



# PAYROLL AND PERSONNEL GUIDE

## ESSEX REGIONAL RETIREMENT SYSTEM

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**Table of Contents**

**1. INTRODUCTION .....1**  
STAFF CONTACT INFORMATION..... 1

**2. ENROLLMENT OF NEW MEMBERS .....2**  
MEMBERSHIP ELIGIBILITY..... 2  
NEW MEMBER ENROLLMENT FORM ..... 3  
ADDITIONAL DOCUMENTATION..... 5

**3. RETIREMENT DEDUCTIONS.....6**  
REGULAR COMPENSATION..... 6  
REGULAR COMPENSATION – SECOND POSITIONS..... 8  
ADDITIONAL 2% DEDUCTIONS ..... 8  
OTHER PAYMENTS AND APPLYING THE 2% DEDUCTION ..... 9  
MULTIPLE POSITIONS – MULTIPLE UNITS ..... 9  
DEDUCTIONS FROM “OTHER” PAY..... 9  
WORKERS COMPENSATION PAYMENTS..... 9  
SECTION 111F PAYMENTS ..... 10  
MILITARY LEAVE ..... 10  
ACCRUED VACATION OR SICK LEAVE LUMP SUM PAYMENTS ..... 10  
RETIREMENT DEDUCTIONS FOR MEMBERS AGE 70..... 10  
ERRONEOUS DEDUCTIONS ..... 10  
COLLECTIVE BARGAINING AND EMPLOYMENT AGREEMENTS ..... 11

**4. MONTHLY DEDUCTION REPORTING.....12**  
DEADLINE FOR FILING..... 12  
PAYROLL INFORMATION ..... 12  
RETROACTIVE COMPENSATION..... 12  
CERTIFYING THE PAYROLL ..... 13

**5. CHANGE IN STATUS NOTICES.....14**  
NOTIFICATION TO THE RETIREMENT SYSTEM..... 14

**6. REFUNDS – SERVICE PURCHASES - RETIREMENT.....15**  
REFUNDS..... 15  
SERVICE PURCHASES ..... 16

PAYROLL AND PERSONNEL GUIDE

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RETIREMENTS ..... 17

DISABILITY RETIREMENTS ..... 18

INSURANCE PREMIUMS..... 18

POST RETIREMENT EARNINGS – REGULAR RETIREMENT..... 19

POST RETIREMENT EARNINGS – DISABILITY RETIREMENT..... 20

MEMBER OR RETIREE DEATHS ..... 20

PENSION FORFEITURE ..... 20

**7. RESOURCES..... 21**

**8. ERRS PERSONNEL AND PAYROLL SESSION PRESENTATION**

## **INTRODUCTION**

This *Payroll and Personnel Guide* had been put together to assist our employer units in managing your employees' retirement accounts. This document provides guidance on properly enrolling your employees in the retirement system, on managing your employees' contributions during their membership and, finally, on insuring that your employees enjoy a smooth and successful transition to retirement.

All public retirement systems in Massachusetts are governed by Massachusetts General Law, Chapter 32. This statute establishes the rules under which each public retirement system operates and it states what retirement benefits each employee is eligible to receive. This statute can be complex and the retirement system understands that this guide does not cover every issue that may arise. If you have questions about any item covered in this guide, or if you have an issue that is not covered and you need assistance, please do not hesitate to contact the retirement system staff. Below is a listing of the contact information for the staff of the Essex Regional Retirement System.

### **ESSEX REGIONAL RETIREMENT SYSTEM**

#### **STAFF CONTACT INFORMATION**

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The Essex Regional Retirement System business hours are Monday through Friday from 8:30 a.m. to 4:30 p.m. The retirement Board typically meets on the fourth Monday of each month. Board meetings typically begin at 8:30 a.m. and are open to the public.

We hope that you will find this *Payroll and Personnel Guide* helpful and that you will not hesitate to contact us with any questions you may have. We look forward to working with you.

## **ENROLLMENT OF NEW MEMBERS**

### **MEMBERSHIP ELIGIBILITY**

An employee is not officially a member of the Essex Regional Retirement System (ERRS) until the Board has voted to approve their enrollment. The Board's vote indicates that the employee has met the requirements for membership and establishes the employee's group classification. The Board cannot approve an employee for membership until all of the required documentation has been submitted to and verified by the ERRS staff.

In general, all full-time employees must become a member of the retirement system. In order for a part-time employee to be eligible for membership in ERRS, the individual must be permanently employed twenty or more hours per week by a single member unit of the system and is required by statute to receive at least \$5,000 in wages annually.

The retirement system considers permanently employed to mean that the individual is guaranteed twenty hours of weekly compensation each and every week. The wages earned by the employee must meet the definition of regular compensation, which is defined on page six of this guide.

Any elected official who earns at least \$5,000 in wages may elect to become a member of the retirement system within ninety days after the date of assuming office. An elected official who fails to elect to become a member within ninety days of assuming office must wait until the start of a new term in order to become a member.

