

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8392. Reemployment and Double Dipping.

(a) A person who has retired and received retirement benefits from the government of the Northern Mariana Islands shall not be employed by or under an employment or consulting contract with the government of the Northern Mariana Islands or its public corporations, boards or commissions unless the person is:

(1) Appointed by the Governor to a position requiring the advice and consent of the Senate or House of Representatives or both.

(2) Hired in a position for which professionals are not readily available in the local labor market, including, for example, teachers for the Public School System and the Northern Marianas College, attorneys for the offices of the Attorney General and Public Defender, nurses and doctors for the Commonwealth Health Center, audit staff for the office of the Public Auditor, and former elected officials.

(3) Elected to public office.

(4) A Title V employee under the federal Older Americans Act. A retiree may be hired under Title V of the Older Americans Act [42 U.S.C. § 3001 et seq.] and continue to receive benefits from the Northern Marianas Retirement Fund. Those benefits will be based on the computed service and wages earned upon his or her retirement. He or she shall not be required to contribute to the Retirement Fund on wages earned as a recipient of Title V of the Older Americans Act. Any retiree who was hired under Title V of the Older Americans Act prior to October 11, 1991, and who has contributed to the Retirement Fund from such wages, shall be entitled to a refund of all such contributions. Nothing in this section shall be construed to violate any provision of N.M.I. Const. art. III, § 20.

(5) Specifically exempted by the Governor, with the concurrence of the Retirement Board.

(b) A person who has retired and received a retirement benefit shall not be eligible to receive prior service credit if the person continues to receive retirement benefits from the government while accruing service that is eligible for credit as prior service credit upon reemployment with the government.

(c) Provided, however, that any person who elected to retire pursuant to the provisions of N.M.I. Const. art. III, § 20(b) may be employed by the Commonwealth for no more than 60 calendar days in any fiscal year without forfeiting any retirement benefits.

(d) Retirees are allowed to return to government employment as classroom teachers, nurses, doctors and other medical professionals for a period not to exceed two years without losing their retirement benefits. However, no such re-employed retiree shall have their retirement benefits recomputed based on any re-employment during which retirement benefits are drawn, but every such re-employed retiree shall nevertheless be required to contribute to the retirement fund during the period of re-employment, at the same rate as other government employees.

As authorized under the provisions of N.M.I. Const. art. III, § 20(b), and as permitted by law, all retirees who are re-employed by the Commonwealth following the effective date of this act shall not, in any event or under any

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circumstances, have their retirement benefits re-computed based on their reemployment services.

Source: PL 6-41, § 15 (repealing PL 6-17, ch. 8, § 83811); amended by PL 7-39, §§ 6, 7, 8; PL 7-40, § 3; PL 8-31, § 13; PL 11-2, § 4; last paragraph added by PL 15-70, § 4(h).

Commission Comment: Subsection (a)(5), added by 7-40, § 3, is “retroactive to January 1, 1988.” PL 7-40, § 4. To enhance clarity, in that section, following “Governor,” the Commission deleted “and” and inserted a comma.

PL 11-2, § 4 added new subsection (d) to this section. PL 11-2 took effect February 12, 1998. According to PL 11-2, §§ 1, 2, and 3:

Section 1. Short Title. This Act may be cited as the “Retiree Re-employment Amendment Act of 1998”.

Section 2. Purpose. The purpose of this Act is to allow retirees to return to government service as classroom teachers, doctors, nurses and other medical professionals without losing their retirement benefits.

Section 3. Findings. The Legislature finds that the number of classroom teachers, doctors, nurses and other medical professionals is insufficient to meet the demands of the Commonwealth. The Legislature finds that there are local retirees who could fill these positions who are reluctant to do so because government re-employment would terminate their retirement benefits. The Legislature further finds that Senate Legislative Initiative No. 10-4 allowing for a constitutional amendment to permit for this type of legislation was favorably passed by the voters of the Commonwealth.

PL 11-2 contained severability and savings clauses as follows:

Section 5. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 6. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Public Law 15-70, which was entitled “The Defined Benefit Plan Reform Act [DBPRA] of 2007,” was enacted on June 14, 2007, and contained, in addition to other enactments, findings and purpose, transition, severability, and savings provisions. See the comment to 1 CMC § 8382 for details of PL 15-70.