payments, however, are suspended when that period is exceeded. If the retired member continues in service beyond the seventy-five (75) day period (with his annuity temporarily suspended) the member is not eligible for pension credit for the additional service, nor is the member required to make pension contributions for this service; provided, that any retired member of the system is permitted to serve as an elected city or town council member or school committee member and continues to be eligible for and receive the retirement allowance for service other than that as a council member or school committee member.

§ 36-10-36 Post retirement employment. (b) Any member who has retired under the provisions of titles 16, 36, or 45 may be employed or reemployed by any municipality within the state, which municipality has accepted the provisions of chapter 21 of title 45 and which participates in the municipal employees' retirement system for a period of not more than seventy-five (75) working days or one hundred fifty (150) half days with half day pay in any one calendar year without any forfeiture of or reduction of any retirement benefits and allowances the member is receiving or may receive as a retired member. Pension payments shall be suspended whenever this period is exceeded. No additional contributions shall be taken and no additional service credits shall be granted for this service. Notice of this employment or re-employment shall be sent monthly to the retirement board by the employer and by the retired member.

A review of your file indicates that you retired and began collecting your pension in April 2007. You notified our office that as of February 20, 2008 you were hired to serve as Chief of the Department by the Coventry Fire District and requested that we freeze your pension. Your pension was frozen as of April 1, 2008 and you have not collected a monthly benefit since that time.

As you can see, RIGLs §45-21-54 and §36-10-36(b) allow you to collect your pension each calendar year for 75 days, and both you and your employer must report on a monthly basis while you are engaging in post-retirement employment.

As such, as required by law, at this time both you and your employer will be required to complete the Monthly Notification of Post Retirement Employment forms for each month you have been employed since February 20, 2008. The forms are available on our website at www.ersri.org. Additional information is available on our website regarding post-retirement employment. Once we receive the forms we will determine the amount of monthly pension benefits which are owed to you.

If you have any questions, please do not hesitate to contact me at 401-457-3949.

Sincerely,



Frank J. Karpinski
Executive Director

cc: Thomas Lacolle

May 29, 2007

Makram H. Megalli

North Providence, RI 02911

Dear Mr. Megalli:

Our office has recently completed its review of the 75-day rule monthly reporting memos submitted by the Town of Johnston on your behalf.

§36-10-36 Post-Retirement Employment provides (in relevant part):

(b) Any member who has retired under the provisions of titles 16, 36 or 45 may be employed or re-employed by any municipality within the state for a period of not more than seventy-five (75) working days or one hundred fifty (150) half-days with half day pay in any one calendar year without any forfeiture of or reduction of any retirement benefits and allowances the member is receiving or may receive as a retired member. *Pension payments shall be suspended whenever this period is exceeded.* No additional contributions shall be taken and no additional service credits shall be granted for this service. *Notice of employment shall be sent monthly to the retirement board by the employer and by the retired member.*

These guidelines clearly state that all retirees are limited to 75 days of work in a participating municipality and that ERSRI has a right to suspend the pension of any retiree who exceeds the yearly school calendar limit.

In Accordance with §45-21-54 the Town of Johnston reported that you worked 78 days as of April 2007, exceeding the 75-day limit by 3 days. Therefore, it is the intent of this office to reduce your next pension benefit by \$53.31 for the 3 days worked over the statutory limit stated in §45-21-54.

If you have any questions, please feel free to contact me.

Sincerely,

Frank Karpinski
Executive Director



Town of Foster
Est. 1781

**Town of Foster
Office of the Treasurer
181 Howard Hill Road
Foster, RI 02825
(401) 392-9207**

April 28, 2014

ERSRI
50 Service Ave.
Floor # 2
Warwick, RI 02886

Attn: Diane Bourne

RE: William Ziehl

Dear Ms. Bourne,

Please be advised that Mr. Ziehl has reached 75 days of employment for the Town of Foster, as of April 22, 2014 and is requesting that his pension be suspended effective April 28, 2014.

Thank you.

Very truly yours,

Town of Foster
Lillian M. Jackson
Deputy Treasurer

A handwritten signature in black ink, appearing to read "Lillian M. Jackson". The signature is written in a cursive style and extends to the right of the printed name.

Cc: File

Donoyan, Roxanne

From: Donoyan, Roxanne
Sent: Monday, May 05, 2014 2:30 PM
To: [REDACTED]
Cc: Bourne, Diane; MAMBRO MARTIN, Gayle; DeCosta, Kimberly
Subject: RE: Post-Retirement Employment for Calendar Year 2014

Mr. Ziehl, Excuse the slight change in the amount; it appears you were at 75 ½ days on April 28, 2014, so you **exceeded the count by 2 ½ days**; consequently, your amount due to ERSRI would be \$205.15. Thank you. Call if you have any questions please.

From: Donoyan, Roxanne
Sent: Monday, May 05, 2014 2:10 PM
To: [REDACTED]
Cc: Bourne, Diane; MAMBRO MARTIN, Gayle; DeCosta, Kimberly
Subject: Post-Retirement Employment for Calendar Year 2014

Good afternoon Mr. Ziehl,
ERSRI is in receipt of notification from the Town of Foster that you have reached your allowance of 75 days effective April 28, 2014. Also ERSRI received the April Monthly Notification of Post-Retirement Employment indicating you additionally worked the 29th and the 30th of April. Because RIGL 36-10-36(b) (see below) allows you to continue to receive your monthly pension check and work post-retirement up to 75 days without affecting any disruption in your pension check, the 2 excess days worked (4/29 and 4/30) would need to be recouped by ERSRI since you had received a full month's worth of April 2014 pension check. (There is a cutoff date within each month to modify if necessary any alterations in that month's pension check, but ERSRI received notification after that cutoff date).

§ 36-10-36 Post retirement employment

(b) Any member who has retired under the provisions of titles 16, 36, or 45 may be employed or reemployed by any municipality within the state, which municipality has accepted the provisions of chapter 21 of title 45 and which participates in the municipal employees' retirement system for a period of not more than seventy-five (75) working days or one hundred fifty (150) half days with half day pay in any one calendar year without any forfeiture of or reduction of any retirement benefits and allowances the member is receiving or may receive as a retired member. Pension payments shall be suspended whenever this period is exceeded. No additional contributions shall be taken and no additional service credits shall be granted for this service. Notice of this employment or re-employment shall be sent monthly to the retirement board by the employer and by the retired member.

Consequently, the 2 days' worth to return to ERSRI amounts to \$164.12. If you choose to have the \$164.12 withheld in your upcoming May 2014 pension check, please advise our office or you can remit a check to ERSRI and make out a check payable to ERSRI, 50 Service Ave, 2nd Floor, Warwick, RI 02886.

If you should have any questions beforehand, please feel free to call me at 462-7608. Thank you, Mr. Ziehl for your assistance and cooperation in this matter.