To be eligible for membership, an individual must work twenty hours per week in *one or more positions for one employer*. An employee who does not work twenty hours per week for a single employer is not eligible for membership.

Individuals holding intermittent or call positions are not be eligible for membership in the retirement system as they do not work a regular, guaranteed schedule of twenty or more hours per week. Also, an individual who temporarily works or averages twenty hours per week does not meet the membership requirements.

An individual who is assigned a twenty hour per week schedule but who is not guaranteed to receive regular compensation at least twenty hours per week, every week, is not eligible for membership. And an individual assigned to a position classified as temporary, seasonal or provisional is not eligible for membership even if they are working more than twenty-hours per week.

Once an individual meets the requirements of membership in the retirement system, they shall remain a member as long as they are continuously employed by the same employer, even if they no longer work at least twenty hours per week.

A member whose employment is terminated will become a member inactive. If a member inactive subsequently returns to public employment in the retirement system, they will become an active member again **only** if their new position meets the membership requirements.

A member who is not terminated from employment but is reassigned to a position that is less than twenty hours per week will continue to be a member of the retirement system.

**NEW MEMBER ENROLLMENT FORM**

No individual can become a member of ERRS until they file a completed New Member Enrollment Form and provide all of the required documentation. The New Member Enrollment Form is available on the retirement system website at [www.essexregional.com](http://www.essexregional.com), on the Forms page under the heading Payroll Coordinators.

The New Member Enrollment Form must be completed by any new employee regardless of his or her past employment with any governmental entity. The new employee must complete page one and the first half of page two of the form and sign it. The Payroll/Personnel Department must verify the information submitted in these sections.

The Payroll/Personnel Department must complete the lower half of page two, shown below in Figure 1.

**Figure 1.**

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**To Be Completed by Payroll/Personnel Department and Verified by Retirement Board:**

Check base rate to be deducted for retirement:

5%    7%    8%    9%    Additional 2%

If 5% or 7% or 8%, state reason:

Current Rate of Regular Compensation per Pay Period:    Estimated annual compensation:

Employment Status (Check all that apply):

Permanent    Temporary    Full-time    Part-time:    50%    75%    Other \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name

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The first box you must check is the proper base contribution amount. The amount of the base contribution is determined by the employee's membership date in the public retirement system. Therefore, it is important to check to see if the employee had any prior membership in another public retirement system before being hired by your unit. Any new employee who does not have prior service with another public retirement system will have a base contribution rate of 9%.

However, an employee who is a member of another retirement system, or an employee who is a member of the Essex Regional Retirement System, or an employee who left another retirement system but kept their funds on deposit, may have a base contribution amount that is less than 9%. The base contribution rates and the dates on which these rates are effective are as follows:

## PAYROLL AND PERSONNEL GUIDE

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- If the individual became a member of a public retirement system **before 1975**, the contribution rate is **5%**.
- If the individual became a member of a public retirement system **between 1975 – 1983**, the contribution rate is **7%**.
- If the individual became a member of a public retirement system **between 1984 - June 30, 1996**, the contribution rate is **8%**.
- If the individual became a member of a public retirement system after **July 1, 1996**, the contribution rate is **9%**.

A list of these contribution rates is available on the Employers tab of the retirement system's website at [www.essexregional.com](http://www.essexregional.com).

Also, if you do check a base contribution rate that is other than 9%, you must state a reason why on this section of the New Member Enrollment Form.

If the individual became a member of a public retirement system after January 1, 1979, you will also need to determine if this employee will be subject to the additional 2% contribution for wages in excess of \$30,000 annually. If so, you must also check the box next to "Additional 2%"<sup>1</sup>.

The Payroll/Personnel Department must also provide wage information by both pay period and annually. Completing this section will assist you in determining if the additional 2% contribution is applicable.

The Payroll/Personnel Department must then provide the retirement system with the individual's employment status. Completing this section is important in determining whether the employee meets the requirements for membership in the retirement system.

All permanent, full-time employees are required to become members of the retirement system. If the employee is hired in a temporary position, please contact the retirement system to determine whether or not the employee should be enrolled in ERRS.

If you check that the employee is part-time, please also indicate on the form the number of hours the employee is **guaranteed** to work each week. Please remember that an employee must be guaranteed twenty hours of weekly compensation each and every week to be eligible for membership in the retirement system. If you do not note the number of hours a part-time employee works each week, you will be contacted by the retirement system for this information, which could delay the member's enrollment.

Finally, the person authorized by the employer unit to provide this information to the retirement system must sign the form.

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<sup>1</sup> An individual who was **employed** in a governmental position prior to January 1, 1979 but was not eligible for membership in a public retirement system is not subject to the 2% additional withholding.

