

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Rule making related to bona fide retirement

The Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 11, "Application for, Modification of, and Termination of Benefits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 97B.52A.

Purpose and Summary

Sentences concerning bona fide retirement for newly elected officials were inadvertently deleted from subrule 11.5(1) in IPERS' most recent rule making (**ARC 3684C**, IAB 3/14/18). This rule making restores sentences on this subject. Specifically, IPERS adds the following language as an unnumbered paragraph in 11.5(1):

"The bona fide retirement period will be waived if the member has been elected to public office which term begins during the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term."

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 4, 2018, as **ARC 3885C**. IPERS accepted written comments concerning the proposed rule making from any interested person. Written comments in response to this rule making had to be received by IPERS no later than 4:30 p.m. on July 24, 2018. No comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by IPERS on October 4, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

IPERS-covered retirees will be allowed to serve as newly elected officials before they have completed a bona fide retirement period.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPERS for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on November 28, 2018.

The following rule-making action is adopted:

Amend subrule 11.5(1) as follows:

11.5(1) *Bona fide retirement—general.* To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS' bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member's first month of entitlement, entered into verbal or written arrangements with the employer to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the retirement benefit. Such an elected official or legislator may remain in the elective office and receive an IPERS retirement without violating IPERS' bona fide retirement rules. If such elected official or legislator terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a retirement as of the date of hire, the retirement shall not be made. Furthermore, if such elected official or legislator is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the elected official or legislator shall not be eligible for new IPERS coverage for such elected position. The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official or legislator is reelected to the same position without an intervening term out of office.

The bona fide retirement period will be waived if the member has been elected to public office which term begins during the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

Effective July 1, 2018, a member will not have a bona fide retirement if the member enters into a verbal or written arrangement to perform duties for the member's former employer(s) as an independent contractor prior to or during the member's first month of entitlement or performs any duties for the member's former employer(s) as an independent contractor prior to receiving four months of retirement benefits.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/24/18.