

# MEMORANDUM

**State of Alaska**  
**Department of Administration**  
**Division of Personnel**

**To:** Administrative Services Directors  
Division of Personnel Staff

**Date:** September 21, 2006

**From:** Dianne Kiesel  
Director

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**Subject:** FAQ on the provisions of HB 161 and the Retiree Rehire Policy

The provisions of HB 161 were effective July 1, 2005. The bill established new sunset dates for employees who are working under a PERS waiver through the retiree rehire program. The bill established rules regarding the recruitment process that must be used prior to appointing an individual who will seek a PERS waiver; it requires employers to provide health insurance for PERS waiver employees, it requires that the employer make contributions to the unfunded liability of the retirement system for PERS waiver employees, and it establishes a mandatory legislative reporting requirement for the Division of Retirement and Benefits.

## **What was the Legislature's intent in passing HB 161?**

In extending the sunset dates of the retiree rehire program, the legislature intended to allow public employers the ability to continue to use this management tool while developing plans that address the knowledge, skills and abilities that need to be transferred or developed to assure that work can be accomplished when the bill sunsets on July 1, 2009.

The provisions of the bill also protect the retirement system from any potential increased unfunded liability through requiring employers to pay into the system and to provide health insurance to PERS waiver employees.

## **What are the new sunset dates?**

HB 161 established three new sunset dates for re-employed retirees, based upon the date of rehire. The two that remain applicable are as follows:

1. Retirees hired prior to Nov. 3, 2004 may continue their current employment and PERS waiver status until December 31, 2006.
2. Retirees hired on or after July 1, 2005 may continue their employment and PERS waiver status until June 30, 2009.

## **What happens when the sunset date occurs?**

For employees hired prior to July 1, 2005, once the stated deadline occurs, the employee cannot continue receiving retirement benefits under their current PERS waiver. The employee has three options:

1. Separate from service and continue collecting retirement benefits.

2. Continue employment, cease collecting retirement benefits, and again, become a participating PERS member .
3. Seek work through a competitive recruitment process. If reappointed, the employee will be required to file a new PERS waiver form with the Division of Retirement & Benefits within 30 days of re-employment.

Overall, the program is repealed July 1, 2009. At that time, absent further action by the legislature, the rehire program will terminate and any employees working under a PERS waiver would have the options outlined in 1 and 2 above.

**If an employee who is currently working under a PERS waiver chooses to continue employment and ceases collecting retirement funds, what retirement tier will they be in?**

An employee's retirement tier is established by their initial date of employment with a PERS employer. Therefore, their retirement tier would remain unchanged.

**If I want to consider an applicant for a classified position who will request a PERS waiver what recruitment process must I use?**

The recruitment must be an "Alaska Resident" or "All Applicant" posting through Workplace Alaska, or another competitive recruitment process negotiated through the collective bargaining process. The recruitment must be posted initially for a minimum of 15 days.

If there are fewer than five qualified, eligible, and available applicants, including the individual who wishes to return to work under a PERS waiver, the recruitment must be extended for a period of time that will equal at least a 30 day posting period. If the recruitment results in fewer than five qualified, interested and available applicants, the individual seeking a PERS waiver may be considered for the opening.

The provisions of the Retiree Rehire Policy must be met prior to the Division of Personnel approving the appointment of an individual who is requesting a PERS waiver to a classified position.

**What is the Retiree Rehire Policy?**

With the sunset of HB 242 and the passage of HB 161, Administrative Order 225 is no longer operative. The Retiree Rehire Policy issued by Commissioner Scott Nordstrand dated September 11, 2006 articulates the policy previously articulated in Administrative Order 225.

**What is the intent of the policy?**

As Administrative Order 225 did for HB 242, the Retiree Rehire Policy places "side boards" on the retiree rehire program created by HB 161. These "side boards" address the concerns expressed by several legislators during the last legislative session. This policy provides certain criteria that must be met with the appointment of rehired retirees to positions in the classified service. The purpose of the retiree rehire provisions of HB 161 is to provide a management tool to help address existing and anticipated recruitment problems currently facing executive branch operating agencies. The intent of the policy is to ensure that this very important management tool is used to focus in on specific job classes where there are recruitment problems. The intent

is to also encourage managers in all state agencies to anticipate and plan for the eventuality of retirement of the state's seasoned workforce in the classified service in a manner that does not undermine the state's workforce or create morale problems among less experienced staff who are preparing for promotional opportunities created by retirement of their coworkers.