### **ADDITIONAL DOCUMENTATION**

Massachusetts General Law, Chapter 32, Section 18 requires that certain documents be filed timely to insure that each member is enrolled according to the statute. The Essex Regional Retirement System requires that certain additional documents be filed along with the New Member Enrollment Form. These documents include:

- ✓ A copy of the member's birth certificate.
- ✓ If a veteran, the member's DD214.
- ✓ The original signed completed Social Security Administration Windfall Provision Form 1945.
- ✓ A completed Beneficiary Selection Form.
- ✓ A copy of a birth certificate if Option D is selected on the Beneficiary Selection Form. A copy of a marriage certificate if Option (D) Beneficiary is Member's current or former spouse.

To assist the employer units in providing these documents, ERRS has a New Member Enrollment Administrator Checklist. This checklist is available on the ERRS website ([www.essexregional.com](http://www.essexregional.com)) on the Forms page under Payroll Coordinators.



**RETIREMENT DEDUCTIONS**

**REGULAR COMPENSATION**

Retirement deductions must be taken from all wages which qualify as regular compensation. Regular compensation is defined in [840 CMR 15.03](#). As of July 1, 2009, to qualify as regular compensation the wage must be predetermined, non-discretionary and guaranteed.

The Public Employee Retirement Administration Commission (PERAC) has listed the following as considerations as to whether payments constitute regular compensation:

- Payments that are base salary or other base compensation including pre-determined, non-discretionary, guaranteed payments paid by the employer to similarly situated employees.
- Payments made because of the character of the work (an example could be hazardous duty pay).
- Payments made because of the employee’s length of service (an example could be longevity payments).
- Payments made because of the time at which the work takes place as a condition of employment in a particular position (an example could be night differential pay).
- Payments made because of educational incentives and payments for holding the training, certification, licensing or other educational incentives approved by the employer for the performance of services related to the position the employee holds.

Certain wages are specifically excluded as regular compensation, either by statute or by regulation. For instance, overtime wages, whether paid to a member for their primary position or for their second position, are never regular compensation. No wage paid as overtime, or any portion of such overtime wage, may be considered as regular compensation. The table in Figure 2 lists different payments and notes whether such payments are considered wages that qualify as regular compensation for retirement purposes.

**Figure 2.**

<i>Payment Type</i>	<i>Wages/Regular Compensation Subject to Retirement Deductions?</i>
Annuity Payments	No
Automobile usage payments	No
Bonuses	No
Clothing Allowance	No
Commissions	No
Dependent Care Allowance	No
Detail Payments — Fire or Police	No

PAYROLL AND PERSONNEL GUIDE

Differentials for Shift Work, e.g. night differential	Yes
Dismissal — payment for dismissal	No
Early Retirement incentive payments	No
EMT Stipends and Training	Yes
Expense Payments for job-related expenses	No
Grants — Federal and State	Yes, unless the employee is a member of the United States Civil Service Retirement System.
Holidays — Extra Pay	No, except for police officers, firefighters and employees of a municipal department employed as fire alarm signal operators or signal maintenance repairmen
Housing Allowance	No
Insurance Premiums	No
Lodging Allowance/Reimbursement	No
Longevity	Yes
Overtime	No
Police Section 111F Pay	Yes
Quinn Bill payments	Yes
Severance payments	No
Sick Time — One-time payments for unused sick time at time of retirement	No
Summer Programs	For the vast majority of members no deductions should be taken from wages paid by a summer program. Please contact the retirement system staff if you need clarification regarding whether summer wages qualify as regular compensation.
Termination payments	No
Travel Reimbursement	No
Tuition payments	No
Welfare Benefits	No
Worker's Compensation Payments	No
Worker's Compensation Lump Sum payments	No
Vacation — One-time payments for unused vacation time at time of retirement	No

## PAYROLL AND PERSONNEL GUIDE

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The retirement system recognizes that this chart may not cover all types of wages paid to employees. Please contact the retirement system staff any time you need clarification as to whether a wage qualifies as regular compensation.

### REGULAR COMPENSATION – SECOND POSITIONS

If a member of the retirement system also holds a second position with the same employer, or with a different employer within ERRS, the wages paid in this second position may be regular compensation. In order to be considered regular compensation, however, the payments made to a member in a second position must also be predetermined, non-discretionary and guaranteed.

### ADDITIONAL 2% DEDUCTION

Please see the list on Page 4 of this guide for all of the base contribution percentages and the dates on which the rates became effective.

In addition to the base contribution rate, anytime a member's earnings exceed \$30,000 annually, the amount in excess of \$30,000 must have an additional 2% withheld. PERAC's memo #43/1999 covers in detail the process for withholding the extra 2% on wages over \$30,000 and is available on the [PERAC website](#). (also, there is a copy of this memo in the back of this binder).

Please note that the additional 2% withholding is made based on the wages earned per pay period, even if the member has not yet earned \$30,000 in a calendar year.

The amount to which the additional 2% deduction is applied is determined by the frequency of payroll periods. For instance, if an employee receives a weekly payment, totaling 52 payments per annum, all regular payments in excess of \$576.92 (\$30,000/52) would be subject to the additional 2% withholding. Conversely, if an employee receives a biweekly payment, all regular payments in excess of \$1,153.85 (\$30,000/26) would be subject to the additional 2% withholding, and so forth.

