

Teacher Retirement System of Texas



EAR

Employment After Retirement



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This brochure has been written in nontechnical terms wherever possible. However, if questions of interpretation arise as a result of the attempt to make the information about employment after retirement easy to understand, TRS laws and rules must remain the final authority.

This information is based upon the TRS plan terms in effect on Sept. 1, 2016. The TRS plan terms are subject to change due to modifications to the law enacted by the Texas Legislature; to the rules adopted by the TRS Board of Trustees; and to changes in federal law related to qualified retirement plans.

Introduction

Employment After Retirement

The information in this brochure does not apply to your employment with an employer not covered by TRS. Service retirees may work without limit for an employer not covered by TRS without losing any monthly annuity payments. Disability retirees may work an unlimited amount of time for an employer not covered by TRS but may be subject to a compensation limit.

If you are retired from TRS and thinking about returning to work with an employer covered by TRS, OR if you are thinking about retirement and considering possible employment with an employer covered by TRS after you retire, the information in this booklet will help you make the decision that is right for you and avoid any unexpected loss of annuity payments.

This booklet is divided into three color-coded sections that address the considerations for each of the following situations:

- **NOT YET RETIRED (GREEN)**
- **ALREADY RETIRED (BLUE)**
- **DISABILITY RETIRED (ORANGE)**

Each section includes information that you need to make an informed decision. Because early-age retirees cannot negotiate for future employment until after the required break in service, special considerations for these retirees are addressed in each section. Also, employers covered by TRS must pay both a pension and health benefit surcharge for hiring certain retirees and some employers may want the retiree to help contribute towards the cost of employing the retiree. Information about employment that may trigger the surcharge is included.

NOTE: *This brochure has been written in nontechnical terms wherever possible. However, if questions of interpretation arise as a result of the attempt to make the information easier to understand, TRS laws and rules remain the final authority and will determine the disposition of any conflict or question.*

If you still have questions after reading the information in this brochure or you do not find your employment situation addressed, please contact TRS for further information. **Do not rely on information provided to you by another retiree, co-worker, or even your employer.** Your retirement status may not be the same as another retiree or you may have retired at a different time than your fellow retiree. Different laws may apply to different retirees. Your employer is an expert in the business of education; TRS is the expert on your retirement. Call TRS when you have questions about your employment after retirement.

Find the section that matches your current employment or retirement status and find out how the employment after retirement program works for you.

NOT YET RETIRED: Early-Age Retirees

NOT YET RETIRED

If you are not yet retired, but thinking about retiring and wondering if working for an employer covered by TRS after you retire is possible, there are many things to consider. Do you want to work full time or maybe only part time? Do you have to resign your employment before you can retire? When can you negotiate an agreement to return to work? Will employment affect your annuity? These questions and others are answered in this section. If your question is not covered by this section, contact TRS for information regarding your situation.

Early-Age Retirees

If you will be an early-age retiree, meaning your annuity is reduced because you do not meet the criteria for normal-age retirement, the information in this section is for you. Because you are retiring before normal-age retirement, you must wait before negotiating for any type of employment with a TRS-covered employer that begins after you retire.

NOTE: *If you do not observe the restrictions on negotiating for future employment, you could revoke your retirement. If you revoke your retirement, you will have to repay all of the annuity payments including any Partial Lump Sum Option (PLSO) payments you receive from TRS and also repay any health benefit payments paid on your behalf by TRS-Care.*

Once you can negotiate for future employment the full range of opportunities for employment after retirement is available to you. **Here is information for you to consider:**

Question: When can you negotiate with a TRS-covered employer about returning to work after retirement?

Short Answer: You can negotiate with a TRS-covered employer AFTER one full calendar month break in service following the effective date of your retirement. Your retirement date can be found on your copy of the *Application for Service Retirement* form (TRS 30).

But you may also want to know: All retirees, both normal-age and early-age, must wait one full calendar month after retirement before returning to work. **However, early-age retirees must also wait the one full calendar month before NEGOTIATING with a TRS-covered employer to return to work — ANY TYPE OF WORK.** This requirement is based on both state and federal law. At the time you retire, you cannot have a contract or agreement to return to work. Your retirement date and your last day of employment are not always the same day. Your retirement date for TRS purposes is always the last day of the month.

Question: What happens if you have a contract or agreement to return to work before you retire or you negotiate a contract or agreement to return to work before the end of the full calendar month after you retired?

Short Answer: You revoke your retirement and must repay all annuity payments including any PLSO payments and any health benefit payments paid on your behalf by TRS-Care because you have not

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terminated all employment with TRS-covered employers and you were not eligible to retire.

But you may also want to know: If you revoke your retirement by having a contract or agreement to return to work in place before the end of the one full calendar month after your retirement date, you must repay all annuity payments including any PLSO payments you receive from TRS and any health benefit payments paid on your behalf by TRS-Care. You must then terminate all employment with TRS-covered employers and retire again. TRS cannot pay you any benefits under the new retirement until you pay back all of the benefits you already received. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. While you may want to make sure you can return to employment before you submit your resignation and retire, do not risk it. Wait until you have satisfied the one full calendar month break in service after you retire to enter into an agreement with a TRS-covered employer about returning to work.

Question: Can working in any other way cause you to revoke your retirement?

Short Answer: Yes, if you return to work for a TRS-covered employer in ANY capacity, including as a substitute, at any time during the one full calendar month following the month of your retirement, you revoke your retirement.

But you may also want to know: All retirees must wait one full calendar month after retirement before returning to any type of work for a TRS-covered employer; even work as a substitute during the required break in service is work that revokes your retirement. Your retirement date is always the last day of the month in which you retire. If you work into June, but no later than June 15 and retire May 31 as allowed by law, you have to wait until Aug. 1 to return to work. Remember, you must wait one full calendar month before negotiating to return to work and before returning to work. Because you worked in June, you cannot count the remainder of June toward this requirement. July would be the first full calendar month after you stop working and retire.

If you revoke your retirement by returning to work too soon, you will have to repay any annuity payments including any PLSO payments made by TRS and any health benefit payments paid on your behalf by TRS-Care. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. You will have to terminate all employment with TRS-covered employers and retire again.

Question: Can you work as a substitute for a TRS-covered employer during the required break in service?

Short Answer: No, working as a substitute during the required one full, calendar-month break in service is work that revokes your retirement.

But you may also want to know: While working as a substitute is not work that is eligible for membership in TRS, it is considered employment that revokes your retirement if you perform the work during the first full calendar month break in service required after retirement. This is not a “gray area” of the law. The law specifically addresses this type of work and provides that working as a substitute during the required one month break in service revokes your retirement.

Question: Can you volunteer for a TRS-covered employer during the required break in service with-

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out revoking your retirement?

Short Answer: Yes, but if you are “volunteering” in order to secure employment with a TRS-covered employer that begins after the required break in service or you are waiving compensation for the work you are performing and calling it “volunteering,” TRS does not consider the work to be volunteer work. If the work you perform while volunteering is the same type of work you will perform after the break in service, you are jeopardizing your retirement.

But you may also want to know: The one full calendar month break in service is required in order to establish that you have terminated your employment. Efforts to circumvent this requirement by “volunteering” in a position in order to secure employment after the required break in service or agreeing not to be compensated for the work in return for a promise of future employment or in order to get a “head start,” will result in you revoking your retirement because you are not “volunteering” — you are working. By working, you have not terminated your employment as required by law. If you do not terminate your employment, you are not eligible to retire and you are not eligible to receive the benefits paid to you as a retiree. You must repay all retirement benefits, including any PLSO payments, and any health care benefits paid on your behalf by TRS-Care.

Volunteering in a position that you held before you retired or in a position that is usually held by a paid employee raises suspicion that you are not really volunteering. To be on the safe side, TRS recommends that you do not volunteer during the required one month break in service.

Question: How much time can you work without losing any annuity payments?

Short Answer: After the required one full calendar month break in service following your retirement date, you can work as follows without losing any annuity payments:

- as a SUBSTITUTE, without any limit on the number of days (provided you do not perform any other type of work for a TRS-covered employer);
- as much as ONE-HALF TIME, each month;
- in a COMBINATION OF SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME EXCEPTION, provided the total number of days worked (including days that you used paid leave) in the combined positions in each calendar month does not exceed one-half the number of workdays in that calendar month;
- as a FULL-TIME EMPLOYEE (greater than one-half time) after a break in service of 12 full, consecutive-calendar months after the effective date of your retirement.

But you may also want to know: The school year for TRS purposes is Sept. 1 to Aug. 31 – every year, for every retiree, and for every TRS-covered employer. It does not matter when the school instructional year begins for your employer.

A SUBSTITUTE for TRS purposes is a person who serves on a temporary basis in the place of a current employee. Beginning Sept. 1, 2016, you may also serve in a position that is vacant, provided you do not work more than 20 days in that vacant position and the position is not vacant because you retired from it. Prior to Sept. 1, 2016, the position filled by the retiree could not be vacant and be considered a substitute position. **You may serve in a vacant position more than 20 days**, but begin-

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ning on the 21st day of service in the same vacant position you will not be considered a substitute; you will be considered by TRS under another employment type such as full time, combination of substitute and one-half time, or one-half time or less. Also, working any part of a day as a substitute counts as working a full day. If you combine substitute work and one-half time work in the same calendar month, you cannot substitute an unlimited number of days in that month.

This is important to know if you combine substitute work with one-half time or less employment as described below.

ONE-HALF TIME OR LESS EMPLOYMENT is working or using paid leave for no more than the equivalent of four clock hours for each workday in that calendar month (each Monday through Friday in the calendar month, including holidays and days the employer is closed for business that fall on Monday through Friday). **This standard applies to all positions.** If your employment is measured in course hours or semester hours rather than clock hours (typically applies to higher education employment), each hour of instruction in the classroom or lab will count as two clock hours in order to reflect instructional time as well as preparation and other time typically associated with one hour of instruction. If your employer has established a greater amount of preparation time for each hour of instruction, your employer's established standard will be used to determine the number of course or semester hours you may teach without loss of annuity. If you are teaching an online class for students who will receive college credit for the class or a hybrid class that is part online and part classroom instruction, each hour of college or semester credit given for the class will count as two hours worked in a week. For example, if you are teaching a three-hour online class, then each hour of credit counts as two clock hours of time worked in a week. In this example, the three credit hours count as working six hours in a week (3 semester hours X 2 clock hours = 6 clock hours each week). To determine the number of hours that you are considered to have worked each day, divide the six hours for the week by five workdays in a week. In this instance, the three-hour online or hybrid class counts as working 1.2 hours each day (6 hours per week ÷ 5 workdays in a week = 1.2 hours per Monday through Friday). As long as you do not exceed the equivalent of four clock hours for each workday in that calendar month, you will not forfeit your annuity for that month.

The total number of hours allowed for that month may be worked in any arrangement or schedule. For example, if there are 21 workdays that month, you may work as much as 84 hours that month (21 days X 4 hours per day = 84 hours). You may work the 84 hours using any work schedule, including working 40 hours one week and 44 hours another week; working four hours per day for each of the 21 days; or any other schedule that results in you working no more than 84 hours that month. Because there are different numbers of workdays in each calendar month, you will have to know how many workdays are in that month to know how many hours you may work under the one-half time exception. Be sure to include any hours of paid leave, including paid holiday leave that you used when determining the total number of hours worked that month.

You can **COMBINE EMPLOYMENT AS A SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME OR LESS EXCEPTION** during the same school year or even the same calendar month. For instance, you may work one month as a substitute and the next month work as much as one-half time. You may also combine substitute work and work under the one-half time exception in the same calendar month, but you cannot work more days than one-half the number of workdays in that calendar month without losing the annuity payment for that month. If the calendar month has an odd num-

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ber of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month. This means if you combine substitute work and work under the one-half time exception in the same calendar month, you cannot substitute an unlimited number of days in that month. Working any part of a day counts as working a full day when calculating the total number of days you can work. Also, working on a Saturday or Sunday counts as a day worked. Count the number of workdays in that calendar month and divide by two to determine the total number of days you can work. But working any day, including a Saturday or Sunday, counts as a day worked towards the total number of days you can work that month. Paid leave is also considered employment and must be included, in the calendar month that you used the leave, when determining the total amount of time you worked. This is important to know if you combine substitute work with any other work in the same calendar month. To maximize the amount of time you can work in a month in which you combine work under the one-half time exception and substitute work, try to work as many hours as possible on the days you work. Remember – when combining substitute work and any other work in the same calendar month, the number of hours you work does not matter; you are limited only by the number of days you can work.

Because effective Sept. 1, 2016 you may work as many as 20 days in a vacant position as a substitute, it becomes very important that you keep up with how many days you may work in the month that you reach the 20th day of substituting in a vacant position. If you continue working as a substitute in the same vacant position more than 20 days, beginning with the 21st day, the work is no longer substitute work for TRS purposes; the work in the vacant position is considered work under the one-half time position. If you combine the 21st day of work in a vacant position with other substitute work in the same calendar month, you are limited to working no more than one-half the number of workdays that calendar month. If the 21st day of work in a vacant position comes after you have already worked in that same vacant position for more days than one-half the number of workdays that calendar month, you will forfeit your annuity for that calendar month. Why? Because you combined work as a substitute (first 20 days in a vacant position is considered substitute work) and one-half time work (beginning on the 21st day of work in a vacant position the work is no longer considered substitute work by TRS) in the same calendar month. If that happens, you may want to consider working the remainder of that month to maximize your compensation for that calendar month because you have already forfeited your TRS annuity for that month. Surcharges will also apply when you work more days than one-half the number of workdays that calendar month.

