

## New Requirements for Returning to Work after Retirement

During the 2025 legislative session of the West Virginia Legislature, Senate Bill (SB) 712 passed and will be law effective July 11, 2025. This legislation requires any member who retires effective August 1, 2025 or after to have a “bona fide separation from service upon retirement” to be eligible for a monthly retirement annuity. “Bona fide separation from service upon retirement” is defined in this legislation to mean that a retirant has completely terminated any “employment relationship” with the employer or any participating employer in the retirement system in which he or she is a member for a period of at least 60 consecutive days from the effective date of retirement and without a prearranged agreement to return to employment with a participating employer in that retirement plan. An “employment relationship” includes employment in any capacity, whether on a temporary full-time, temporary part-time, substitute, per diem, leased employee (i.e. independent contractor or an employee with a leasing organization), permanent part-time or permanent full-time basis.

If a retiree fails to have a “bona fide separation from service upon retirement” or if such retirant or his or her employer fails to report post-retirement employment in a manner satisfactory to the Consolidated Public Retirement Board (CPRB), then the retiree's retirement shall be voided and the member shall repay to the retirement system the gross amount of all annuity payments received related to such voided retirement. If a member's retirement is voided, any future tax repercussions will fall solely upon the member and may have negative tax consequences.

The “bona fide separation from service upon retirement” provisions in SB 712 were enacted to ensure the retirement systems administered by the CPRB comply with federal tax qualification standards established under the Internal Revenue Code. Specifically, a governmental retirement system must ensure that retirement benefits are not distributed until there has been a “bona fide separation from service” in order to retain tax-favored status. Failure to comply with these requirements could result in significant adverse consequences to members, retirees and participating employers of CPRB retirement plans. If the Internal Revenue Service were to determine that any retirement system administered by CPRB allows prearranged rehiring or inauthentic retirements, the entire retirement system could lose its tax-qualified (or pre-tax) status. Loss of tax-qualified status would result in immediate taxation of benefits for all members and retirees, the loss of tax-deferral for all ongoing contributions and potentially significant tax penalties to participating employers, members and retirees. Thus, SB 712 helps safeguard the integrity and federal tax-exempt status of the retirement systems by clearly codifying and enforcing the necessity of a genuine break in service upon retirement, which in turn protects members, retirees, participating employers and the financial health of the retirement systems.

Please contact the Retirement Section of the CPRB at (304) 558-3570 for additional questions.