**What are the basic provisions of the policy?**

- 1 The hiring authority must run an open competitive recruitment of at least 30 days in order to consider an individual seeking employment under the provisions of a PERS waiver.
- 2 The applicant pool must result in a pool of fewer than five qualified, eligible and available applicants.
- 3 All qualified, eligible and available applicants must be considered.
- 4 The hiring authority must demonstrate why no other applicant will have the knowledge, skills or ability to perform the duties of the position after serving the full probationary period.
- 5 Once an individual is hired who is working under the terms of a PERS waiver, the employing agency must work with the Division of Personnel to identify the critical components of the position; what knowledge, skills and abilities need to be developed in the organization to assure that the work can be accomplished once the appointed individual separates; and to develop a plan for accomplishing the transfer of knowledge.

**What types of positions does the policy apply to?**

This policy applies to positions in the classified service, teachers, and vessel employees of the Alaska Marine Highway System.

**Can I rehire an individual who will seek a PERS waiver without using a competitive recruitment process?**

No. You must conduct an open competitive recruitment process.

**What is an open competitive recruitment?**

An open competitive recruitment process is defined as one where there is a public notice period and it is open to qualified and eligible applicants.

**Can an “all state employees” or “department employees only” recruitment be conducted?**

No. In order to consider an applicant who will return to work under a PERS waiver, you must run at least a 30-day Alaska Resident recruitment.

**Can a retiree be hired into an LTC position under a PERS waiver if all criteria are met with the exception of the 30-day Workplace Alaska posting?**

Yes. Applicants for positions in the LTC bargaining unit are referred for state employment through a union hiring hall. When an applicant is referred by the union, the competitive recruitment process has been satisfied. All other requirements of the policy would remain in effect.

**How will I know an individual in the recruitment pool is seeking a PERS waiver?**

The Job Qualification Summary asks an applicant to articulate if they will apply for, or are currently working under, a PERS waiver. If you are considering applicants for an LTC position, you must ask them if they are planning to work under a PERS waiver prior to determining who the successful applicant will be.

**What does the term “consider” mean?**

Consideration of an individual during the selection process occurs when the hiring manager has obtained enough knowledge of the candidate’s background in relationship to the job to determine whether or not the candidate should be selected, rejected, or given further consideration. Methods of consideration can range from a review of the candidate’s work history or application, to the telephone or in-person interview. The appointing authority must be prepared to provide the applicant with the job-related reason for which he/she was not selected.

**What does qualified, eligible and available mean?**

An applicant is considered “qualified” if they meet the minimum qualifications for the job classification. An applicant does not have to meet the desired qualifications to be considered “qualified.”

An applicant is considered “eligible” if he/she

- has the right to accept employment in the United States;
- is an Alaska resident, if applicable;
- has not been convicted of a crime that directly relates to his/her future performance in the position applied for;
- has complied with all the requirements of the Selective Service Act; and
- has not lost his/her eligibility under 2 AAC 07.112.

An applicant is considered “available” if they are able to report to work within a reasonable period following acceptance of the job offer. Reasonable is defined as two to four weeks.

**What if I post a recruitment for 10 days and then discover an applicant in the pool whom I want to consider who has indicated they will file for a PERS waiver?**

If the recruitment has not yet closed, you can extend the recruitment an additional 20 days to assure you will be able to consider all applicants who apply. If the recruitment has closed and it is within 2 weeks of the closing date, you may repost the recruitment for an additional 20 days. If it is beyond this 2 week period will need to post a new recruitment for 30 days.

**Why does an applicant have to be separated from employment for 30 days prior to appointment?**

A 30 day separation from employment is required under law prior to a retiree applying for a PERS waiver.

**If an individual served a 30 day separation prior to appointment as a retiree rehire under HB 242 and is now seeking rehire under HB 161 must they serve another 30 day separation?**

No. Only one 30 day period of separation is required.