FULL-TIME EMPLOYMENT is employment that is more than one-half time. Full-time employment cannot begin until you have a 12 full, consecutive-calendar-month break in service after the effective date of your retirement. Working full time without taking a 12 full, consecutive-calendar-month break in service will result in the loss of your monthly annuity payment for each month you work full time. This means to avoid losing an annuity payment because of full-time employment, you cannot work in ANY capacity for a TRS-covered employer for 12 full, consecutive-calendar months. Working as a substitute or ANY amount of time in any month counts as work when determining if you have observed the required 12 full, consecutive-calendar-month break in service. The 12 full, consecutive-calendar-month break in service does not have to be the first 12 consecutive months after re-

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tirement, but the break in service must be 12 full, consecutive-calendar months at some point prior to returning to full-time employment. You will forfeit your annuity for each month you work full time if you have not had the required break in service. Remember, full time means more than one-half time and one-half time is limited to no more than the equivalent of four hours for each workday that month, including any paid leave that you use, or working more than half the number of workdays in that calendar month if you combine work under the substitute and one-half time exceptions in the same calendar month and including any paid leave that you use. Surcharges will apply to your full-time employment regardless of the 12 full, consecutive-calendar-month break in service.

Question: Can you work full time without losing your annuity?

Short Answer: Yes, but only after a 12 full, consecutive-calendar-month break in service after the effective date of your retirement.

But you may also want to know: Prior to June 17, 2011, retirees could work up to six months of full-time employment without forfeiting an annuity. That opportunity is **no longer** available. Retirees who retired before January 2011 may work an unlimited amount of time without forfeiting an annuity, but all retirees who retired January 2011 or after must have a 12 full, consecutive-calendar-month break from all employment with TRS-covered employers before working full time. Without the required break in service, you will lose your annuity each month you work for a TRS-covered employer for more than one-half time. If you work as a substitute or perform any amount of work for a TRS-covered employer during the 12 months, you have to start the break in service period again after you stop working.

Question: Can you combine full-time employment with one-half time or less employment or substitute service without losing an annuity?

Short Answer: Yes, you can combine full-time employment with any other type of employment without losing an annuity if you have a 12 full, consecutive-calendar-month break in service after the effective date of your retirement.

But you may also want to know: You can only work full time without forfeiting an annuity if you have a 12 full, consecutive-calendar-month break in service. Once you observe this required break in service, you can work for a TRS-covered employer in any capacity and for any amount of time without losing an annuity. In planning your retirement, you may want to consider whether returning to work with a TRS-covered employer at the end of a 12 full, consecutive-calendar-month break in service is a viable option or perhaps working for another employer that is not covered by TRS for 12 full, consecutive-calendar months after you retire would help you to optimize the opportunity for later full-time employment with a TRS-covered employer.

Question: How are paid leave days, whether sick leave days, personal leave days, compensatory leave days, or vacation leave days, counted in determining how much time you have worked?

Short Answer: Paid leave time is counted the same as if you worked. It doesn't matter what type of paid leave is taken.

But you may also want to know: In determining whether you worked in a given calendar month, TRS considers paid time off the same as time worked. Your employer is required to report to TRS the

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paid time off as if you worked.

Question: How are weekend days counted in determining how much time you have worked?

Short Answer: Weekend days (Saturday and Sunday) are considered the same as workdays (Monday through Friday) in counting the days you worked or determining the amount of time you have worked for a TRS-covered employer.

But you may also want to know: In determining how many hours you can work one-half time in that calendar month, TRS counts each Monday through Friday as a workday and you are allowed to work the equivalent of four clock hours for each workday in that calendar month. However, every hour that you work, whether you work on a workday (Monday through Friday) or on a weekend (Saturday and/or Sunday) counts toward the total number of hours you can work that calendar month. Similarly, in determining how many days you may work when combining substitute and other work in the same calendar month, TRS counts the number of workdays (Monday through Friday) and divides by two. However, each day that you work, whether on a Monday through Friday, or a Saturday or Sunday, counts toward the total number of days you are allowed to work that month for a TRS-covered employer. There are no “free” days.

Question: Does time that you spend volunteering for a TRS-covered employer count in the number of hours you work in a month?

Short Answer: No, but if you are “volunteering” in order to secure employment with a TRS-covered employer in the future or you are waiving compensation for the work you are performing, TRS does not consider the work to be volunteer work. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. Hours that you work without pay in hope of obtaining future employment, work extra without pay in order to keep your current one-half time or less employment or for any other type of consideration are counted as work hours in that month for TRS purposes.

But you may also want to know: “Volunteering” your services in an effort to circumvent the requirement to terminate employment before retiring puts you at risk of revoking your retirement if your work occurs during the required one full, calendar-month-break in service. “Volunteering” in an effort to circumvent the *limits* on employment after retirement puts you at risk of forfeiting your annuity for that month if the “volunteer” work and any other work you perform for a TRS-covered employer exceed one-half time and you have not served the required 12 full, consecutive-calendar-month break in service. If you are “volunteering” during the 12 full, consecutive-calendar-month break in service, you risk forfeiting your annuity for each month you work more than one-half time after the 12 months because TRS may determine that you have not completed the required break in service.

The “volunteering” addressed in this context is not really the type of arrangement where you give your time freely to benefit others; TRS is referring to an arrangement in which you agree not to be compensated for the work in return for a promise of something else. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. The determination of whether a retiree is volunteering or simply agreeing not to be paid for work in order to gain some advantage is a difficult one that is

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made by TRS and the outcome cannot be predicted; however, some types of volunteering create more suspicion than others. For example, volunteering in a position you held prior to your retirement or that is usually held by another employee will result in close scrutiny by TRS. Also, volunteering in a position you will hold in the immediate future will result in close scrutiny as well. If you are genuinely giving your time to help others in a public education setting, feel free to do so without concern for your retirement. However, TRS recommends that you do not volunteer immediately after retirement during the required one full, calendar-month break in service to avoid the risk that TRS will determine that you revoked your retirement by working that month.

How does TRS know that you are working rather than volunteering? Usually someone who does not think the arrangement is true volunteering will notify TRS. It may be someone working in the business office, an auditor for the employer or TRS, someone who wanted the position in which you are volunteering, or perhaps another retiree who does not think the arrangement is fair. TRS investigates the report and makes a determination. Sometimes TRS will not hear about the arrangement for months or years after it occurred. If TRS confirms that the “volunteering” was in fact working, TRS must collect any annuities that are forfeited.

Question: What happens if you work more time than you are allowed?

Short Answer: If you are working and/or using paid leave under the one-half time or less exception or combining substitute work and work under the one-half time exception in the same calendar month and/or using paid leave, you will lose your annuity for each month that you exceed the amount of time you are allowed to work.

But you may also want to know: If you do not observe a 12 full, consecutive-calendar-month break in service with all TRS-covered employers, you will forfeit your annuity for any month in which you work and/or use paid leave more than the equivalent of four hours for each workday in the month, unless you are only working as a substitute. Working or using paid leave for more than the equivalent of four hours for each workday in the month is full-time employment for the purposes of employment after retirement. Although the number of hours you may work in a month is based on the number of workdays in that calendar month (4 clock hours for every workday in that calendar month = total number of hours you may work that month), the time you work on Saturday or Sunday counts towards the total number of hours you may work. If you combine work under the one-half-time exception and work as a substitute in the same calendar month, you may work or use paid leave only one-half the number of workdays in that month without forfeiting your annuity. If the calendar month has an odd number of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month. You may work one-half the number of workdays in that calendar month, but each day you work any amount of time, including a Saturday or Sunday, counts as a day worked.

Each TRS-covered employer is required to submit a report to TRS each month indicating the names of the retirees employed and the amount of time they worked. TRS reviews the report and takes steps to stop your annuity payment if you exceed the amount of time available to work. If your annuity payment has been sent to you, you must repay the payment.

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Question: Will your employer pay surcharges because of your employment?

Short Answer: If you work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month, your employer must pay the surcharge to TRS. Surcharges are not owed if you work only as a substitute. Surcharges are owed if you combine substitute work and any other type of work and you work and/or use paid leave more than one-half the number of workdays in that month. Working more than 20 days as a substitute in a vacant position is not considered substitute work by TRS.

But you may also want to know: Your employer is required to pay surcharges to TRS on retirees who retired after Sept. 1, 2005 and who work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month. A workday is each Monday through Friday in the calendar month, including holidays and days the employer is closed for business that fall on a Monday through Friday. Your employer is also required to pay surcharges if you combine substitute work and any other type of work (including any paid leave used) and you work more days than one-half the number of workdays in that calendar month. If the calendar month has an odd number of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month and surcharges are owed by the employer for that calendar month. If you work more than 20 days as a substitute in a vacant position, any additional work in that position after the 20th day is no longer considered work as a substitute by TRS.

Employment not subject to the surcharges includes:

- work by a retiree who retired before Sept. 1, 2005;
- substitute service (effective Sept. 1, 2016, work in a vacant position for no more than 20 days is considered substitute service provided the retiree did not retire from that vacant position);
- one-half time or less employment (employment that does not exceed the equivalent of four clock hours for every workday in that calendar month, including any paid leave used); and
- combined substitute work and work under the one-half time or less exception – provided the total number of days worked does not exceed one-half the number of workdays in that calendar month. Be sure to include the days that you use any paid leave in that calendar month in determining how many days you can work and be sure to count any Saturday or Sunday that you work.

IMPORTANT DISTINCTION. It is important to note that when working one-half time you may work or use paid leave for the equivalent of four clock hours for each workday in that calendar month but if you combine work under the one-half time exception and substitute employment in the same calendar month, the number of days you may work (including any paid leave used) is limited to no more than one-half the number of workdays in that calendar month. Working any part of a day counts as a day worked and working on a Saturday or Sunday counts as a day worked.

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Employer Surcharges:

The standard for triggering surcharge – The retiree works or receives paid leave for more than the equivalent of four clock hours for every workday in that calendar month or the retiree combines one-half time or less employment (including any paid leave used) and substitute work in the same calendar month and works more days than one-half the number of workdays in that calendar month.

The amount of the pension surcharge is equal to the amount of both member and state contributions on the compensation paid to you. If you are also participating in TRS-Care, your employer will owe a health benefit surcharge to TRS on your employment. Beginning Sept. 1, 2016, your employer will owe a flat fee health benefit surcharge in the amount of \$535 each month your work in a calendar month exceeds one-half time or you work more days than one-half the number of workdays in that calendar month when combining substitute work and other work.

Question: Do you have to pay any part of the surcharges?

Short Answer: TRS cannot accept the payment from you, but your employer may want to negotiate for you to reimburse it for a portion or all of the pension and/or health benefit surcharges.

But you may also want to know: The state law that requires the TRS-covered employer to pay the surcharges to TRS does not state the source of the funds. TRS is aware that some employers do not hire retirees because of the surcharges on their employment and some employers require the retiree to pay all or a portion of the surcharges. While the employer must submit the surcharges to TRS along with the accompanying reports, TRS has no authority over terms of the employment relationship or compensation paid to the retiree. You may negotiate the terms of your employment with your employer without involvement from TRS.

Question: Can you work for a third-party employer that sends personnel to a TRS-covered employer to perform duties normally performed by employees and avoid losing any of your annuity payments?

Short Answer: No.

But you may also want to know: Several years ago, some TRS-covered employers were hiring retirees to perform services through third-party entities in an effort to avoid the limits on employment after retirement. A third-party entity is an entity or company retained by the TRS-covered employer to provide personnel that perform duties or provide services that employees of the TRS-covered employer would otherwise perform. The law was amended to provide that a retiree who is employed by a third-party entity is considered to be employed by the TRS-covered employer unless the retiree does not provide services or perform duties on behalf of the TRS-covered employer. Retirees who were hired by the third-party entity before May 24, 2003 are not affected by the change in the law. While there may be other reasons you will want to be employed by a third-party entity instead of a TRS-covered employer, do not accept employment with a third-party entity to avoid the loss of any monthly annuity or payment of the surcharges. Also, the months of employment with a third-party entity do not count toward your 12 full, consecutive-calendar-month break in service required to avoid losing annuities if you want to work full time with a TRS-covered employer at some time in the future.

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Question: Can you work as an independent contractor for a TRS-covered employer and avoid losing any of your annuity payments?

Short Answer: Yes, but your status as an independent contractor must meet all of the legal requirements for this type of work arrangement.

But you may also want to know: While employment with a TRS-covered employer as an independent contractor is not subject to the TRS laws and rules regarding employment after retirement and does not incur the surcharges, you should carefully consider whether the work arrangement meets all the legal tests for this type of relationship. Simply changing your title to independent contractor is not sufficient; there must be a true termination of your employment. Laws governing federal income tax and Social Security are also involved in determining whether you are an independent contractor. Seek advice from your own attorney to determine whether the work arrangement is one of an independent contractor. If you are in doubt, check with TRS.

If your employment arrangement does not meet the legal tests for independent contractor, you are considered an employee of the TRS-covered employer. If you negotiate a contract for employment with your employer prior to your retirement, you are not eligible to retire and you revoke your retirement because you did not terminate employment. If this occurs, you must repay all annuity payments including any PLSO payment paid to you by TRS as well as any health benefit payments paid on your behalf by TRS-Care. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. You will have to terminate all employment with TRS-covered employers and retire again.