Figure 3 provides a scenario in which a member earns \$36,400 annually and is paid out over 52 pay periods, 26 pay periods and 21 pay periods.

**Figure 3.**

<b>Rate of pay = \$36,400 annually</b>	<b><u>52 pays</u></b>	<b><u>26 pays</u></b>	<b><u>21 pays</u></b>
<u>Total Earnings Per Pay Period</u>	\$700.00	\$1,400.00	\$1,733.34
<u>Less \$30,000 divided by Pay periods</u>	(\$576.93)	(\$1,153.85)	(\$1,428.58)
<u>Amount Subject to 2%</u>	\$123.07	\$246.15	\$304.76
<u>Deduction</u>	x .02	x .02	x .02
2% Withholding Deduction	\$2.47	\$4.93	\$6.10

The additional 2% deduction should be applied to longevity, stipends and other types of payments considered regular compensation as follows:

### **OTHER PAYMENTS AND APPLYING THE 2% DEDUCTION**

If the member has a total annual rate of pay, not including longevity, stipends and others, in excess of \$30,000.00, then the longevity payment, stipend and other regular compensation payments are subject to the additional 2% deduction.

If the total annual rate of pay, not including longevity, stipends and other regular compensation payments, is less than \$30,000.00, but the amount of the longevity payment, stipend and other regular compensation payment brings the total annual rate of pay over \$30,000.00, any amounts that bring the total over \$30,000 are subject to the additional 2% deduction.

For instance, if the member's annual rate of pay is \$29,500.00, and the member receives a \$750 longevity payment, then \$250.00 of the longevity payment is subject to the additional 2% deduction. A stipend or other type of regular compensation in addition to the longevity payment would entirely be subject to the additional 2% deduction.

If the total annual rate of pay, including longevity, a stipend or another regular compensation payment is less than \$30,000.00, then even though total pay for the week such payment is made exceeds the \$576.92 weekly, or \$1,153.85 bi-weekly figures set forth above, the additional 2% is not deducted.

Errors in the 2% deduction are one of the most commonly cited findings in PERAC audits. Proper application of the 2% deduction can be difficult and we encourage you to contact the retirement system staff if you have any questions regarding this withholding.

### **MULTIPLE POSITIONS – MULTIPLE UNITS**

Many members of the retirement system are employed by more than one unit. If you are aware that a member is employed in more than one unit of the retirement system, please contact ERRS. This is important so that all of the proper deductions are made from the wages the member earns which qualify as regular compensation. This is particularly important when withholding the additional 2% deduction and coordination between the units involved and the retirement system is essential.

### **DEDUCTIONS FROM “OTHER” PAY**

Members may receive payments in other forms and there are rules governing whether these types of payments qualify as regular compensation.

### **WORKERS COMPENSATION PAYMENTS**

Worker's Compensation benefits are not considered regular compensation. Retirement deductions should not be taken from worker's compensation benefits.

If a member is receiving pay for sick-time to supplement the worker's compensation payments, then it is the position of the Essex Regional Retirement System that retirement deductions should not be taken from the sick leave portion of the payments.

It is also important to notify the retirement system if an employee is out of work and on Workers' Compensation. This will not only assist in avoiding erroneous deductions from the member's earnings, but it will insure that the retirement system can properly track the member's creditable service.

### **SECTION 111F PAYMENTS**

Retirement deductions should be taken from Section 111F payments made to police officers and firefighters.

### **MILITARY LEAVE**

If an employee is called to active duty, please notify the Essex Regional Retirement System immediately.

### **ACCRUED VACATION OR SICK LEAVE LUMP SUM PAYMENTS**

Retirement deductions should not be taken from accrued vacation and sick time payments made to members at the time they retire or otherwise separate from service. Retirement deductions should not be taken from payments made to members for accrued but unused vacation or sick leave payments made on an annual basis as well.

### **RETIREMENT DEDUCTIONS FOR MEMBERS AGE 70**

For service rendered after age seventy (70), retirement deductions become optional for the member. As the member approaches age 70, they will be notified by the retirement system of the member's options to continue or discontinue retirement deductions. The member will receive an *Application by Member Requesting to Continue Retirement Contributions Beyond the Age of 70 Pursuant to G.L. c. 32, §90(G)(3/4)*.

If the member returns this form to the retirement system and notes that they wish to continue deductions, the member will continue to have withholdings made from their regular compensation and they will continue to earn creditable service. If the member does not return the form, or if the member chooses not to continue deductions beyond age 70, the retirement system will notify the employer to stop deductions from the member. The member will no longer be eligible to earn creditable service.

No action is necessary by the employer when a member reaches age 70. The employer should continue to take retirement deductions after the member has reached age seventy (70) **unless** notified otherwise by the Retirement System.

