

## MEMORANDUM

To: ERS Participating Employers  
From: William F. Kelley  
Director, Employees' Retirement System  
Date: June 26, 2013  
Re: Request for Information from ERS Participating Employers in Accordance with Attorney General's Opinion 2013-044  
Deadline: **All Recipients Must Reply No Later Than September 30, 2013, and Thereafter as Retirees Are Hired.**

RSA has a statutory duty to suspend the pension payments of retirees who return to work for an ERS participating employer in violation of the "return to work" provisions of the ERS law. The law allows a retiree to work for a participating employer without suspension of his benefits if (1) the retiree is not employed in a permanent fulltime capacity and (2) in 2013, earns \$23,000 or less per calendar year.

All participating employers have a continuing duty to provide information to the RSA to enforce the pension suspension rules. Recently, the Attorney General issued Opinion 2013-044 which clarified the employers' responsibilities. Attached for your review is a copy of the Attorney General's Opinion and a memorandum providing more information. In light of Opinion 2013-044, please provide to RSA the following no later than September 30, 2013:

1. The names of all RSA retirees who perform services for your entity even if that retiree has been hired through a personal services contract, a contract with a third party or as an independent contractor. **(If there are none, you must let us know no later than September 30, 2013.)**
2. The annual amount of compensation paid to the retiree.
3. A statement of whether the retiree works full-time, part-time and/or in a permanent position.
4. Copies of any contract or employment agreement related to the retiree's services.
5. A description of the manner in which the retiree is paid.
6. A description of the duties performed by the retiree, including how the retiree gets assignments.
7. A description of where and when the retiree performs his/her duties, including whether the retiree uses his/her own equipment or that of the participating employer.
8. Any other information which is relevant under the IRS "twenty factor" test, a copy of which is included in this packet.

In the future, you must provide this information as soon as possible but no more than 30 days after the retiree is engaged to perform work for your agency. Please contact me at 1-877-517-0020 if you have any questions concerning this matter.