If your employment arrangement is negotiated **after** one full calendar month after your effective retirement date, and it does not meet the legal tests for independent contractor, you will not revoke retirement but you will be subject to the limits on employment after retirement. If you exceed the amount of time you are allowed to work without loss of annuity, you will have to repay any annuity payments that are paid in months that you exceed the limits or TRS must actuarially reduce your monthly benefit permanently to recoup the ineligible annuity payments. Your employer may owe surcharges on your employment as well.

A word of caution is offered here. While there are some tasks or projects that could be performed by independent contractors, the most common types of jobs held by retirees cannot. Examples of jobs that are **unlikely** to be suitable for performance by an independent contractor are:

- Superintendent • Teacher
- Administrator • Coach
- Principal/Assistant Principal • Administrative Support Personnel

Special word of caution: There are entities marketing to TRS retirees and offering them the opportunity to become shareholders in a company or limited liability company that provide services to TRS-covered employers. Retirees are advised by these entities that they may contract with a TRS-covered employer as an independent contractor in their capacity as a shareholder of the company and avoid the limits on employment after retirement. Retirees are led to believe that they are working as independent contrac-

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tors as they perform the same duties that they had before retiring, including duties as teachers, coaches, principals, and superintendents. These duties are often described in the contract as “consulting services.” Do not be misled.

TRS determined that these companies are third-party entities providing personnel to TRS-covered employers and retirees providing the services are employees of the third-party entity. Retirees employed by a third-party entity are subject to the limits on employment after retirement and must be reported as employees of the TRS-covered employer. The entities are well aware of TRS’ determination but continue to market to retirees.

When TRS learns of these arrangements, it must collect annuities from retirees serving in these arrangements for the months the retiree worked more than one-half time as well as collect surcharges from the TRS-covered employers for which the retirees performed services. The financial consequences can be staggering when TRS does not learn of the arrangement for months or even years after the work is performed and must collect for all of the overpayments. If the retiree cannot repay the annuities with a lump sum, TRS must actuarially reduce the amount of future annuity payments to cover the overpayments. The reductions continue for as long as the annuity is payable, i.e., for the life of the retiree.

Remember the old adage: “If it sounds too good to be true, it probably is.”

NOT YET RETIRED: Normal-Age Retirees

NOT YET RETIRED

Normal-Age Retirees

If you will be a normal-age retiree, the information in this section is for you. You must wait one full calendar month before returning to employment with an employer covered by TRS but you may negotiate before you retire for substitute or one-half time or less employment that will begin after the one full, calendar-month break in service. You cannot, however, negotiate for full-time employment before you retire and before you observe the required one full, calendar-month break in service after you retire, unless the full-time employment begins after a 12 full, consecutive-calendar-month break in service.

NOTE: *If you do not observe the restriction on contracting for full-time employment, you revoke your retirement. If you revoke your retirement, you will have to repay all of the annuity payments you received from TRS including any Partial Lump Sum Option (PLSO) or Deferred Retirement Option Plan (DROP) payments and also repay any health benefit payments paid by TRS-Care on your behalf.*

With that caveat stated, here is important information for you to consider:

Question: When can you negotiate with a TRS-covered employer about returning to work after retirement?

Short Answer: You can negotiate at any time, before or after retirement, for employment as a substitute or on a one-half time or less basis. You cannot negotiate for full-time employment until after you retire and after you observe the required one full, calendar-month absence from service unless the full-time employment begins after a 12 full, consecutive-calendar-month break in service.

But you may also want to know: All retirees must wait one full calendar month after retirement before returning to work. **However, normal-age retirees can negotiate before retiring for employment as a substitute or on a one-half time or less basis.** If you negotiate for full-time employment before you retire or during the one full calendar month following your retirement (unless the full-time employment begins after a 12 full, consecutive-calendar-month break in service after your retirement), you revoke your retirement. You revoke your retirement because Texas law considers you not to have terminated employment under these circumstances and you are not eligible to retire if you have not terminated employment. If you revoke retirement, you are not eligible to receive any annuity payments or to have health benefit payments made by TRS-Care on your behalf. If you want to negotiate for full-time employment that begins before the 12 full, consecutive-calendar-month break in service, wait until after retirement and after you have been absent from employment with all TRS-covered employers for one full calendar month.

After you effectively retire by terminating employment and waiting one full calendar month before returning to work, you may return to full-time employment. You will lose your monthly annuity each month you work full time (greater than one-half time) if you do not have a 12 full, consecutive-calendar-month break in service after the effective date of your retirement. Working in any capacity, including as a substitute, for a TRS-covered employer interrupts the 12 full, consecutive-calendar-month break in service required for full-time employment without a loss of annuity

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and you must start over counting the 12 month break in service required for full-time employment. The **CONSEQUENCE of working full time** without a 12 full, consecutive-calendar-month break in service is that you lose your annuity payment for every month that you work full time or use paid leave. The **CONSEQUENCE of negotiating for full-time employment** before one full calendar month after you retire is that you revoke your retirement if the full-time employment starts before the end of a 12 full, consecutive-calendar-month break in service.

CONSEQUENCE OF WORKING FULL TIME WITHOUT A 12 FULL, CONSECUTIVE-CALENDAR-MONTH BREAK IN SERVICE – LOSE YOUR ANNUITY FOR THE MONTH YOU WORK MORE THAN ONE-HALF TIME

CONSEQUENCE OF NEGOTIATING TOO SOON FOR FULL-TIME EMPLOYMENT THAT BEGINS BEFORE A 12 FULL, CONSECUTIVE-CALENDAR-MONTH BREAK IN SERVICE AFTER YOUR RETIREMENT – REVOKE YOUR RETIREMENT

Your retirement date for TRS purposes is always the last day of the month. Your retirement date and your last day of employment are not always the same day. Remember to use the last day of the month that you retire from TRS when determining when you can negotiate that full-time contract. The effective date of retirement can be located on your copy of the *Application for Service Retirement* form (TRS 30).

REMEMBER: If you return to work on a full-time basis without a 12 full, consecutive-calendar-month break in service after the effective date of your retirement, you will forfeit your monthly annuity every month you work more than one-half time.

Question: What happens if you have a contract or agreement in place for full-time employment before you resign and retire?

Short Answer: Unless your full-time employment does not begin until after a 12 full, consecutive-calendar-month break in service after you retire, you revoke your retirement and must return all annuity payments, including any PLSO or DROP payments, and any health benefits paid on your behalf by TRS-Care because you have not terminated your employment and you are not eligible to retire.

But you may also want to know: If you revoke your retirement by having a prohibited contract or agreement for full-time work in place before the end of the one full calendar month after your retirement date, you must return all annuity payments you received from TRS including any PLSO or DROP payments and any health benefit payments paid on your behalf by TRS-Care. You must then submit a new application to TRS to retire and start the retirement process again. TRS cannot pay you any benefits under the new retirement until you pay back all of the benefits you already received. If you cannot pay the full amount, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amount you were not eligible to receive. The reduction is permanent. The only exception to waiting until after one full calendar month after you retire to negotiate for full-time employment is if the employment does not begin until after a 12 full, consecutive-calendar-month break in service AND you do not negotiate for employment in any capacity with any TRS-covered employer for employment to begin during this break in service. **While you may want to make sure you can return to full-time employment before you submit your resignation and retire, do not risk it.** Wait

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until after one full calendar month after you retire to talk to the TRS-covered employer about returning to work in that full-time position.

Question: Can working in any other way cause you to revoke your retirement?

Short Answer: Yes, if you return to work for a TRS-covered employer in ANY capacity, including as a substitute, at any time during the one full, calendar-month break in service following the month of your retirement, you revoke your retirement.

But you may also want to know: All retirees must wait one full calendar month after retirement before returning to any type of work for a TRS-covered employer, even work as a substitute during the required break in service is work that revokes your retirement. Your retirement date is always the last day of the month in which you retire. If you work into June, but no later than June 15, and retire May 31 as allowed by law, you have to wait until Aug. 1 to return to work. Remember, you must wait one full calendar month before returning to work. Because you worked in June, you cannot count the remainder of June toward this requirement. In this example, July would be the first full calendar month after you stop working and retire.

If you revoke your retirement by returning to work too soon, you will have to repay any annuity payments including any PLSO or DROP payments and any health benefit payments paid on your behalf by TRS-Care. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. You will have to terminate all employment with TRS-covered employers and retire again.

Question: Can you work as a substitute for a TRS-covered employer during the required break in service?

Short Answer: No, working as a substitute during the required one full, calendar-month break in service is work that revokes your retirement.

But you may also want to know: While working as a substitute is not work that is eligible for membership in TRS, it is considered employment that revokes your retirement if you perform the work during the first full, calendar-month break in service required after retirement. This is not a “gray area” of the law. The law specifically addresses this type of work and provides that working as a substitute during the required one month break in service revokes your retirement.

Question: Can you volunteer for a TRS-covered employer during the required break in service without revoking your retirement?

Short Answer: Yes, but if you are “volunteering” in order to secure employment with a TRS-covered employer that begins after the required break in service or you are waiving compensation for the work you are performing and calling it “volunteering,” TRS does not consider the work to be volunteer work. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. If the work you perform while volunteering is the same work you will perform after the required break in service, you are jeopardizing your retirement.

But you may also want to know: The one full, calendar-month break in service is required in order

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to establish that you have terminated your employment. Efforts to circumvent this requirement by “volunteering” in a position in order to secure employment after the required break in service or agreeing not to be compensated for the work in return for a promise of future employment or in order to get a “head start” will result in you revoking your retirement because you are not “volunteering,” you are working. By working, you have not terminated your employment as required by law. If you do not terminate your employment, you are not eligible to retire and you are not eligible to receive the benefits paid to you as a retiree. You must repay all retirement benefits, including any PLSO or DROP payments, and any health care benefits paid on your behalf by TRS-Care.

Volunteering in a position that you held before you retired or in a position that is usually held by a paid employee raises suspicion that you are not really volunteering. To be on the safe side, TRS recommends that you do not volunteer during the required one month break in service.

Question: How much time can you work without losing any annuity payments?

Short Answer: After the required one full, calendar-month break in service following your retirement date, you can work as follows without losing any annuity payments:

- as a SUBSTITUTE, without any limit on the number of days (provided you do not perform any other type of work for a TRS-covered employer);
- as much as ONE-HALF TIME, each month;
- in a COMBINATION OF SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME OR LESS EXCEPTION, provided the total number of days worked (or days that you used paid leave) in the combined positions each calendar month does not exceed one-half the number of workdays in that calendar month;
- in FULL-TIME EMPLOYMENT (greater than one-half time) after a break in service of 12 full, consecutive-calendar months after the effective date of your retirement.

But you may also want to know: The school year for TRS purposes is from Sept. 1 to Aug. 31 – every year, for every retiree, and for every TRS-covered employer. It does not matter when the school instructional year begins for your employer.

A SUBSTITUTE for TRS purposes is a person who serves on a temporary basis in the place of a current employee. Beginning Sept. 1, 2016, you may also serve in a position that is vacant, provided you do not work more than 20 days in that vacant position and the position is not vacant because you retired from it. Prior to Sept. 1, 2016, the position filled by the retiree could not be vacant and be considered a substitute position. **You may serve in a vacant position more than 20 days**, but beginning on the 21st day of service in the same vacant position you will be considered by TRS under another employment type such as full time, combination of substitute and one-half time, or one-half time or less, rather than as a substitute. Also, working any part of a day as a substitute counts as working a full day. If you combine substitute work and one-half time work in the same calendar month, you cannot substitute an unlimited number of days in that month. This is important to know if you combine substitute work with one-half time or less employment as described below.

ONE-HALF TIME OR LESS EMPLOYMENT is working or using paid leave for no more than the equivalent of four clock hours for each workday in that calendar month (each Monday through Friday in

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the calendar month, including holidays and days the employer is closed for business that fall on a Monday through Friday). **This standard applies to all positions.** If your employment is measured in course hours or semester hours rather than clock hours (typically applies to higher education employment), each hour of instruction in the classroom or lab will count as two clock hours in order to reflect instructional time as well as preparation and other time typically associated with one hour of instruction. If your employer has established a greater amount of preparation time for each hour of instruction, your employer's established standard will be used to determine the number of course or semester hours you may teach without loss of annuity. If you are teaching an online class for students who will receive college credit for the class or a hybrid class that is part online and part classroom instruction, each hour of college or semester credit given for the class will count as two hours worked in a week. For example, if you are teaching a three hour online class, then each hour of credit counts as two clock hours of time worked in a week. In this example, the three credit hours counts as working six hours in a week (3 semester hours X 2 clock hours = 6 clock hours each week). To determine the number of hours that you are considered to have worked each day, divide the six hours for the week by five workdays in a week. In this instance, the three-hour online or hybrid class counts as working 1.2 hours each day (6 hours per week ÷ 5 workdays in a week = 1.2 hours per Monday through Friday). As long as you do not exceed the equivalent of four clock hours for each workday in that calendar month, you will not forfeit the monthly annuity for that month.

The total number of hours allowed for that month may be worked in any arrangement or schedule. For example, if there are 21 workdays that month, you may work as much as 84 hours that month (21 days X 4 hours per day = 84 hours). You may work the 84 hours using any work schedule, including working 40 hours one week and 44 hours another week; working four hours per day for each of the 21 days; or any other schedule that results in you working no more than 84 hours that month. Because there are different numbers of workdays each calendar month, you will have to know how many workdays are in that month to know how many hours you may work that month under the one-half time exception. Be sure to include any hours of paid leave, including paid holiday leave, that you used in the total number of hours worked that month.

