



STATE OF TENNESSEE
TENNESSEE CONSOLIDATED RETIREMENT SYSTEM
15th FLOOR, ANDREW JACKSON STATE OFFICE BUILDING
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To: Employers participating in TCRS and ORP

From: Alison Cleaves, State Social Security Administrator
Jamie Wayman, Director TCRS
Hunter Bethea, Director of Deferred Compensation

Date: August 8, 2024

Subject: FICA and Temporary Employment

The purpose of this memo is to address the proper handling of Social Security tax through the Federal Insurance Contributions Act (FICA) regarding retirees who return to employment temporarily with a covered TCRS or ORP employer under the various temporary employment programs provided in Tennessee law.

Agreements between the State of Tennessee and the Social Security Administration provide Social Security coverage for state employees, teachers, and local governments participating in TCRS and ORP. The Section 218 Agreement, formally known as Section 218 of the Social Security Act, dictates the assessment of the FICA tax. Generally, an employee eligible to participate in TCRS or ORP is required to contribute, up to the applicable salary limits, 7.65% of salary for Social Security and Medicare coverage.

Once an employee retires from active employment with a covered TCRS or ORP employer, the retiree is eligible to receive an unreduced monthly pension or distribution, and the retiree (or annuitant) may temporarily return to employment with a covered TCRS or ORP employer for up to one hundred twenty (120) days or the equivalent of one hundred twenty (120) days; however, the retiree is not eligible to obtain additional TCRS salary or service credit for the work or participate in the ORP. As such, the Social Security portion of FICA must not be deducted from the retiree's temporary employment wages; however, Medicare must continue to be deducted (1.45%).

In addition to the return to work opportunity detailed above, there are five (5) other programs under which retired TCRS members may return to work as:

- A retired teacher, retired for at least one (1) year, who will receive 85% of the member's reemployment salary;
- A law enforcement officer whose retirement allowance will be reduced to 70% of the benefit otherwise payable during the period of reemployment;
- Emergency medical services personnel whose retirement allowance will be reduced to 70% of the benefit otherwise payable during the period of reemployment;
- A retired teacher, substitute teacher, or bus driver whose retirement allowance will be reduced to 70% of the benefit otherwise payable during the period of reemployment; or

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- A school resource officer who will receive an unreduced retirement benefit and reemployment compensation.

Each of the return to work programs above will follow the same guidelines outlined above. Only the Medicare portion should be deducted from the employed retiree's salary. All retirees (including substitute teachers) working under these programs are required to complete the appropriate forms when first employed and on an annual basis, as necessary.

If a retiree returns to work in other than a temporary position with a covered employer, the retirement benefit will be suspended and the employee will have the option of waiving membership or rejoining TCRS or ORP for additional salary and service credit. Regardless of the employee's choice, the full FICA (Social Security and Medicare tax) (7.65%) should be deducted from the employee's pay. If you have any questions concerning this matter, please contact the TCRS Employer team by calling: RetireReadyTN at (800) 922-7772, say TCRS, then Employer.