**If an individual currently employed under HB 242 accepts an appointment to another position prior to the applicable sunset date of December 31, 2006, are they still considered to be employed under HB 242 or are they now employed under HB 161?**

The retiree rehire is employed under HB 161 providing the criteria of the Retiree Rehire Policy are met, the appointment is approved by the Director of the Division of Personnel and Labor Relations, and the individual completes and submits a PERS waiver within 30 days of the new appointment. Failure to follow these steps will result in the retiree rehire's forfeiture of retirement benefits during the period of employment.

**If an individual employed under HB 161 is approved by the Director of the Division of Personnel and Labor Relations for appointment to a different position, must the individual complete another PERS waiver?**

Yes. A PERS waiver is specific to a position. If an individual changes positions a new PERS waiver must be completed and submitted within 30 days of the effective date of the change. Failure to complete a new PERS waiver will result in the retiree rehire's forfeiture of retirement benefits during the period employment.

**Do the provisions of HB 161 apply to Partially-Exempt and Exempt employees?**

Yes. The same sunset dates apply as do the provisions regarding medical benefits and contributions to the unfunded liability of the retirement system. However, the process for rehiring is not the same. All appointments of retirees to positions in the partially exempt and exempt service, with the exception of teachers and vessel employees of the Alaska Marine Highway System, are subject to the approval of the Governor's Office.

As with classified employees, if a retiree rehire employed in a partially-exempt or exempt position moves to a different position, the individual must complete and submit a new PERS waiver within 30 days of the effective date of the position change. Failure to complete a new PERS waiver will result in the retiree rehire's forfeiture of retirement benefits during the period employment.

**What type of medical benefits apply to an individual re-employed under the provisions of HB 161?**

Current employees who were re-employed under a PERS waiver prior to November 3, 2004, and remain in the same position, will continue to receive coordinated medical benefits through December 31, 2006.

Employees who were re-employed under a PERS waiver after November 3, 2004, and who are employed on a full time basis, must use the medical coverage provided for active employees. If

the PERS waiver employee is employed less than 30 hours a week, the employee may receive retirement medical benefits.

Under Select Benefits, the reappointment of a retiree under HB 161, who is currently employed under HB 242, with no break in service, is not considered a qualified status change for the purpose of changing benefit elections. Therefore, under these circumstances, employees reappointed under HB 161 will not be eligible to change their health benefit elections with Select Benefits until the next benefit year or a qualified status change occurs.

Retirees currently employed under HB 242 and who are covered under one of the union health trusts must contact their health trust for information on qualified status changes, benefit election periods, and other impacts reappointment under HB 161 may have on medical benefits.

**What is the employer’s obligation in terms of retirement contributions?**

Employers of a retiree must make contributions to the unfunded liability of the system on behalf of that retiree at the rate the employer is making contributions to the unfunded liability of the system for other employees.

**What type of legislative reporting requirements exist?**

The Division of Retirement and Benefits must submit a report to the legislature on an annual basis by the 30<sup>th</sup> day of the legislative session. The report will address the effect of the retire/rehire program and include information on the efforts of state departments to address the recruitment difficulties in job classes in which the retirees have been rehired.

**Where can I find additional information?**

Questions regarding the recruitment/application process and other general questions or concerns regarding the impact of HB 161 and the Retiree Rehire Policy on an individual’s employment status can be addressed to the Division of Personnel, Management Services Section:

Sharon Dick, Senior Consultant 465-2498	Administration, Law, Revenue, Education & Early Development Labor & Workforce Development Commerce, Community & Economic Development
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Penny Beiler, Senior Consultant 465-2463	Natural Resources, Fish & Game Environmental Conservation
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Camille Brill, Senior Consultant 269-8668	Corrections, Public Safety Military & Veterans Affairs
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Tyler Andrews, Senior Consultant 269-0288	Health & Social Services
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Judy Porter, Senior Consultant 465-6956	Transportation & Public Facilities
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Questions regarding the impact of your decision on your retirement can be addressed to:

Kathy Carson, Retirement & Benefits Specialist,  
465-5697 or 1 (800) 821-2251

cc: Traci Carpenter, Director  
Division of Retirement and Benefits