You can **COMBINE EMPLOYMENT AS A SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME OR LESS EXCEPTION** during the same school year or even the same calendar month. For instance, you may work one month as a substitute and the next month work as much as one-half time. You may also combine substitute work and work under the one-half time exception in the same calendar month, but you cannot work more days than one-half the number of workdays in that calendar month without losing the annuity payment for that month. If the calendar month has an odd number of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month. This means if you combine substitute work and work under the one-half time exception in the same calendar month, you cannot substitute an unlimited number of days in that month. Working any part of a day counts as working a full day when calculating the total number of days you can work. Also, working on a Saturday or Sunday counts as a day worked. Count the number of workdays in that calendar month and divide by two to determine the total number of days you can work. Working any day, including a Saturday or Sunday, counts as a day worked towards the total number of days you can

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work that month. Be sure to include the days that you use any paid leave in determining how many days you may work. This is important to know if you combine substitute work with one-half time work in the same calendar month. To maximize the amount of time you can work in a month in which you combine work under the one-half time exception and substitute work, try to work as many hours as possible on the days you work. Remember – when combining substitute work and any other work in the same calendar month, the number of hours you work does not matter; you are limited by only the number of days you can work.

Because effective Sept. 1, 2016 you may work as many as 20 days in a vacant position as a substitute, it becomes very important that you keep up with how many days you may work in the month that you reach the 20th day of substituting in a vacant position. If you continue working as a substitute in the same vacant position more than 20 days, beginning with the 21st day, the work is no longer substitute work for TRS purposes; the work in the vacant position is considered work under the one-half time position. If you combine the 21st day of work in a vacant position with other substitute work in the same calendar month, you are limited to working no more days than one-half the number of workdays that calendar month. If the 21st day of work in a vacant position comes after you have already worked in that same vacant position for more days than one-half the number of workdays that calendar month, you will forfeit your annuity for that calendar month. Why? Because you combined work as a substitute (first 20 days in a vacant position is considered substitute work) and one-half time work (beginning on the 21st day of work in a vacant position the work is no longer considered substitute work by TRS) in the same calendar month. If that happens, you may want to consider working the remainder of that month to maximize your compensation for that calendar month because you have already forfeited your TRS annuity for that month. Surcharges will also apply when you work more days than one-half the number of workdays that calendar month.

FULL-TIME EMPLOYMENT is employment that is greater than one-half time. Full-time employment cannot begin until you have a 12 full, consecutive-calendar-month break in service after the effective date of your retirement. Working full time without taking a 12 full, consecutive-calendar-month break in service will result in the loss of your monthly annuity payment for each month you work full time. This means to avoid losing an annuity payment because of full-time employment, you cannot work in ANY capacity for a TRS-covered employer for 12 full, consecutive-calendar months. Working as a substitute or ANY amount of time in any month counts as work when determining if you observed the required 12 full, consecutive-calendar-month break in service. The 12 full, consecutive-calendar-month break in service does not have to be the first 12 consecutive months after retirement, but the break in service must be 12 full, consecutive-calendar-months at some point prior to returning to full-time employment. You will forfeit your annuity for each month you work full time if you have not had the required break in service. Remember, full time means more than one-half time and one-half time is limited to no more than the equivalent of four hours for each workday that month, including any paid leave that you use, or working more than half the number of workdays in that calendar month if you combine work under the substitute and one-half time exceptions in the same calendar month and including any paid leave that you use.

Question: Can you work full time without losing your annuity?

Short Answer: Yes, but only after a 12 full, consecutive-calendar-month break in service.

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But you may also want to know: Prior to June 17, 2011, retirees could work up to six months of full-time employment without forfeiting an annuity. That opportunity is **no longer** available. Retirees who retired before January 2011 may work an unlimited amount of time without forfeiting an annuity, but all retirees who retired January 2011 or after must have a 12 full, consecutive-calendar-month break in service from all employment with any TRS-covered employer before working full time. If you do not have a 12 full, consecutive-calendar-month break in service, you will lose your annuity for each month you work for a TRS-covered employer more than one-half time. If you work as a substitute or perform any amount of work for a TRS-covered employer during the 12 months, you have to start the break in service period again after you stop working. Paid leave is counted as work.

Question: Can you combine full-time employment with one-half time employment or substitute service without losing an annuity?

Short Answer: Yes, you can combine full-time employment with any other type of employment without losing an annuity if you have a 12 full, consecutive-calendar-month break in service after the effective date of your retirement.

But you may also want to know: You can only work full time without forfeiting an annuity if you have a 12 full, consecutive-calendar-month break in service. Once you have observed this required break in service, you can work for a TRS-covered employer in any capacity and for any amount of time without losing an annuity. In planning your retirement, you may want to consider whether returning to work with a TRS-covered employer at the end of a 12 full, consecutive-calendar-month break in service is a viable option or perhaps working for another employer that is not covered by TRS for 12 full, consecutive-calendar-months after you retire would help you to optimize the opportunity for later full-time employment with a TRS-covered employer.

Question: How are paid leave days, whether sick leave days, personal leave days, compensatory leave days, or vacation leave days, counted in determining how much time you have worked?

Short Answer: Paid leave time is counted the same as if you worked. It doesn't matter what type of paid leave is taken.

But you may also want to know: In determining whether you worked in a given calendar month, TRS considers paid time off the same as time worked. Your employer is required to report to TRS the paid time off as if you worked.

Question: How are weekend days counted in determining how much time you have worked?

Short Answer: Weekend days (Saturday and Sunday) are considered the same as workdays (Monday through Friday) in counting the days you worked or determining the amount of time you have worked for a TRS-covered employer.

But you may also want to know: In determining how many hours you can work one-half time in that calendar month, TRS counts each Monday through Friday as a workday and you are allowed to work the equivalent of four clock hours for each workday in that calendar month. However, every hour that you work, whether you work on a workday (Monday through Friday) or on a weekend (Saturday and/or Sunday) counts toward the total number of hours you can work that calendar month.

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Similarly, in determining how many days you may work when combining substitute and other work in the same calendar month, TRS counts the number of workdays (Monday through Friday) and divides by two. However, each day that you work, whether on a Monday through Friday, or a Saturday or Sunday, counts toward the total number of days you are allowed to work that month for a TRS-covered employer. There are no “free” days.

Question: Does time that you spend volunteering for a TRS-covered employer count in the number of hours you work in a month?

Short Answer: No, but if you are “volunteering” in order to secure employment with a TRS-covered employer in the future or you are waiving compensation for the work you are performing, TRS does not consider the work to be volunteer work. Hours that you work without pay in hopes of obtaining future employment, work extra without pay in order to keep your current “one-half time” employment or for any other type of consideration are counted as work hours in that month for TRS purposes.

But you may also want to know: “Volunteering” your services in an effort to circumvent the requirement to terminate employment before retiring puts you at risk of revoking your retirement if your work occurs during the required one full, calendar-month break in service. “Volunteering” in an effort to circumvent the limits on employment after retirement puts you at risk of forfeiting your annuity for that month if the “volunteer” work and any other work you perform for a TRS-covered employer exceed one-half time and you have not served the required 12 full, consecutive-calendar-month break in service. If you are “volunteering” during the 12 full, consecutive-calendar-month break in service, you risk forfeiting your annuity for each month you work more than one-half time after the 12 months because TRS may determine that you have not completed the required break in service.

The “volunteering” addressed in this context is not really the type of arrangement where you give your time freely to benefit others; TRS is referring to an arrangement in which you agree not to be compensated for the work in return for a promise of something else. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. The determination of whether a retiree is volunteering or simply agreeing not to be paid for work in order to gain some advantage is a difficult one that is made by TRS and the outcome cannot be predicted; however, some types of volunteering create more suspicion than others. For example, volunteering in a position you held prior to your retirement or that is usually held by another employee will result in close scrutiny by TRS. Also, volunteering in a position you will hold in the immediate future will result in close scrutiny as well. If you are genuinely giving your time to help others in a public education setting, feel free to do so without concern for your retirement. However, TRS recommends that you do not volunteer immediately after retirement during the required one full, calendar-month break in service to avoid the risk that TRS will determine that you revoked your retirement by working that month.

How does TRS know that you are working rather than volunteering? Usually someone who does not think the arrangement is volunteering will notify TRS. It may be someone working in the business office, an auditor for the employer or TRS, someone who wanted the position in which you are volunteering, or perhaps another retiree who does not think the arrangement is fair. TRS investigates the

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report and makes a determination. Sometimes TRS will not hear about the arrangement for months or years after it has occurred. If TRS confirms that the “volunteering” was in fact working, TRS must collect any annuities that are forfeited.

Question: What happens if you work more time than you are allowed?

Short Answer: If you are working or using paid leave under the one-half time or less exception or combining substitute work and work under the one-half time or less exception in the same calendar month, you will lose your annuity for each month that you exceed the amount of time you are allowed to work.

But you may also want to know: If you do not observe a 12 full, consecutive-calendar-month break in all service with all TRS-covered employers, you will forfeit your annuity for any month in which you work or use paid leave for more than the equivalent of four hours for each workday in the month, unless you are only working as a substitute. Working or using paid leave for more than the equivalent of four hours for each workday in the month is full-time employment for the purposes of employment after retirement. Although the number of hours you may work in a month is based on the number of workdays in that calendar month (4 clock hours for every workday in that calendar month = total number of hours you may work that month), the time you work on Saturday or Sunday counts toward the total number of hours you may work. If you combine work under the one-half time exception (including any paid leave that you use) and work as a substitute in the same calendar month, you may work or use paid leave one-half the number of workdays in that month without forfeiting your annuity. If the calendar month has an odd number of workdays, you are limited to working or using paid leave only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month. You may work one-half the number of workdays in that calendar month, but each day you work any amount of time, including a Saturday or Sunday, counts as a day worked.

Each TRS-covered employer is required to submit a report to TRS each month indicating the names of the retirees employed and the amount of time they worked. TRS reviews the report and takes steps to stop your annuity payment if you exceed the amount of time available to work. If the annuity payment is already sent to you, you must repay the payment.

Question: Will your employer pay surcharges because of your employment?

Short Answer: If you work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month, your employer must pay the surcharge to TRS. Surcharges are not owed if you work only as a substitute. Surcharges are owed if you combine substitute work and any other type of work (including any paid leave that you use) and you work more than half the number of workdays in that month. Working more than 20 days as a substitute in a vacant position is not considered substitute work by TRS.

But you may also want to know: Your employer is required to pay surcharges to TRS on retirees who retired after Sept. 1, 2005 and who work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month. A workday is each Monday through Friday in the

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calendar month, including holidays and days the employer is closed for business that fall on Monday through Friday. Your employer is also required to pay surcharges if you combine substitute work and any other type of work and you work or use paid leave more days than one-half the number of workdays in that calendar month. If the calendar month has an odd number of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month and surcharges are owed by the employer for that calendar month. If you work more than 20 days as a substitute in a vacant position, any additional work in that position after the 20th day is no longer considered work as a substitute by TRS.

Employment not subject to the surcharges includes:

- work by a retiree who retired before Sept. 1, 2005;
- substitute service (effective Sept. 1, 2016, work in a vacant position for no more than 20 days is considered substitute service – provided the retiree did not retire from that vacant position);
- one-half time or less employment (work that does not exceed the equivalent of four clock hours for every workday in that calendar month, including any paid leave used); and
- combined substitute work and work under the one-half time or less exception (any amount of work) and including any paid leave that you use – provided the total number of days worked does not exceed one-half the number of workdays in that calendar month; be sure to count any Saturday or Sunday that you work.

IMPORTANT DISTINCTION. It is important to note that when working one-half time you may work or use paid leave for the equivalent of four clock hours for each workday in that calendar month but if you combine work under the one-half time or less exception and substitute employment in the same calendar month, the number of days you may work (including any paid leave used) is limited to no more than one-half the number of workdays in that calendar month. Working any part of a day counts as a day worked and working on a Saturday or Sunday counts as a day worked.

Employer Surcharges:

The standard for triggering the surcharge – The retiree works or receives paid leave for more than the equivalent of four clock hours for every workday in that calendar month or the retiree who combines work under the one-half time exception and substitute work in the same calendar month and works more days than one-half of the workdays in that calendar month.

The amount of the pension surcharge is equal to the amount of both member and state contributions on the compensation paid to you. If you are also participating in TRS-Care, your employer will owe a health benefit surcharge to TRS. Beginning Sept. 1, 2016, your employer will owe a flat fee health benefit surcharge in the amount of \$535 each month your work in a calendar month exceeds one-half time or you work more days than one-half the number of workdays in that calendar month when combining substitute work and other work.

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Question: Do you have to pay any part of the surcharges?

Short Answer: TRS cannot accept the payment from you, but your employer may want to negotiate for you to reimburse it for a portion or all of the pension and/or health benefit surcharges.

But you may also want to know: The state law that requires the TRS-covered employer to pay the surcharges to TRS does not state the source of the funds. TRS is aware that some employers do not hire retirees because of the surcharges on their employment and that some employers require the retiree to pay all or a portion of the surcharges. While the employer must submit the surcharges to TRS along with the accompanying reports, TRS has no authority over terms of the employment relationship or compensation paid to the retiree. You may negotiate the terms of your employment with your employer without involvement from TRS.

Question: Can you work for a third-party employer that sends personnel to a TRS-covered employer to perform duties normally performed by employees and avoid losing any of your annuity payments?

Short Answer: No.

