

Date: April 7, 2020
To: MCERA Participating Employers
From: James Wilbanks, Executive Director
Subject: Governor's Executive Order N-35-20

Purpose

On March 4, 2020, Governor Gavin Newsom declared a statewide state of emergency due to the COVID- 19 pandemic. Governor Newsom issued Executive Order N-25-20 on March 12, 2020, which temporarily waived the work hour limitations for retirees of CalPERS. On March 21, 2020, Governor Newsom issued Executive Order N-35-20, which applied the retired annuitant provisions of N-25-20 to all local government employers.

The purpose of this letter is to inform you of the impact of Executive Order N-35-20 on Mendocino County Employees Retirement Association (MCERA) retirees employed with all MCERA employers.

Work Hour Limitation Exceptions

To ensure adequate local government staffing to expedite emergency response and recovery, the work hour limitations for retirees are waived from the date Executive Order N-35-20 was issued until the state of emergency is lifted, or until further notice. The intent of the executive order is to suspend the retired annuitant work hour limitation of 960 hours per fiscal year during the state of emergency. Any hours worked by a retiree to ensure adequate staffing during the state of emergency will not be counted toward the 960-hour limit for the fiscal year.

Wait Period Exceptions

Under Executive Order N-25-20, as applied to MCERA's participating employers through Executive Order N-35-20, the 180-day break in service requirement under Government Code section 7522.56(f) is also waived for retirees hired to provide adequate staffing during the state of emergency. In addition, retirees who retire younger than MCERA Normal Retirement Age (50 for Safety members, 62 for General members) are exempt from the 60-day separation in service requirement.

Required Actions

Employers must take the following steps for each retiree who will be employed under the emergency provisions:

- 1. Complete the Emergency Return to Work form and submit it to MCERA.**

Please note that this form must be signed by an authority within the organization authorized to hire retirees to support the state of emergency. The County CEO, Court Executive

Officer, RRCD Office Manager, or an individual authorized to act on the authority of the governing body's chief executive. Forms may be mailed or sent by email to retirementassociation@mendocinocounty.org.

2. Notify the California Department of Human Resources.

As outlined in the Governor's Executive Order N-25-20, the Director of the California Department of Human Resources must be notified of any individual employed pursuant to these waivers. Notification should be sent to CAStateofEmergency@calhr.ca.gov. A copy of the notification should be sent to retirementassociation@mendocinocounty.org.

3. Report emergency hours worked to MCERA separately.

Employers must report to MCERA the emergency hours worked by retiree pursuant to these waivers separately from the hours worked under the standard return to work provisions. MCERA will continue to monitor the work hours for retirees covered by this order and send communication to confirm when a violation is found and whether it complies with these exceptions.

Timeline

The suspension of the retiree work hour limitation and wait period exceptions are effective as of March 21, 2020, the date Executive Order N-35-20 was issued, and will remain in place until the state of emergency is lifted or until further notice.

Continued Compliance

All other return to work provisions still apply:

- There must not be any predetermined agreement between an employer and an impending retiree for the retiree to return to work.
- Plan sponsors must continue to report retirees who have returned to work to MCERA.
- Compensation for retirees shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule.
- A retiree shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.

Questions

If you have any questions, please email MCERA Administrative Assistant Judy Zeller at judy.zeller@mendocinocounty.org or leave a message at (707) 463-4328.