

Limitations on Working After Retirement: It's Not Just for Employees Anymore

Missouri Senate Bill 62

Missouri Senate Bill 62, an omnibus bill effecting several pension systems, was signed by Governor Eric Greitens on July 14, 2017. Included therein was an amendment to PSRS, Sections 169.010-169.141 R.S. Mo., which took effect August 28, 2017, related to contracting with retirees.

As most are aware, Section 169.560 R.S. Mo. has two big limitations for retirees employed by PSRS districts following retirement:

1. 550 hours
2. 50% salary cap
 - a. up to fifty percent of the annual compensation payable under the district's salary schedule for the position(s) filled by the retiree, given such person's level of experience and education
 - b. if the District does not utilize a salary schedule, or if the position in question is not subject to the district's salary schedule, up to fifty percent of the annual compensation paid to the person(s) who last held such position(s)
 - c. if the position(s) did not previously exist, limit shall be determined in accordance with rules duly adopted by the board of trustees of the retirement system but not exceed fifty percent of the annual compensation payable for the position in the district that is most comparable to the position filled by the retiree

Updated to include
new guidance.



By: Kristen O'Neal

The amendment to Section 169.560 R.S. Mo. expands the application of these limitations to retirees performing work as independent contractors and/or working for third party providers:

[A]ny person retired and currently receiving a retirement allowance under sections 169.010 to 169.141, other than for disability, who is employed by a third party or is performing work as an independent contractor, if such person is performing work in a district included in the retirement system as a temporary or long-term substitute teacher or in any other position that would normally require that person to be duly certificated under the laws governing the certification of teachers in Missouri if such person was employed by the district.

While the amendment is relatively clear as to who the limitations now apply to – independent contractors and employees of third party providers – it is not clear as to what positions the limitations apply to – just teachers and administrators or all potential certificated positions. “[O]ther position that would normally require that person to be duly certificated under the laws governing the certification of teachers in Missouri if such person was employed by the district” is not a very practical explanation. However, PSRS recently issued guidance in regards to the breadth of the amendment.

According to PSRS, only PSRS retirees who work after retirement for a third party provider or as an independent contractor at a PSRS district in positions that require a certificate issued by DESE are impacted. Said differently, PSRS retirees working as independent contractors or for third party providers as substitute teachers or in other positions that require certification from DESE must adhere to the limitations in Section 169.560 R.S. Mo. (550 hours and 50% salary). PSRS has specifically concluded the limitations in Section 169.560 R.S. Mo. (550 hours and 50% salary) are not applicable to retirees working as independent contractors or for third party providers as paraprofessionals because no DESE issued certificate is required for a paraprofessional position. PSRS has further determined the amendment does not apply to positions that do not require a DESE issued certificate in every instance: Speech/Language Pathologist, Audiologist, School Psychologist, School Nurse, Occupational Therapist, Physical Therapist, Interpreter for Deaf, Language Translator, School/Home Coordinator, Career Education Teacher Aide, etc. For example, retirees working as independent contractors or for third party providers as Speech/Language Pathologists do not have to comply with the limitations in Section 169.560 R.S. Mo. (550 hours and 50% salary) because a DESE issued certificate is not required in every instance for Speech/Language Pathologists.



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With this guidance in mind, we recommend the District still maintain records regarding hours worked and salary paid for all PSRS retirees in case any questions ever arise. However, it appears PSRS will not require the district to report hours and salary for these “exempt” positions. If the limitations are applicable, they likely apply in total – meaning if a retiree works as an independent contractor or as an employee of a third party provider for District A, District B, and District C, he can only work 550 hours and receive 50% salary total for all 3 districts combined.

The amendment to Section 169.560 R.S. Mo. did not change the limitations related to PSRS retirees employed by a PSRS district – PSRS retirees employed by a PSRS district in any position must adhere to the limitations in Section 169.560 R.S. Mo. (550 hours and 50% salary).

Please note the application of this article is limited to retired public school employees and public school districts included in and/or receiving benefits under PSRS, Sections 169.010-169.141 R.S. Mo.



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