But you may also want to know: Several years ago, some TRS-covered employers were hiring retirees to perform services through third-party entities in an effort to avoid the limits on employment after retirement. A third-party entity is an entity or company retained by the TRS-covered employer to provide personnel that perform duties or provide services that employees of the TRS-covered employer would otherwise perform. The law was amended to provide that a retiree who is employed by a third-party entity is considered to be employed by the TRS-covered employer unless the retiree does not provide services or perform duties on behalf of the TRS-covered employer. Retirees who were hired by the third-party entity before May 24, 2003 are not affected by the change in the law. While there may be other reasons you will want to be employed by a third-party entity instead of a TRS-covered employer, do not accept employment with a third-party entity to avoid the loss of any monthly annuity or payment of the surcharges. Also, the months of employment with a third-party entity do not count toward your 12 full, consecutive-calendar-month break in service required to avoid losing annuities if you want to work full-time with a TRS-covered employer in the future.

Question: Can you work as an independent contractor for a TRS-covered employer and avoid losing any of your annuity payments?

Short Answer: Yes, but your status as an independent contractor must meet all of the legal requirements for this type of work arrangement.

But you may also want to know: While employment with a TRS-covered employer as an independent contractor is not subject to the TRS laws and rules regarding employment after retirement and does not incur the surcharges, you should carefully consider whether the work arrangement meets all the legal tests for this type of relationship. Simply changing your title to independent contractor is not sufficient; there must be a true termination of your employment. Laws governing federal income tax and Social Security are also involved in determining whether you are an independent contractor. Seek advice from your own attorney to determine whether the work arrangement is one of an independent contractor. If you are in doubt, check with TRS.

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If your employment arrangement does not meet the legal tests for independent contractor, you are considered an employee of the TRS-covered employer. If your contract is for full-time employment that begins before a 12 full, consecutive-calendar-month break in service and negotiated prior to your retirement, you are not eligible to retire and you revoke your retirement because you did not terminate employment. If this occurs, you must repay all annuity payments including any PLSO or DROP payments paid to you by TRS as well as any health benefit payments paid on your behalf by TRS-Care. No benefits can be paid to you until you repay all benefits previously paid to you. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. You will have to terminate all employment with TRS-covered employers and retire again.

If your employment arrangement is negotiated **after** one full calendar month after your retirement, and it does not meet the legal tests for independent contractor, you will not revoke retirement but you will be subject to the limits on employment after retirement. If you exceed the amount of time you are allowed to work without loss of annuity, you will have to repay any annuity payments that are paid in months that you exceed the limits or TRS must actuarially reduce your monthly benefit permanently to recoup the ineligible annuity payments. Your employer may owe surcharges on your employment as well. Also, the time worked in this arrangement will not count towards the 12 full, consecutive-calendar-month break in service required for full-time employment.

A word of caution is offered here. While there are some tasks or projects that could be performed by independent contractors, the most common types of jobs held by retirees cannot. Examples of jobs that are **unlikely** to be suitable for performance by an independent contractor are:

- Superintendent • Teacher
- Administrator • Coach
- Principal/Assistant Principal • Administrative Support Personnel

Special word of caution: There are entities marketing to TRS retirees and offering them the opportunity to become shareholders in a company or limited liability company that provide services to TRS-covered employers. Retirees are advised by these entities that they may contract with a TRS-covered employer as an independent contractor in their capacity as a shareholder of the company and avoid the limits on employment after retirement. Retirees are led to believe that they are working as independent contractors as they perform the same duties that they had before retiring, including duties as teachers, coaches, principals, and superintendents. These duties are often described in the contract as “consulting services.” Do not be misled.

TRS determined that these companies are third-party entities providing personnel to TRS-covered employers and retirees providing the services are employees of the third-party entity. Retirees employed by a third-party entity are subject to the limits on employment after retirement and must be reported as employees of the TRS-covered employer. The entities are well aware of TRS’ determination but continue to market to retirees.

When TRS learns of these arrangements, it must collect annuities from retirees serving in these arrangements for the months the retiree worked more than one-half time as well as collect surcharges from the TRS-covered employers for which the retirees performed services. The financial consequences

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can be staggering when TRS does not learn of the arrangement for months or even years after the work is performed and must collect for all of the overpayments. If the retiree cannot repay the annuities with a lump sum, TRS must actuarially reduce the amount of future annuity payments to cover the overpayments. The reductions continue for as long as the annuity is payable, i.e., for the life of the retiree.

Remember the old adage: "If it sounds too good to be true, it probably is."

ALREADY RETIRED: Early-Age and Normal-Age Retirees

ALREADY RETIRED

If you are retired and considering whether returning to work for an employer covered by TRS is possible and how your retirement annuity might be affected by working, the information in this section is relevant to your decision. Do you want to work full time or part time? Will you lose any annuity payments? These questions and others are answered in this section.

If you have already retired and have not worked for at least the one full calendar month after retirement required of all retirees, you may now negotiate with any TRS-covered employer about returning to work. If you are still within the one full calendar month from your retirement date, please read the information in the “NOT YET RETIRED” section for information relevant to your situation. If your question is not covered by this section, contact TRS for information regarding your situation.

RETIRED BEFORE JAN. 1, 2011

If you retired before Jan. 1, 2011 as a service retiree, you may work as follows without losing any annuity payments:

- any position;
- any employer; and
- any amount of time.

In summary: no limits on employment; no loss of annuity if you retired BEFORE Jan. 1, 2011.

NOTE: The surcharges that must be paid by TRS-covered employers for employing certain retirees may apply to your employment if you retired AFTER Sept. 1, 2005 and you work more than one-half time or combine substitute work and other work in the same calendar month and work more days than one-half the number of workdays in that calendar month.

ALREADY RETIRED

Early-Age and Normal-Age Retirees

NOTE: *These guidelines apply only to those who retired AFTER Jan. 1, 2011. If you retired BEFORE Jan. 1, 2011, refer to the section above.*

Whether you are an early-age retiree, meaning your annuity is reduced because you didn't meet the criteria for normal-age retirement, or you are a normal-age retiree, the information in this section is for you. The opportunities for work with a TRS-covered employer that do not result in losing any annuity payments have changed. Please read the information in this section carefully. If you do not see your employment opportunity addressed in this section, contact TRS for further information.

ALREADY RETIRED: Early-Age and Normal-Age Retirees

Here is information for you to consider:

Question: When can you negotiate with a TRS-covered employer about returning to work?

Short Answer: Any time. (This answer assumes that you have already completed the one full, calendar-month break in service after your retirement.)

But you may also want to know: Once you have completed the required one full, calendar-month break in service after retirement, you may negotiate for any type of future employment with a TRS-covered employer – whether you are an early-age retiree or normal-age retiree.

If you have not completed the one full calendar-month break in service and you are an early-age retiree, you must wait until after the required break in service to negotiate an agreement for any type of employment with a TRS-covered employer. If you negotiate for employment before that time, you revoke your retirement and must repay any annuity payments including any PLSO payments and any health benefit payments paid on your behalf by TRS-Care. You revoke your retirement because Texas law considers you not to have terminated employment under these circumstances and you are not eligible to retire if you have not terminated employment. If you revoke retirement, you are not eligible to receive any annuity payments or to have health benefits made by TRS-Care on your behalf and you must terminate all employment with TRS-covered employers and retire again. TRS cannot pay you benefits based on your new retirement until the amounts owed are paid. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. If this is your situation, please refer to the section “NOT YET RETIRED” for information. After the one full, calendar-month break in service, early-age retirees may negotiate for any type of employment with a TRS-covered employer without revoking retirement.

If you are a normal-age retiree and you have not completed the required one full, calendar-month break in service, you may only negotiate for one-half time or less employment or full-time employment that begins after the required break of 12 full, consecutive-calendar months from employment with all TRS covered employers after the effective date of your retirement. If you negotiate for full-time employment before you retire or during the one full, calendar-month break in service following your retirement (unless the full-time employment begins after the 12 full, consecutive-calendar-month break in service), you revoke your retirement. You revoke retirement because Texas law considers you not to have terminated employment under these circumstances and you are not eligible to retire if you have not terminated employment. If you revoke retirement, you are not eligible to receive any annuity payments or to have health benefit payments made by TRS-Care on your behalf. If you revoke your retirement, you must repay any annuity payments including any PLSO payments and any health benefit payments paid on your behalf by TRS-Care. You must submit a new application to TRS to retire and start the retirement process again. TRS cannot pay you benefits based on your new retirement until you pay back all of the benefits you already received.

If this is your situation, please refer to the section “NOT YET RETIRED” for information.

Again, whether you are an early-age retiree or normal-age retiree, if you have observed the one full calendar month of required absence from service after retirement, you may negotiate a contract or agreement for employment to begin any time.

ALREADY RETIRED: Early-Age and Normal-Age Retirees

Question: How much time can you work without losing any annuity payments?

Short Answer: After the required one full, calendar-month break in service following your retirement date, you can work as follows without losing any annuity payments:

- as a SUBSTITUTE, without any limit on the number of days (provided you do not perform any other type of work for a TRS-covered employer);
- as much as ONE-HALF TIME, each month;
- in a COMBINATION OF SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME OR LESS EXCEPTION, provided the total number of days worked (or days that you used paid leave) in the combined positions each calendar month does not exceed one-half the number of workdays in that calendar month;
- in FULL-TIME EMPLOYMENT (greater than one-half time) after a 12 full, consecutive-calendar-month break in service after the effective date of your retirement.

But you may also want to know: The school year for TRS purposes is from Sept. 1 to Aug. 31 – every year, for every retiree, and for every TRS-covered employer. It does not matter when the school instructional year begins for your employer.

A SUBSTITUTE for TRS purposes is a person who serves on a temporary basis in the place of a current employee. Beginning Sept. 1, 2016, you may also serve in a position that is vacant, provided you do not work more than 20 days in that vacant position and the position is not vacant because you retired from it. Prior to Sept. 1, 2016, the position filled by the retiree could not be vacant and be considered a substitute position. **You may serve in a vacant position more than 20 days**, but beginning on the 21st day of service in the same vacant position you will be considered by TRS under another employment type such as full time, combination of substitute and one-half time, or one-half time rather than as a substitute. Also, working any part of a day as a substitute counts as working a full day. If you combine substitute work and one-half time work in the same calendar month, you cannot substitute an unlimited number of days in that month. This is important to know if you combine substitute work with one-half time or less employment as described below.

ONE-HALF TIME OR LESS EMPLOYMENT is working or using paid leave for no more than the equivalent of four clock hours for each workday in that calendar month (each Monday through Friday in the calendar month, including holidays and days the employer is closed for business that fall on Monday through Friday). **This standard applies to all positions.** If your employment is measured in course hours or semester hours rather than clock hours (typically applies to higher education employment), each hour of instruction in the classroom or lab will count as two clock hours in order to reflect instructional time as well as preparation and other time typically associated with one course hour of instruction. If your employer has established a greater amount of preparation time for each hour of instruction, your employer's established standard will be used to determine the number of course or semester hours you may teach without loss of annuity. If you are teaching an online class for students who will receive college credit for the class or a hybrid class that is part online and part classroom instruction, each hour of college or semester credit given for the class will count as two hours worked in a week. For example, if you are teaching a three-hour online class, then each hour of credit counts as two clock hours of time worked in a week. In this example, the three credit hours

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counts as working six hours in a week (3 semester hours X 2 clock hours = 6 clock hours each week). To determine the number of hours that you are considered to have worked each day, divide the six hours for the week by five workdays in a week. In this instance, the three hour online or hybrid class counts as working 1.2 hours each day (6 hours per week ÷ 5 workdays in a week = 1.2 hours per Monday through Friday). As long as you do not exceed the equivalent of four clock hours for each workday in that calendar month, you will not forfeit the annuity for that month.

The total number of hours allowed for that month may be worked in any arrangement or schedule. For example, if there are 21 workdays that month, you may work as much as 84 hours that month (21 days X 4 hours per day = 84 hours). You may work the 84 hours using any work schedule, including working 40 hours one week and 44 hours another week; working four hours per day for each of the 21 days; or any other schedule that results in you working no more than 84 hours that month. Because there are different numbers of workdays each calendar month, you will have to know how many workdays are in that month to know how many hours you may work that month under the one-half time exception. Be sure to include any hours of paid leave, including paid holiday leave, that you used in the total number of hours worked that month.

You can **COMBINE EMPLOYMENT AS A SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME OR LESS EXCEPTION** during the same school year or even the same calendar month. For instance, you may work one month as a substitute and the next month work as much as one-half time. You may also combine substitute work and work under the one-half time exception in the same calendar month, but you cannot work more days than one-half the number of workdays in that calendar month without losing the annuity payment for that calendar month. This means if you combine substitute work and work under the one-half time exception in the same calendar month, you cannot substitute an unlimited number of days in that month. Working any part of a day counts as working a full day when calculating the total number of days you can work. Also, working on a Saturday or Sunday counts as a day worked. Count the number of workdays in that calendar month and divide by two to determine the total number of days you can work. Working any day, including a Saturday or Sunday, counts as a day worked towards the total number of days you can work that month. Be sure to include days that you use any hours of paid leave in that calendar month when determining the number of days that you work. This is important to know if you combine substitute work with any other work in the same calendar month. If the calendar month has an odd number of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month. To maximize the number of hours you can work in a month in which you combine work under the one-half time or less exception and substitute work, try to work as many hours as possible on the days you work. Remember – when combining substitute work and any other work in the same calendar month, the number of hours you work does not matter; you are limited only by the number of days you can work.