### **ERRONEOUS DEDUCTIONS**

If you discover that a member had deductions withheld incorrectly, i.e. either too great or too small an amount, please contact the retirement system for assistance as soon as the error is discovered. If the deduction error happened in the current calendar year the unit will be

responsible for making the adjustment through their payroll. If it is outside of the current calendar year then the adjustment will be handled through the retirement system.

### **COLLECTIVE BARGAINING AND EMPLOYMENT AGREEMENTS**

Employer units are required by law to submit to the retirement system copies of all current Collective Bargaining Agreements (CBA's). If you have not done so, or if you are unsure if the retirement system has received your CBA's, please submit them as soon as possible. These agreements assist the retirement system in determining whether wages paid to members qualify as regular compensation. A CBA is also necessary to confirm if a member, at the time of retirement, is subject to the provisions of the anti-spiking statute.

Although not required, it is recommended that employers also submit copies of any individual employment agreements for members of the retirement system. The description of the payments made under the employment agreement may determine whether it qualifies as regular compensation. The retirement system is happy to review any employment agreement as such a review can help avoid errors in retirement withholdings.

## **MONTHLY DEDUCTION REPORTING**

### **DEADLINE FOR FILING**

Monthly deduction reports should be filed with the retirement system on or before the 10<sup>th</sup> day of the month following the month you are reporting. It is vitally important that the retirement system receive completed deduction reports by the 10<sup>th</sup> of each month. It typically takes several days or more for the retirement system to verify and post deductions to a member's account after receipt of the monthly deduction report. No member can receive a refund, have their account transferred, or have their retirement application submitted to the Board for approval, until the deduction report containing their final withholdings is received, verified and posted by the retirement system.

The timely filing of deduction reports also assist in the processing of the annual salary survey, which sets the annual appropriation for each unit. Deduction reports which are filed late, or units that fail to file multiple monthly deduction reports, can delay the processing of the annual salary survey for all units. This delay often results in less time for each unit to review its salary survey and offer any corrections that need to be made.

### **PAYROLL INFORMATION**

The following information should be included on the payroll for each member:

Name

- ✓ Social Security Number
- ✓ Compensation by type, i.e. total, regular, overtime and other
- ✓ Contribution/deduction amount
- ✓ Additional 2% contribution/deduction
- ✓ Contribution/deduction rate
- ✓ Totals of regular deductions and 2% deductions
- ✓ Report total of all deductions

Please make sure that your monthly deduction report is submitted to the retirement system in a secure fashion so that all of the information listed above is protected.

### **RETROACTIVE COMPENSATION**

If a retired or transferred member receives retroactive pay, their status (i.e. retired or transferred) and the reason for the payment, (retroactive pay due to contract settlement, etc.) should be specifically noted on the payroll.

If a member has withdrawn his/her funds from the retirement system, retirement deductions should not be taken from any retroactive pay. The individual should not appear on the payroll sent to the retirement system.

If you have a retired or transferred member who is owed retroactive pay, please contact us before forwarding payment to us.

If an active member receives retroactive pay, please also contact us prior to submitting your monthly deduction report. It may be necessary to allocate the member's pay to certain time periods in order to insure that his or her future retirement benefit is properly calculated.

**CERTIFYING THE PAYROLL**

All payrolls should include a cover sheet certifying the payroll as follows:

I hereby certify that in accordance with the provisions of M.G.L. Chapter 32, Section 22, as amended, I have deducted the respective amounts set forth from the compensation payable during said month from the named employees who are members of the Essex Regional Retirement System and herewith remit to the Board said amount to be credited to their respective accounts in the annuity savings fund totaling \$

This report is submitted under the pains and penalties of perjury.

Treasurer/Administrator:

\_\_\_\_\_  
(Original Signature Required)

\_\_\_\_\_  
Date

Please also make sure that the payroll total equals the total reported on your electronic file, which should match the total of your payment to the retirement system. Wire transfer payments are the preferred method of sending your payments to the retirement system, and eventually electronic payments will be required. If a check is sent, it should be made payable to the *Essex Regional Retirement System* and should be sent in with either the original payroll or a copy of the payroll that you have submitted electronically.



## **CHANGE IN STATUS NOTICES**

### **NOTIFICATION TO THE RETIREMENT SYSTEM**

Any time there is a change in a member's employment status, please notify the retirement system. If a member's employment status changes, it may affect their eligibility for a retirement benefit or the amount of the benefit they receive. The retirement system makes every effort to keep a member's account up-to-date so that they can properly plan for their retirement. The cooperation of the member's employer is essential to accomplishing this goal.

If you have an employee whose employment status changes, please provide the retirement system with either a completed Notice of Separation of Service or Change in Employee Status form. These forms are important because it allows the retirement system to properly account for the member's creditable service and to accurately calculate their retirement benefit. Examples of employment changes that require notice to the retirement system are:

- ✓ The member is on unpaid leave or other leave of absence.
- ✓ The member has terminated employment.
- ✓ The member has changed their schedule and now works less than twenty hours per week.
- ✓ The member has gone from part-time to full-time or from full-time to part-time.
- ✓ The member has changed positions or titles.
- ✓ The member has temporarily changed schedules, hours or assumed a temporary position.