Because effective Sept. 1, 2016 you may work as many as 20 days in a vacant position as a substitute, it becomes very important that you keep up with how many days you may work in the month that you reach the 20th day of substituting in a vacant position. If you continue working as a substitute in the same vacant position more than 20 days, beginning with the 21st day, the work is no longer substitute work for TRS purposes; the work in the vacant position is considered work under

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the one-half time position. If you combine the 21st day of work in a vacant position with other substitute work in the same calendar month, you are limited to working no more days than one-half the number of workdays that calendar month. If the 21st day of work in a vacant position comes after you have already worked in that same vacant position for more days than one-half the number of workdays that calendar month, you will forfeit your annuity for that calendar month. Why? Because you combined work as a substitute (first 20 days in a vacant position is considered substitute work) and one-half time work (beginning on the 21st day of work in a vacant position the work is no longer considered substitute work by TRS) in the same calendar month. If that happens, you may want to consider working the remainder of that month to maximize your compensation for that calendar month because you have already forfeited your TRS annuity for that month. Surcharges will also apply when you work more than one-half the number of workdays that calendar month.

FULL-TIME EMPLOYMENT is employment that is greater than one-half time. Full-time employment cannot begin until you have a 12 full, consecutive-calendar-month break in service after the effective date of your retirement. Working full time without taking a 12 full, consecutive-calendar-month break in service will result in the loss of your monthly annuity payment for each month you work full time. This means to avoid losing an annuity payment because of full-time employment, you cannot work in ANY capacity for a TRS-covered employer for 12 full, consecutive-calendar months. Working as a substitute or ANY amount of time in any month counts as work when determining if you observed a 12 full, consecutive-calendar-month break in service. The 12 full, consecutive-calendar-month break in service does not have to be the first 12 consecutive-calendar-months after retirement, but the break in service must be 12 full, consecutive-calendar-months at some point prior to returning to full-time employment. You will forfeit your annuity for each month you work full time if you have not had the required break in service. Remember, full time means more than one-half time and one-half time is limited to no more than the equivalent of four hours for each workday that month, including any paid leave that you use, or working more days than half the number of workdays in that calendar month if you combine work under the substitute and one-half time exceptions in the same calendar month and including any paid leave that you use.

Question: Can you work full time without losing your annuity?

Short Answer: Yes, but only after a 12 full, consecutive-calendar-month break in service.

But you may also want to know: Prior to June 17, 2011, retirees could work up to six months of full-time employment without forfeiting an annuity. That opportunity is **no longer** available. Retirees who retired before January 2011 may work an unlimited amount of time without forfeiting an annuity, but all retirees who retired January 2011 or after must have a 12 full, consecutive-calendar-month break from all employment with TRS-covered employers before working full time. If you do not have a 12 full, consecutive-calendar-month break in service, you will lose your annuity for each month you work or use paid leave full time (more than the equivalent of four hours for each workday in that calendar month) or combine substitute work and work (or use paid leave) under the one-half time or less exception and work more days than one-half the number of workdays in that calendar month. If you work as a substitute or perform any amount of work for a TRS-covered employer during the 12 months, you have to start the break in service period again after you stop working.

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Question: Can you combine full-time employment with one-half time employment or substitute service without losing an annuity?

Short Answer: Yes, you can combine full-time employment with any other type of employment without losing an annuity if you have a 12 full, consecutive-calendar-month break in service after the effective date of your retirement.

But you may also want to know: You can only work full time without forfeiting an annuity if you have a 12 full, consecutive-calendar-month break in service. Once you have observed this required break in service, you can work for a TRS-covered employer in any capacity and for any amount of time without losing an annuity. In planning your retirement, you may want to consider whether returning to work with a TRS-covered employer at the end of a 12 full, consecutive-calendar-month break in service is a viable option or perhaps working for another employer that is not covered by TRS for 12 full, consecutive-calendar months after you retire would help you to optimize the opportunity for later full-time employment with a TRS-covered employer.

Question: How are paid leave days, whether sick leave days, personal leave days, compensatory leave days, or vacation leave days, counted in determining how much time you have worked?

Short Answer: Paid leave time is counted the same as if you worked. It doesn't matter what type of paid leave is taken.

But you may also want to know: In determining whether you worked in a given calendar month, TRS considers paid time off the same as time worked. Your employer is required to report to TRS the paid time off as if you worked.

Question: How are weekend days counted in determining how much time you have worked?

Short Answer: Weekend days (Saturday and Sunday) are considered the same as workdays (Monday through Friday) in counting the days you worked or determining the amount of time you have worked for a TRS-covered employer.

But you may also want to know: In determining how many hours you can work one-half time in that calendar month, TRS counts each Monday through Friday as a workday and you are allowed to work the equivalent of four clock hours for each workday in that calendar month. However, every hour that you work, whether you work on a workday (Monday through Friday) or on a weekend (Saturday and/or Sunday) counts toward the total number of hours you can work that calendar month. Similarly, in determining how many days you may work when combining substitute and other work in the same calendar month, TRS counts the number of workdays (Monday through Friday) and divides by two. However, each day that you work, whether on a Monday through Friday, or a Saturday or Sunday, counts toward the total number of days you are allowed to work that month for a TRS-covered employer. There are no "free" days.

Question: Does time that you spend volunteering for a TRS-covered employer count in the number of hours you work in a month?

Short Answer: No, but if you are "volunteering" in order to secure employment with a TRS-covered employer in the future or you are waiving compensation for the work you are performing, TRS does

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not consider the work to be volunteer work. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. Hours that you work without pay in hope of obtaining future employment, work extra without pay in order to keep your current one-half time employment or for any other type of consideration are counted as work hours in that month for TRS purposes.

But you may also want to know: “Volunteering” your services in an effort to circumvent the requirement to terminate employment before retiring puts you at risk of revoking your retirement if your work occurs during the required one full calendar month break in service. “Volunteering” in an effort to circumvent the limits on employment after retirement puts you at risk of forfeiting your annuity for that month if the “volunteer” work and any other work you perform for a TRS-covered employer exceed one-half time and you have not served the required 12 full, consecutive-calendar-month break in service. If you are “volunteering” during the 12 full, consecutive-calendar-month break in service, you risk forfeiting your annuity for each month you work more than one-half time after the 12 months because TRS may determine that you have not completed the required break in service.

The “volunteering” addressed in this context is not really the type of arrangement where you give your time freely to benefit others; TRS is referring to an arrangement in which you agree not to be compensated for the work in return for a promise of something else. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. The determination of whether a retiree is volunteering or simply agreeing not to be paid for work in order to gain some advantage is a difficult one that is made by TRS and the outcome cannot be predicted; however, some types of volunteering create more suspicion than others. For example, volunteering in a position you held prior to your retirement or that is usually held by another employee will result in close scrutiny by TRS. Also, volunteering in a position you will hold in the immediate future will result in close scrutiny as well. If you are genuinely giving your time to help others in a public education setting, feel free to do so without concern for your retirement. However, TRS recommends that you do not volunteer immediately after retirement during the required one full, calendar-month break in service to avoid the risk that TRS will determine that you revoked your retirement by working that month.

How does TRS know that you are working rather than volunteering? Usually someone who does not think the arrangement is true volunteering will notify TRS. It may be someone working in the business office, an auditor for the employer or TRS, someone who wanted the position in which the retiree is volunteering, or perhaps another retiree who does not think the arrangement is fair. TRS investigates the report and makes a determination. Sometimes TRS will not hear about the arrangement for months or years after it occurred. If TRS confirms that the “volunteering” was in fact working, TRS must collect any annuities forfeited.

Question: What happens if you work more time than you are allowed?

Short Answer: If you are working and/or using paid leave under the one-half time or less exception or combining substitute work and work under the one-half time exception in the same calendar month, you will lose your annuity for each month that you exceed the amount of time you are allowed to work.

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But you may also want to know: If you do not observe a 12 full, consecutive-calendar-month break in all service with all TRS-covered employers, you will forfeit your annuity for any month in which you work or use paid leave for more than the equivalent of four hours for each workday in the month, unless you are working only as a substitute. Working or using paid leave for more than the equivalent of four hours for each workday in the month is full-time employment for the purposes of employment after retirement. Although the number of hours you may work in a month is based on the number of workdays in that calendar month (4 clock hours for every workday in that calendar month = total number of hours you may work that month), the time you work on Saturday or Sunday counts towards the total number of hours you may work. If you combine substitute work and work under the one-half time or less exception in the same calendar month, you may work (or use paid leave) only one-half the number of workdays that month, but you may work (or use paid leave) as many hours per day as you wish for one-half the number of workdays that month. If the calendar month has an odd number of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month. You may work one-half the number of workdays in that calendar month, but each day you work any amount of time, including a Saturday or Sunday, counts as a day worked.

Each TRS-covered employer is required to submit a report to TRS each month indicating the names of the retirees employed and the amount of time they worked. TRS reviews the report and takes steps to stop your annuity payment if you exceed the amount of time available to work. If the annuity payment has been sent to you, you must repay the payment.

Question: Will your employer pay surcharges because of your employment?

Short Answer: If you retired after Sept. 1, 2005, the surcharges are owed if you work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month or when combining substitute and one-half time or less employment (including any paid leave) you work more days than one-half the number of workdays in the calendar month. Working more than 20 days as a substitute in a vacant position is not considered substitute work by TRS. If you retired before Sept. 1, 2005, the surcharges do not have to be paid.

But you may also want to know: Your employer is required to pay surcharges to TRS on retirees who retired after Sept. 1, 2005 and who work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month and on retirees who combine substitute and other work (or paid leave) if the total number of days worked exceeds one-half the number of workdays in that calendar month. A workday is each Monday through Friday in the calendar month, including holidays and days the employer is closed for business that fall on Monday through Friday.

Employment not subject to the surcharges includes:

- work by a retiree who retired before Sept. 1, 2005;
- substitute service (effective Sept. 1, 2016, work in a vacant position for no more than 20 days is considered substitute service – provided the retiree did not retire from that vacant position);

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- one-half time or less employment (employment that does not exceed the equivalent of four clock hours for every workday in that calendar month, including any paid leave used); and
- combined substitute work and one-half time or less employment – provided the total number of days worked or paid leave was used does not exceed one-half the number of workdays in that calendar month. Be sure to include any paid leave that you used that calendar month in determining how many days you can work and be sure to count any Saturday or Sunday that you work.

IMPORTANT DISTINCTION. It is important to note that when working one-half time you may work or use paid leave for the equivalent of four clock hours for each workday in that calendar month but if you combine work under the one-half time exception and substitute employment in the same calendar month, the number of days you work (including any paid leave used) is limited to no more than one-half the workdays in that calendar month. Working any part of a day counts as a day worked and working on a Saturday or Sunday counts as a day worked.

Employer Surcharges:

The standard for triggering the surcharge – The retiree works or receives paid leave for more than the equivalent of four clock hours for every workday in that calendar month or the retiree who combines one-half time or less employment and substitute work in the same calendar month and works more days than one-half of the workdays in that calendar month.

The amount of the pension surcharge is equal to the amount of both member and state contributions on the compensation paid to you. If you are also participating in TRS-Care, your employer will owe a health benefit surcharge to TRS on your employment. Beginning Sept. 1, 2016, your employer will owe a flat fee health benefit surcharge in the amount of \$535 each month your work in a calendar month exceeds one-half time or you work more days than one-half the number of workdays in that calendar month when combining substitute work and other work.

Question: Do you have to pay any part of the surcharges?

Short Answer: TRS cannot accept the payment from you, but your employer may want to negotiate for you to reimburse it for a portion or all of the pension and/or health benefit surcharges.

But you may also want to know: The state law that requires the TRS-covered employer to pay the surcharges to TRS does not state the source of the funds. TRS is aware that some employers do not hire retirees because of the surcharges on their employment and that some employers require the retiree to pay all or a portion of the surcharges. While the employer must submit the surcharges to TRS along with the accompanying reports, TRS has no authority over terms of the employment relationship or compensation paid to the retiree. You may negotiate the terms of your employment with your employer without involvement from TRS.

Question: Can you work for a third-party employer that sends employees to schools to perform duties normally performed by school employees and avoid losing any of your annuity payments?

Short Answer: No.

But you may also want to know: Several years ago, some TRS-covered employers were hiring retir-

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ees to perform services through third-party entities in an effort to avoid the limits on employment after retirement. A third-party entity is an entity or company retained by the TRS-covered employer to provide personnel that perform duties or provide services that employees of the TRS-covered employer would otherwise perform. The law was amended to provide that a retiree who is employed by a third-party entity is considered to be employed by the TRS-covered employer unless the retiree does not provide services or perform duties on behalf of the TRS-covered employer. Retirees who were hired by the third-party entity before May 24, 2003 are not affected by the change in the law. While there may be other reasons you will want to be employed by a third-party entity instead of a TRS-covered employer, do not accept employment with a third-party entity to avoid the loss of any monthly annuity or payment of the surcharges. Also, the months of employment with a third-party entity do not count toward your 12 full, consecutive-calendar-month break in service required to avoid losing annuities if you want to work full time with a TRS-covered employer at some point in the future.

Question: Can you work as an independent contractor for a TRS-covered employer and avoid losing any of your annuity payments?

Short Answer: Yes, but your status as an independent contractor must meet all of the legal requirements for this type of work arrangement.

But you may also want to know: While employment with a TRS-covered employer as an independent contractor is not subject to the TRS laws and rules regarding employment after retirement and does not incur the surcharges, you should carefully consider whether the work arrangement meets all the legal tests for this type of relationship. Simply changing your title to independent contractor is not sufficient; there must be a true termination of your employment. Laws governing federal income tax and Social Security are also involved in determining whether you are an independent contractor. Seek advice from your own attorney to determine whether the work arrangement is one of an independent contractor. If you are in doubt, check with TRS.