Filing a timely notice of a member's change in status is also essential to insuring that all of the member's retirement options are available to them. Please do not hesitate to contact the retirement system if you have a question regarding whether a notice of a change in a member's status should be provided to the retirement system. Ideally, the employer will notify the retirement system each time a deduction report is filed if any of their members have had a change in their employment status.

**REFUNDS – SERVICE PURCHASES - RETIREMENTS**

**REFUNDS**

Individuals who have terminated employment with a town, county, school district or other unit of the Essex Regional Retirement System are entitled to request a refund or rollover of their accumulated total contributions made during their service. After the individual terminates his or her employment, they will present to the Payroll/Personnel Department an *Application for Withdrawal of Accumulated Total Deductions*. The Payroll/Personnel Department, or the authorized employee, will be asked to complete Section B of the form. The retirement system cannot process the refund or rollover request until Section B is completed by the former employer. Figure 3 contains Section B of the Application for Withdrawal of Accumulated Total Deductions.

**Figure 4.**

**Section B: To Be Completed by the Department Head**

This is to notify the Retirement Board that \_\_\_\_\_ was \_\_\_\_\_ (job title) in the \_\_\_\_\_ department in the political subdivision of \_\_\_\_\_ who (Check One)  resigned  terminated on \_\_\_\_\_ and that the above named employee will appear on the payroll for the last time on the pay period ending \_\_\_\_\_.

- 1) To the best of my knowledge the above named employee is not leaving to accept a position in the service of the Commonwealth or any political subdivision thereof which would entitle the above to become a member of any similar contributory retirement system and is not seeking to be restored to the position from which such employee was terminated.  
 Yes  No
- 2) Was the above member employed less than full time?  Yes  No
- 3) Is the above employee receiving Workers' Compensation benefits?  Yes  No
- 4) Does the above employee owe any money to the employer under an employee benefit plan, including a cafeteria plan established pursuant to 26 U.S.C. section 125?  Yes  No
- 5) Has this employee been officially investigated for or charged with misappropriation of funds from his/her employer or convicted of any crime related to his/her office or position?  Yes  No

**If yes, please provide documentation.**

Signature/Department Head \_\_\_\_\_

Please make sure to completely and accurately answer all of the questions in Section B. This information is vital to the retirement system in determining whether the member owes funds to the employer or is eligible to receive a refund or rollover their account. Also, every refund or rollover must be approved by the Board and no refund or rollover can be submitted to the Board until all of the proper documentation has been submitted to and verified by the retirement system staff. In particular, no refund or rollover application will be presented to the Board or considered complete unless Section B has been signed by an authorized representative of the employer, which is typically a member of the Payroll/Personnel Department.

ERRS typically advises members seeking a refund or rollover that it may take as much as sixty days from the date a *properly completed application* is received until the member or their designated financial institution will receive payment.

### SERVICE PURCHASES

Massachusetts General Law Chapter 32, Sections 3 and 4 permit members of a public retirement system to purchase certain eligible prior service. This includes prior membership service for which the individual received a refund (Section 3), prior non-membership rendered in another retirement system (Section 3)<sup>2</sup>, and prior non-membership service rendered in employment with a member unit of the Essex Regional Retirement System. (Eligible members may also purchase up to four years of military service.) The individual must be an active member of the retirement system in order to purchase any prior service.<sup>3</sup>

The retirement system will require the assistance of the Payroll/Personnel Department whenever a member seeks to purchase prior non-membership service rendered in one of the system's member units.

The cost to purchase the service will be based on what the employee would have contributed to the retirement system had he or she been a member at the time of their employment. In addition, interest will be charged at one half the current rate of the assumed investment return established by the Board of the retirement system. Interest is calculated through to the date the payment is made.

Upon receipt of payment, the member will be credited with service for the period of time to be purchased. The service will be credited based on a calculation 1 month of service for every 150 hours worked. Therefore, the retirement system must also receive the number of hours the employee worked during the period of time to be purchased.

If a member wishes to buyback time for prior employment with your unit, the member or the retirement system will request copies of the *actual* payroll records for the period of time the member wishes to purchase service. The payroll records, in addition to earnings, must clearly state the number of hours worked per period.

The actual payroll records provided to the retirement system must be certified by an authorized representative of the employer as being true and correct. The retirement system may not permit a member to purchase service if actual payroll records are not available or are not certified by an authorized representative of the employer. In some circumstances, the retirement system will permit a member to purchase service in the absence of actual payroll records. In such a case, the service purchase will only be permitted if comparable documentation can be provided. This comparable documentation must permit the retirement system to compute the earnings and hours the employee worked during this period with a reasonable degree of certainty and such

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<sup>2</sup> ERRS only permits purchase of prior non-membership service rendered in another retirement system if that retirement system will accept liability for the service.