If your employment arrangement does not meet the legal tests for independent contractor, you are considered an employee of the TRS-covered employer. If you are considered an employee rather than an independent contractor and if your contract was negotiated prior to your retirement and you are an early-age retiree, you were not eligible to retire and you revoke your retirement because you did not terminate employment. If this occurred, you must repay all annuity payments including any PLSO payment paid to you by TRS as well as any health benefit payments paid on your behalf by TRS-Care. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. You will have to terminate all employment with TRS-covered employers and retire again. No benefits can be paid to you under the new retirement until you return all benefits previously paid to you or until your new benefit amount is actuarially reduced.

If you are considered an employee rather than an independent contractor **and** you are a normal-age retiree and you negotiated for full-time employment before completing the required one full, calendar-month break in service (unless the employment begins after a 12 full, consecutive-calendar-month break in service), you revoked your retirement because you did not terminate employment. If this occurred, you must repay all annuity payments, including any PLSO or DROP payment paid to you by TRS, as well as any health benefit payments paid on your behalf by TRS-Care. You must then

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apply to retire again. No benefits can be paid to you until you repay all benefits previously paid to you. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. The reduction is permanent. You will have to terminate all employment with TRS-covered employers and retire again. If you negotiated before completing the required one full, calendar-month break in service for no more than one-half time employment, you did not revoke retirement and your work is considered employment under the one-half time exception.

If your employment arrangement was negotiated **after** one full calendar month after your retirement, and it does not meet the legal tests for independent contractor, you have not revoked retirement but you will be subject to the limits on employment after retirement. If you exceed the amount of time you are allowed to work without loss of annuity, you will have to repay any annuity payments that are paid in months that you exceed the limits. If you cannot repay the annuities, TRS is authorized to actuarially reduce your annuity for your lifetime to recoup the amounts you were not eligible to receive. Your employer may also be responsible for paying surcharges on your employment.

A word of caution is offered here. While there are some tasks or projects that could be performed by independent contractors, the most common types of jobs held by retirees cannot. Examples of jobs that are **unlikely** to be suitable for performance by an independent contractor are:

- Superintendent • Teacher
- Administrator • Coach
- Principal/Assistant Principal • Administrative Support Personnel

Special word of caution: There are entities marketing to TRS retirees and offering them the opportunity to become shareholders in a company or limited liability company that provide services to TRS-covered employers. Retirees are advised by these entities that they may contract with a TRS-covered employer as an independent contractor in their capacity as a shareholder of the company and avoid the limits on employment after retirement. Retirees are led to believe that they are working as independent contractors as they perform the same duties that they had before retiring, including duties as teachers, coaches, principals, and superintendents. These duties are often described in the contract as “consulting services.” Do not be misled.

TRS determined that these companies are third-party entities providing personnel to TRS-covered employers and retirees providing the services are employees of the third-party entity. Retirees employed by a third-party entity are subject to the limits on employment after retirement and must be reported as employees of the TRS-covered employer. The entities are well aware of TRS’ determination but continue to market to retirees.

When TRS learns of these arrangements, it must collect annuities from retirees serving in these arrangements for the months the retiree worked more than one-half time as well as collect surcharges from the TRS-covered employers for which the retirees performed services. The financial consequences can be staggering when TRS does not learn of the arrangement for months or even years after the work is performed and must collect for all of the overpayments. If the retiree cannot repay the annuities with a lump sum, TRS must actuarially reduce the amount of future annuity payments to cover the overpay-

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ments. The reductions continue for as long as the annuity is payable, i.e., for the life of the retiree.

Remember the old adage: "If it sounds too good to be true, it probably is."

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If you are retiring due to a disability or are retired and receiving a disability retirement annuity and considering whether returning to work for an employer covered by TRS is possible and how your retirement annuity might be affected by working, the information in this section is relevant to your decision. As a disability retiree you are subject to limits on the amount of work you may perform for a TRS-covered employer without losing an annuity payment. These limits apply without regard to when you retire. In addition, for certain disability retirees, the law limits the amount of compensation you may earn from any source without losing annuity payments. Information in this section will be helpful in making your decision about returning to work. If your employment question is not covered by this section, contact TRS for information regarding your situation.

If you have already retired and have not worked for at least the one full calendar month after retirement required of all retirees, you may now negotiate with any TRS-covered employer about returning to work. If you are still within the one full calendar month from your retirement date, you must wait until the beginning of the next month to negotiate for a return to employment with a TRS-covered employer.

NOTE: *If you do not observe the restrictions, you could revoke your retirement. If you revoke your retirement, you will have to repay all of the annuity payments you received from TRS and even repay any health benefit payments paid by TRS-Care on your behalf.*

Question: When can you negotiate with the employer about returning to work after retirement?

Short Answer: You can negotiate with the employer AFTER one full calendar month after retirement.

But you may also want to know: All retirees, normal-age, early-age, and disability retirees, must wait one full-calendar month after retirement before returning to work. **However, disability retirees must also wait the full calendar month before NEGOTIATING with the employer to return to work—ANY TYPE OF WORK.** This condition is required by both state and federal law. At the time you retire, you cannot have a contract or agreement to return to work. Your retirement date and your last day of employment are not always the same day. Your retirement date for TRS purposes is always the last day of the month.

Question: What happens if you have a contract or agreement to return to work before you retire or you negotiate a contract or agreement to return to work before the end of the full calendar month after you retired?

Short Answer: You revoke your retirement and you must repay all annuity payments and any health benefit payments paid on your behalf by TRS-Care because you have not terminated all employment with a TRS-covered employer and you were not eligible to retire.

But you may also want to know: If you revoke your retirement by having a contract or agreement to return to work in place before the end of the one full-calendar month after your retirement date, you must repay all annuity payments you received from TRS and any health benefit payments paid on your behalf by TRS-Care. You must then terminate all employment with TRS-covered employers

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and retire again. TRS cannot pay you any benefits under the new retirement until you pay back all of the benefits you already received. While you may want to make sure you can return to employment before you submit your resignation and retire, do not risk it. Wait until after one full calendar month after you retired to enter into an agreement with the employer about returning to work.

Question: Can working in any other way cause you to revoke your retirement?

Short Answer: Yes, if you return to work for a TRS-covered employer in ANY capacity, including as a substitute, at any time during the one full calendar month following the month of your retirement, you revoke your retirement.

But you may also want to know: All retirees must wait one full calendar month after retirement before returning to any type of work for a TRS-covered employer, even work as a substitute during the required break in service is work that revokes your retirement. Your retirement date is always the last day of the month in which you retire. Remember, you must wait one full calendar month before negotiating for employment and before returning to work. If you work into June but no later than June 15 and retire May 31 as allowed by law, you have to wait until Aug. 1 to negotiate for employment and return to work.

If you revoke your retirement by returning to work too soon, you will have to repay any annuity payments paid to you by TRS and any health benefit payments paid on your behalf by TRS-Care. You will have to submit a new application to TRS to retire and start the process over again.

Question: Can you work as a substitute for a TRS-covered employer during the required break in service?

Short Answer: No, working as a substitute during the required one full, calendar-month break in service is work that revokes your retirement.

But you may also want to know: While working as a substitute is not work that is eligible for membership in TRS, it is considered employment that revokes your retirement if you perform the work during the first full, calendar-month break in service required after retirement. This is not a “gray area” of the law. The law specifically addresses this type of work and provides that working as a substitute during the required one month break in service revokes your retirement.

Question: Can you volunteer for a TRS-covered employer during the required break in service without revoking your retirement?

Short Answer: Yes, but if you are “volunteering” in order to secure employment with a TRS-covered employer that begins after the required break in service or you are waiving compensation for the work you are performing and calling it “volunteering,” TRS does not consider the work to be volunteer work. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. If the work you perform while volunteering is the same type of work you will perform after the break in service, you are jeopardizing your retirement.

But you may also want to know: The one full, calendar-month break in service is required in order to establish that you have terminated your employment. Efforts to circumvent this requirement by

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“volunteering” in a position in order to secure employment after the required break in service, or agreeing not to be compensated for the work in return for a promise of future employment or in order to get a “head start” will result in you revoking your retirement because you are not “volunteering”— you are working. By working, you have not terminated your employment as required by law. If you do not terminate your employment, you are not eligible to retire and you are not eligible to receive the benefits paid to you as a retiree. You must repay all retirement benefits and any health care benefits paid on your behalf by TRS-Care.

Volunteering in a position that you held before you retired or in a position that is usually held by a paid employee raises suspicion that you are not really volunteering. To be on the safe side, TRS recommends that you do not volunteer during the required one month break in service.

Question: How much time can you work without losing any annuity payments?

Short Answer: You can work without losing any annuity payments:

- as a SUBSTITUTE, for up to 90 days (provided you do not perform any other type of work that month for a TRS-covered employer);
- as much as ONE-HALF TIME in each calendar month, for up to 90 days; or
- in a COMBINATION OF SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME OR LESS EXCEPTION, provided the total number of days worked in the combined positions in that calendar month does not exceed one-half of the number of workdays in that calendar month and all of the work performed in that school year does not exceed 90 days.

But you may also want to know: The school year for TRS purposes is from Sept. 1 to Aug. 31 – every year, for every retiree, and for every TRS-covered employer. It does not matter when the school instructional year begins for your employer.

As a disability retiree, you may work as a substitute for as many as 90 days each school year. **A SUBSTITUTE** for TRS purposes is a person who serves on a temporary basis in the place of a current employee. Beginning Sept. 1, 2016, you may also serve as a substitute in a position that is vacant, provided you do not work more than 20 days in that vacant position and the position is not vacant because you retired from it. Prior to Sept. 1, 2016, the position filled by the retiree could not be vacant and be considered a substitute position. **You may serve in a vacant position more than 20 days**, but beginning on the 21st day of service in the same vacant position you will be considered by TRS under another employment type such as full time, combination of substitute and one-half time or less, or one-half time or less rather than as a substitute. Because you are limited to working no more than 90 days total each school year as a substitute, one-half time or less, or in a combination of substitute work and work under the one-half time or less exception for no more days than one-half the number of workdays in that calendar month, you will lose your annuity for any month that you work full time. Also, working any part of a day, including working on a Saturday or Sunday, counts as working a full day. This is important to know if you combine substitute work with one-half time or less employment in the same calendar month as described below.

For disability retirees, **ONE-HALF TIME EMPLOYMENT** is working or using paid leave for no more than the equivalent of four clock hours for each workday in that calendar month (each Monday

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through Friday in the calendar month, including holidays and days the employer is closed for business that fall on Monday through Friday). **This standard applies to all positions.** If your employment is measured in course hours or semester hours rather than clock hours (typically applies to higher education employment), each hour of instruction in the classroom or lab will count as two clock hours in order to reflect instructional time as well as preparation and other time typically associated with one hour of instruction. If the employer has established a greater amount of preparation time for each hour of instruction, the employer's established standard will be used to determine the number of course or semester hours a retiree may teach without loss of annuity. If you are teaching an online class for students who will receive college credit for the class or a hybrid class that is part online and part classroom instruction, each hour of college or semester credit given for the class will count as two hours worked in a week. For example, if you are teaching a three-hour online class, then each hour of credit counts as two clock hours of time worked in a week. In this example, the three credit hours counts as working six hours in a week (3 semester hours X 2 clock hours = 6 clock hours each week). To determine the number of hours that you are considered to have worked each day, divide the six hours for the week by five workdays in a week. In this instance, the three-hour online or hybrid class counts as working 1.2 hours each day (6 hours per week ÷ 5 workdays in a week = 1.2 hours per Monday through Friday). As long as you do not exceed the equivalent of four clock hours for each workday in that calendar month, you will not forfeit your monthly annuity for that month.

The total number of hours allowed for that month may be worked in any arrangement or schedule. Be sure to include any hours of paid leave, including holiday leave, that you used in the total number of hours worked that month. However, you must keep in mind that disability retirees are limited to working only 90 days each school year, including any Saturdays or Sundays that you work. You may want to consider working the hours allowed for one-half time or less employment on the fewest number of days each month to maximize the hours available for work under the 90-day limit. For example, if there are 20 workdays that calendar month, you may work 80 hours that month under the one-half time exception (20 workdays X 4 hours per day = 80 hours total for the month). If you work eight hours each day for 10 days that month, you will have worked the maximum allowed under the one-half time exception without forfeiting your annuity for that month and worked only 10 of the 90 days you are allowed to work during that school year as a disability retiree. If instead you worked four hours each day that same month, you will have worked the 80 hours allowed for that calendar month, but you will have worked 20 of the 90 days you are allowed to work that school year as a disability retiree.

You can **COMBINE EMPLOYMENT AS A SUBSTITUTE AND WORK UNDER THE ONE-HALF TIME EXCEPTION** during the same school year or even the same calendar month. For instance, you may work one month as a substitute and the next month work as much as one-half time. You may also combine substitute work and work under the one-half time exception in the same calendar month, but you cannot work more days than one-half the number of workdays in that calendar month without losing your annuity payment for that calendar month. If the calendar month has an odd number of workdays, you are limited to working only the number of whole days available and may not work any amount of additional time in the one-half day remaining when dividing the total number of workdays in a month by two. If you work any part of the one-half day that remains after halving the number of workdays in that calendar month, you forfeit your annuity for that month. Also, working

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on a Saturday or Sunday counts as a day worked. Count the number of workdays in that calendar month and divide by two to determine the total number of days you can work that month. But working any day, including a Saturday or Sunday, counts as a day worked towards the total number of days you may work that calendar month without forfeiting your annuity and towards the total of 90 days for the school year. Keep in mind if you work any part of the day, that day counts as one of the total of 90 days you are allowed to work in all capacities. To maximize the number of hours you can work in a month in which you combine work under the one-half time exception and substitute work, try to work as many hours as possible on the days you work. Remember – when combining work under the one-half time or less exception and substitute work in the same calendar month, the number of hours you work does not matter; you are limited only by the number of days you can work. Paid leave is considered employment and must be included in determining the total amount of days that you work in a calendar month and work on a Saturday or Sunday also counts as a day worked.