<sup>3</sup> Purchases of service are also known as "buybacks" or "make up payments."

documentation must also be certified as true and correct by an authorized representative of the employer unit.

In some cases, the production of payroll records may be time sensitive. Members may only purchase prior service while they are actively employed. A member approaching retirement or the end date of their service, may need to purchase prior service before they are no longer employed. The retirement system encourages members make service purchases well in advance of a retirement or termination, but in many cases urgent requests for actual payroll records may be unavoidable.

## RETIREMENTS

A member is officially retired when the Board votes to approve their retirement application. Only upon a vote approving their retirement application may a retiree begin to collect their benefit. The retirement system advises members to plan on waiting sixty days between the date on which they are last employed and the date on which they will receive their first retirement benefit payment.

The role of the Payroll/Personnel Department is essential in coordinating a member's retirement application. First, if an employee submits a notice of retirement to their department head or the personnel office, please advise the member that they still need to notify the retirement system. The individual must file an *Application for Voluntary Superannuation Retirement* form which allows a member to apply to receive a superannuation (regular) retirement allowance. If a member files an application for retirement with ERRS and has not notified their employer, they will be instructed to provide notice to the employer by the retirement system.

On or about the member's retirement date, the Payroll/Personnel Department will be contacted by the retirement system in order to obtain information essential to the correct calculation of the member's retirement benefit. The retirement system will request actual payroll records for the three consecutive years of the member's highest earnings, which will be used to calculate the member's retirement benefit. The Payroll/Personnel Department should submit the payroll records as soon as is practicable. Failure to timely submit complete payroll records may cause a delay in the member receiving his or her first retirement check.

In order to properly process a member's retirement application, the retirement system will also need to know the following:

**Separation from Service Date** — This is the last date on which the member actually receives regular compensation. For instance, if the member last worked on Wednesday, September 16th, this is the date to be provided, even if the payroll period ends on Saturday, September 19<sup>th</sup>. The retirement system will confirm that the last day on the payroll is consistent with the retirement date provided by the member. The payroll department will be contacted for clarification if there is a problem.

**Pay Date** — This is the date on which the member is actually paid (i.e. the date of the member's last paycheck.) This date is important because it alerts us to whether we may have to wait for a

final deduction report to calculate the member's retirement allowance. (When deductions are received for a member after they are retired, their retirement benefit must be recalculated and may need to be adjusted.)

**Final Deductions** — This should be the last day of the pay period. For instance, the member may have last worked September 23rd, and the pay period ending would be September 26<sup>th</sup>. Providing this information helps the retirement system determine when it can accurately calculate the member's retirement allowance. For example, if the member retires on September 23rd, and this date is the member's last on the payroll, and the week ends on September 26th, but the pay date is October 1st, then the retirement system will know that the member's deductions are not complete as of the end of September. The retirement system will know it must wait to receive the October deduction report before it can calculate the member's retirement allowance.

## **DISABILITY RETIREMENTS**

Members may be eligible for two different types of disability retirements: Ordinary or Accidental. Any member is eligible for an **Ordinary Disability Retirement**, provided that they meet certain service requirements, if their incapacitation is permanent and is due to sickness or injury that is not work-related, and the disability prevents him or her from performing the essential duties of their position. Generally, if a member's permanent incapacitation prevents him or her from performing the essential duties of his or her position because of a personal injury sustained or a hazard undergone while in the performance of his or her duties at a definite time and place and without serious and willful misconduct on his or her part, he or she is eligible to apply for an **Accidental Disability Retirement**.

When a member is approved for an Ordinary Disability Retirement, the Payroll/Personnel Department must provide the same information that is needed as if the member retired for a superannuation (regular) retirement.

If a member has been approved for an Accidental Disability retirement, the retirement system must obtain the member's salary or rate of pay at the time of the incident or injury and the member's earnings in the twelve (12) months preceding the incident/injury. Also, the retirement system must confirm the last day the member received regular compensation.

When a member is approved for either an Ordinary or Accidental Disability Retirement, the staff at ERRS will be in contact with the Payroll/Personnel Department regarding the required information. This information will not be requested until such time that the member's application for a disability retirement has been approved by the Board and submitted to PERAC for its approval.

## **INSURANCE PREMIUMS**

Whether or not a retired member of ERRS is eligible for health, dental or life insurance is determined by the individual's last employer, not by the retirement system. ERRS will, however, work with the individual and the employer to withhold the required premiums from the benefit payment which will be submitted directly to the employer each month.

A new retiree may not receive their first benefit payment until sixty days after their last day of employment. The retiree must contact the employer to insure that there is no interruption in their insurance coverage. Employers often handle this transition differently. Some employers require a month's payment directly from the retiring employee, while others withhold the premium from the retiring employee's pay prior to retirement, and still others will permit a double payment from the retiree's first benefit check. The retirement system is happy to work with the employer and the individual to process these withholdings in whatever manner is required.

The premium payments are submitted by the retirement system to the employer units upon the issuance of the monthly retiree benefit payroll. This occurs on the last business day of each month. Employers who are not receiving these payments electronically and whose payments exceed \$10,000 may not receive their monthly premiums until the following month. The retirement system strongly recommends that employers arrange to receive their monthly insurance premium payments electronically.

### **POST RETIREMENT EARNINGS – REGULAR RETIREMENT**

Individuals receiving a superannuation (regular) retirement allowance from ERRS (or any Massachusetts public retirement system) are eligible to be employed post-retirement for any city, town, county, school district, agency or authority in Massachusetts.

However, public retirees who return to public employment with any governmental entity in Massachusetts cannot exceed employment of more than 960 hours in a calendar year, and cannot earn more than the difference between what they are receiving from their pension benefit and what they would be receiving had they remained in the position from which they retired. Once retired for one full calendar year (January – December) retirees may earn an additional \$15,000 per calendar year.

A retiree must stop working when **either** the hours or the earnings limitations are met.

The limitation of 960 hours includes all public sector employment and is not just limited to a single employer. The earnings limitation includes all earnings from post-retirement employment as well.

Please also note that the earnings limitation is based on the regular compensation being paid for the position from which the individual retired and does not include payments such as overtime.

The Payroll/Personnel Department should also be aware that the above limitations include such payments as detail pay for police officers and firefighters, and work as an “independent” consultant or contractor.

Retirement deductions should not be taken from any pay to a retired individual working post-retirement.

PERAC has advised that under Massachusetts public retirement law, the enforcement of post-retirement limits are placed upon the employer and respective treasurer authorized to pay local

employees. Case law has also established that a retirement board may act as part of its fiduciary responsibility to collect any overpayment of post-retirement wages if the employer fails to act.

Information on post-retirement earnings is available from the retirement system and the staff is ready to assist any employer with questions concerning these limitations.

### **POST RETIREMENT EARNINGS – DISABILITY RETIREMENTS**

An individual receiving a disability retirement allowance is subject to earnings limitations for *both public and private sector* employment. To determine the post-retirement earnings limitations, PERAC contacts the retirement system to obtain certain wage information. The retirement system in turn, contacts the appropriate employer to gather this information.

The retirement system will request information as to how much the disability retiree would have earned if he or she had continued working in the same position from which the individual retired. The retirement system staff will work with the employer to assist in gathering the earnings information and will be able to answer any questions you may have regarding the information sought.

### **MEMBER OR RETIREE DEATHS**

The retirement system employs a subscription service to obtain information on members or retirees who may have passed. If, however, the employer becomes aware that a member or retiree has died, please notify the retirement system as soon as you are able so that survivors of the deceased can be contacted and advised of the benefit options that may be available to them.

### **PENSION FORFEITURE**

Massachusetts General Law Chapter 32, Section 15 provides that an individual may forfeit their eligibility for a retirement benefit after final conviction of a criminal offense involving violation of the laws applicable to his or her office or position. The commencement of proceedings pursuant to M.G.L. c. 32, Section 15 may be initiated by the head of the department, by the Public Employee Retirement Administration Commission or by any employing authority in a member unit of the Essex Regional Retirement System or by the Board. Massachusetts General Law Chapter 32, Section 16(1)(a) requires that the Board conduct a hearing to determine whether the provisions of Section 15 have been violated.

An employer unit should provide notice if it is aware that a member of the Essex Regional Retirement System is under indictment for misconduct in his or her elective office or appointed position, or has been suspended from his or her position, or owes restitution to the employer unit. This will assist the retirement system in complying with the pension forfeiture statute.

## **RESOURCES**

As noted at the beginning of this guide, Massachusetts General Law Chapter 32 is a complex statute. However, many resources are available to assist you with retirement related issues. Primarily, you should never hesitate to contact ERRS for assistance. The staff of the retirement system is willing and eager to provide information to you.

In addition, we recommend that you consult our website, [www.essexregional.com](http://www.essexregional.com) regularly to obtain information that may be of assistance to you. At the top of the page, you will find an Employers tab. If you click on this tab, it will bring you to a page with information that will assist you in managing retirement issues. On the Forms page of the website, there is also a section designated for Payroll Coordinators, which contains forms and guides that you can use when working with the retirement system.

In addition, the Public Employee Retirement Administration Commission (PERAC) maintains a website (<http://www.mass.gov/perac/>) which provides information, guides and forms on all Massachusetts public retirement issues. And you can access Massachusetts General Law Chapter 32 directly through the website of the Massachusetts State Legislature (<https://malegislature.gov/>.)

We hope this Payroll and Personnel Guide is of assistance to you and if you have any suggestions for additions or updates, please feel free to submit them to us via phone at (978) 739-9151 or via mail at [info@essexrrs.org](mailto:info@essexrrs.org).

Thank you.