Question: Can you work full time without losing your annuity?

Short Answer: No, unless you are in the three-month TRIAL WORK PERIOD, working full time in any month will result in you losing your disability annuity for that month.

But you may also want to know: You will lose your annuity for any month that you work full time for a TRS-covered employer as well as any month your work for that school year in all positions exceeds 90 days, beginning with the month you work the 91st day. In addition, the full-time employment will count towards the 90-day limit on all employment with all TRS-covered employers. However, you may be eligible for a one-time only three-month TRIAL WORK PERIOD of full-time employment.

As a disability retiree you are allowed a one-time only trial work period of up to three consecutive months of full-time employment to see if you are able to return to full-time work. You designate the time period and the trial work period can be up to three consecutive months. The trial period can be all in one school year or span two school years. Also, the trial period must begin no earlier than the school year that begins after your effective date of retirement. For example, if you retired Aug. 31, because you must not work for a TRS-covered employer for one full calendar month following your retirement and you must wait until the school year following your retirement to begin the trial work period, your trial period can begin no earlier than Oct. 1. You must notify TRS in writing on the *Employment After Retirement Disability Election* form (TRS 118D) that you want to take advantage of this one-time only three-month trial work period of full-time employment and the form must be received by TRS prior to the end of the three-month trial work period. While working under this trial work period, working any portion of a month counts as working a full month. If you continue working full time after the trial work period has ended, your disability retirement will be revoked and you will be returned to active membership. The three-month trial work period is in addition to the 90 days you are allowed to work as a substitute, work under the one-half time basis exception, or in a combination of the two.

Each TRS-covered employer is required to submit a report to TRS each month indicating the names of retirees employed and the amount of time they worked. TRS reviews the report and takes steps to stop your annuity payment if you exceed the amount of time available to work. If your annuity payment has been sent to you, you must repay the payment.

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Question: What happens if you work more than 90 days as a substitute, one-half time, or in a combination of the two in the same calendar month?

Short Answer: You will lose your annuity for the month in which the 91st day is worked and for any additional month in which work occurs during that school year.

But you may also want to know: Although you will forfeit your annuity payment for any month that you work in excess of the 90 days allowed, your annuity will be paid for the remaining months of the school year if you do not work any additional time.

Question: How are paid leave days, whether sick leave days, personal leave days, compensatory leave days, or vacation leave days, counted in determining how much time you have worked?

Short Answer: Paid leave time is counted the same as if you worked. It doesn't matter what type of paid leave is taken.

But you may also want to know: In determining whether you worked in a given calendar month, TRS considers paid time off the same as time worked. Your employer is required to report to TRS the paid time off as if you worked.

Question: How are weekend days counted in determining how much time you have worked?

Short Answer: Weekend days (Saturday and Sunday) are considered the same as workdays (Monday through Friday) in counting the days you worked or determining the amount of time you have worked for a TRS-covered employer.

But you may also want to know: In determining how many hours you can work one-half time in that calendar month, TRS counts each Monday through Friday as a workday and you are allowed to work the equivalent of four clock hours for each workday in that calendar month. However, every hour that you work, whether you work on a workday (Monday through Friday) or on a weekend (Saturday and/or Sunday) counts toward the total number of hours you can work that calendar month. Similarly, in determining how many days you may work when combining substitute and other work in the same calendar month, TRS counts the number of workdays (Monday through Friday) and divides by two. However, each day that you work, whether on a Monday through Friday, or a Saturday or Sunday, counts toward the total number of days you are allowed to work that month for a TRS-covered employer. Each day that you work also counts towards the total of 90 days that you may work without forfeiting your disability retirement benefit. There are no "free" days.

Question: Can you work for a third-party employer that sends personnel to a TRS-covered employer to perform duties normally performed by employees and avoid losing any of your annuity payments?

Short Answer: No.

But you may also want to know: Several years ago, some TRS-covered employers were hiring retirees to perform services through third-party entities in an effort to avoid the limits on employment after retirement. A third-party entity is an entity or company retained by the TRS-covered employer to provide personnel that perform duties or provide services that employees of the TRS-covered employer would otherwise perform. The law was amended to provide that a retiree who is employed

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by a third-party entity is considered to be employed by the TRS-covered employer unless the retiree does not provide services or perform duties on behalf of the TRS-covered employer. Retirees who were hired by the third-party entity before May 24, 2003 are not affected by the change in the law. While there may be other reasons you will want to be employed by a third-party entity instead of a TRS-covered employer, do not accept employment with a third-party entity to avoid the loss of any monthly annuity or payment of the surcharges. Any days that you work for a third-party entity will also be counted towards the 90 days of employment you are allowed each school year.

Question: Will your employer pay surcharges because of your employment?

Short Answer: If you retired after Sept. 1, 2005, the surcharges are owed if you work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month or when combining substitute and one-half time or less employment (including any paid leave) you work more days than one-half the number of workdays in the calendar month. If you retired before Sept. 1, 2005, the surcharges are not due.

But you may also want to know: Your employer is required to pay surcharges to TRS on retirees who retired after Sept. 1, 2005 and who work or use paid leave for more than the equivalent of four clock hours for every workday in that calendar month and on retirees who combine substitute and work (or paid leave) under the one-half time exception and work more days than one-half the number of workdays in that calendar month. A workday is each Monday through Friday in the calendar month, including holidays and days the employer is closed for business that fall on Monday through Friday.

Employment not subject to the surcharges includes:

- work by a retiree who retired before Sept. 1, 2005;
- substitute service (effective Sept. 1, 2016, work in a vacant position for no more than 20 days is considered substitute service – provided the retiree did not retire from that vacant position);
- one-half-time or less employment (employment that does not exceed the equivalent of four clock hours for every workday in that calendar month, including any paid leave used and any work on a Saturday or Sunday); and
- combined substitute work and work one-half time or less exception – provided the total number of days worked or paid leave was used does not exceed one-half the number of workdays in that calendar month. Be sure to include any Saturday or Sunday that you work.

IMPORTANT DISTINCTION. It is important to note that when working one-half time you may work or use paid leave for the equivalent of four clock hours for each workday in that calendar month but if you combine substitute work and work under the one-half time or less exception in the same calendar month, the number of days you work is limited to no more than one-half the number of workdays in that calendar month. Paid leave must also be included in determining the total amount of time and/or the total number of days you worked in the calendar month the leave was taken and included in the 90-day limit for the school year. Work on a Saturday or Sunday must also be included in the amount of time and/or days worked that calendar month and included in the 90-day limit for the school year.

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Employer Surcharges:

The standard for triggering the surcharge – The retiree works or uses paid leave for more than the equivalent of four clock hours for every workday in that calendar month or the retiree who combines one-half time or less employment and substitute work in the same calendar month and works or uses paid leave more days than one-half of the number of workdays in that calendar month.

The amount of the pension surcharge is equal to the amount of both member and state contributions on the compensation paid to you. If you are also participating in TRS-Care, your employer will owe a health benefit surcharge to TRS on your employment. Beginning Sept. 1, 2016, your employer will owe a flat fee health benefit surcharge in the amount of \$535 each month your work in a calendar month exceeds one-half time or you work more days than one-half the number of workdays in that calendar month when combining substitute work and other work.

Question: Does time that you spend volunteering for a TRS-covered employer count in the number of hours you work in a month?

Short Answer: No, but if you are “volunteering” in order to secure employment with a TRS-covered employer in the future or you are waiving compensation for the work you are performing, TRS does not consider the work to be volunteer work. Hours that you work without pay in hope of obtaining future employment, work extra without pay in order to keep your current one-half time or less employment, work in order to get a “head start” on work you will perform in the future, or for any other type of consideration are counted as work hours in that month for TRS purposes.

But you may also want to know: “Volunteering” your services in an effort to circumvent the requirement to terminate employment before retiring puts you at risk of revoking your retirement if your “volunteer” work occurs during the required one full, calendar-month break in service. “Volunteering” in an effort to circumvent the limits on employment after disability retirement puts you at risk of forfeiting your annuity for that month if the “volunteer” work and any other work you perform for a TRS-covered employer exceed one-half time. This type of “volunteer” work also counts as one of the total of 90 days you may work in a school year without forfeiting your annuity for the month(s) in which you work the 91st day and any work following the 91st day.

The “volunteering” addressed in this context is not really the type of arrangement where you give your time freely to benefit others; TRS is referring to an arrangement in which you agree not to be compensated for the work in return for a promise of something else. For TRS purposes, volunteering is generally considered an altruistic activity intended to promote good or to help others. There is no immediate financial gain for the volunteer. The determination of whether a retiree is volunteering or simply agreeing not to be paid for work in order to gain some advantage is a difficult one that is made by TRS and the outcome cannot be predicted; however, some types of volunteering create more suspicion than others. For example, volunteering in a position you held prior to your retirement or that is usually held by another employee will result in close scrutiny by TRS. Also, volunteering in a position you will hold in the immediate future will result in close scrutiny as well. If you are genuinely giving your time to help others in a public education setting, feel free to do so without concern for your retirement. However, TRS recommends that you do not volunteer immediately after retirement during the required one full, calendar-month break in service to avoid the risk that TRS will determine that you revoked your retirement by working that month.

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How does TRS know that you are working rather than volunteering? Usually someone who does not think the arrangement is volunteering will notify TRS. It may be someone working in the business office, an auditor for the employer or TRS, someone who wanted the position in which you are volunteering, or perhaps another retiree who does not think the arrangement is fair. Sometimes TRS will not hear about the arrangement for months or years after it occurred. If TRS confirms that the “volunteering” was in fact working, TRS must collect any annuities that were forfeited.

Question: Can you lose your annuity if you earn compensation from any source of employment, including a TRS-covered employer, while you are on disability retirement?

Short Answer: Yes, if you applied for disability retirement after Aug. 31, 2007, your effective date of retirement is after Aug. 31, 2007, and your compensation is the greater of \$40,000 or your highest salary in any school year before you retired.

But you may also want to know: If you retired before Aug. 31, 2007, or applied for disability retirement before Aug. 31, 2007, there is no limit on the amount of money you can earn while receiving a disability retirement annuity from TRS. This is true without regard to the source of the compensation. However, keep in mind that you are limited to working for a TRS-covered employer only 90 days as a substitute, under the one-half time exception, or a combination of the two in the same calendar month without losing an annuity. You may also work full time for up to three consecutive months during a one-time only trial work period without losing an annuity. The requirements for the three-month trial work period are discussed earlier in this section in response to the question about working full time. While there is no limit on the amount of compensation for you if you retired before Aug. 31, 2007 or applied to retire before Aug. 31, 2007, there is the 90-day limit per school year on the number of days of employment with a TRS-covered employer and the limit that you cannot work more than one-half time in a calendar month if you are not working only as a substitute.

If your retirement date is after Aug. 31, 2007 and your retirement application was received after Aug. 31, 2007, there is also a limit on the amount of annual compensation you may earn while receiving disability retirement benefits. The compensation cap is based on your earnings during a calendar year. The limit on compensation applies to compensation earned the first full calendar year that begins following the effective date of your retirement. For example, if you retired in May, the first full calendar year does not begin until January following your retirement.

The compensation limit includes compensation for any work performed for any employer including a TRS-covered employer, self-employment, work as an independent contractor, and profit from a business. The limit on compensation is the greater of the amount of the highest salary received by the retiree in any school year before disability retirement or \$40,000. This limit does not apply to retirees receiving gross disability retirement benefits of \$2,000 or less annually. If you are subject to the cap, you must report the compensation to TRS by May 1 of the calendar year following the year in which the compensation was earned and you must report the compensation on the form required by TRS. TRS may audit the report and request supporting documentation, including your tax returns, W-2 forms, 1099 forms, and other employment payroll records as necessary to verify the income reported. TRS may also use other sources of information to identify retirees receiving compensation in excess of the limit. For example, if you retired in April 2010, the first full calendar year that begins after you retired begins in January 2011 following your retirement. If your annuity payments

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from TRS exceed \$2,000 and you earned additional compensation during the 2011 calendar year that exceeded the greater of your highest salary from a TRS-covered employer before you retired or \$40,000, your first report is due to TRS by May 2012.

If you exceed the amount of compensation allowed, you will lose your disability annuity payment. If you have TRS-Care coverage, you will be required to pay for the full cost of your coverage. TRS will resume paying your annuity payments after receiving a report from you that the compensation has ceased or decreased below the established limit. This report must be made on a form prescribed by TRS.

If you are subject to the compensation limit, keep in mind that you are also limited, if working for a TRS-covered employer, to working only 90 days as a substitute, under the one-half time exception, or a combination of the two in the same calendar month. Compensation earned while working the 90 days is included in the compensation limit. Further, if you work full time for the three-month trial work period, compensation you earn while working full time is included in the compensation limit. Finally, if you work 90 days as a substitute, under the one-half time exception, or a combination of the two, then work full time for up to three months in the trial period, all compensation received in the same calendar year must be used in determining if the compensation limit is exceeded.



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