

### Testimony In Support of SB 704

Mr. /Ms. Chairperson and members of the committee, my name is Marilynn Cruz-Aponte. I am speaking in support of **SB 704, An Act Concerning Retirement Definitions of Municipalities and Participating Municipalities.**

In July, 2011, legal counsel for the Retirement Division, Office of the Comptroller, issued an **administrative interpretation, The Employer's Guide to CMERS**, offering guidance as relates to implementation of Connecticut Statutes, Section 7-438, Continuation of retirement allowance upon other public employment. Participation in state retirement system. Reemployment by participating municipality.

I am a former New Britain employee with Local 818 Council 4 of AFSCME and with 22 years of CMERS credits. When I left New Britain in 2008, the benefits office provided me a letter confirming that I had a vested termination and was eligible to receive a pension under the Local 818 contract terms starting at age 55, May 2012. I left to be employed with the City of Hartford in a non-CMERS position.

In November 2011, I contacted the State Retirement Division. I spoke to a retirement counselor who explained that reemployment at "**any other municipality**" made me ineligible to receive my earned CMERS benefits as a result of a 2011 administrative interpretation of reemployment statutes. The restriction applied even if my new position was not a CMERS pension system position. The retirement counselor further indicated that the only way to correct this interpretation was to clarify it through the legislature and revision of the law.

I went line staff to Retirement Division leadership to grieve the matter, to no avail. I am here today because I felt it prudent to seek statute language clarifications to correct the administrative interpretation.

When I became employed with the City of Hartford I assumed a position covered by Hartford's pension system. The City of Hartford, under home rule, established its own pension funded fully by the City in accordance with state statutes, Title 7, Sec 7-450, "Establishment of pension and retirement systems or other past employment health and life benefit systems." The Hartford pension system, known as the Municipal Employees Retirement Fund (MERF), is not a CMERS-based system. A total of 82% of Hartford employees under the Hartford MERF pension pay nothing to the State CMERS pension system nor does the City pay anything to the CMERS system for these employees.

Hartford Local 1716, rank and file laborers, (18% of city employees) did elect to join CMERS 20-25 years ago. In discussions with Hartford's Pension Office and Human Resources Department, the participation of Local 1716 is not understood to legally bind the City of Hartford to CMERS policies for all other Hartford employees participating in the local MERF.

The 2011 administrative interpretation seems to presume that participation of Local 1716 automatically defines Hartford as a "participating municipality." (Section 7-425, State Retirement Definitions). Consequently, the administrative interpretation assumes CMERS can apply its rules, regulations and guiding policies to non-CMERS municipal employees.

I have various questions: Were efforts to revise retirement laws in 2010 intended to define every municipality as a "participating municipality"? Does the decision by a subset of municipal employees to choose membership in state CMERS obligate a city to be defined as a "participating municipality" even when there is a local pension system established and fully funded under home rule? Is it rational to deny access to earned CMERS retirement pension benefits for an employee working in a new municipality and participating in a separate local pension system not connected to CMERS? How is it that there are some municipal employees who participate in local pensions that are exempt under state statutes but I am restricted? Under Section 7-454 (2), Employees Not Included, police and fire covered under **local retirement systems** are exempt.

My understanding is that past clarifications to retirement statutes were intended to stop double-dipping where an employee is collecting a CMERS pension from one municipality while working toward a second CMERS pension in another municipality. **In my current position contributions to my pension come from the City of Hartford and me only, completely independent of State CMERS. I am not enhancing my CMERS pension credits. I am not contributing to CMERS at ALL! Since there is no fiscal relationship with State CMERS, there is zero fiscal impact to the State and there is no financial justification to deny my earned CMERS pension that should have begun May, 2012.**

The 2011 interpretation is not reasonable, not rational and has an onerous and unfair impact on me.

My request is that SB 704 correct language in the retirement statutes that leads to a revision of administrative policies to insure all municipal employees participating in independent-non-MERS local retirement systems will receive earned MERS benefits in accordance with original retirement terms and that I receive MERS pensions benefit retroactive to May 2012.

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(Relevant Statutes requiring modification: Definitions under Section 7-425; Participation under Section 7-427 and Continuation of retirement under Section 7-438; Employees Not Included under Section 7-454 and all other sections of Title 7 Retirement Statutes deemed by LCO.)

pension. Your position at the City of Hartford does not accrue any service toward a second CMERS pension and the impact on the State of your working at the City of Hartford is the same as if you were employed by a non-participating municipality.

Please let me know if you need any additional information.

Sincerely,



Donna D. Parker



## CITY OF HARTFORD

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DONNA D. PARKER, FSA, EA  
PLAN ADMINISTRATOR

February 15, 2013

Ms. Marilyn Cruz-Aponte  
15 Bradford Walk  
Farmington, CT 06032

Re: City of Hartford Municipal Employees' Retirement Fund (MERF)

Dear Ms. Cruz-Aponte:

Recently you requested some information about the City of Hartford's pension plan for your testimony about SB704.

The City of Hartford sponsors a defined benefit pension plan called the Municipal Employees' Retirement Fund (MERF). The MERF is funded by employee and City contributions. The MERF is totally separate from the CT Municipal Employees Retirement System (CMERS) and the employees in the MERF do not contribute to CMERS, nor does the City contribute to CMERS on behalf of these MERF participants.

City Local 1716 and Board of Education Local 566 elected many years ago to participate in CMERS. In 2012 Board of Education Local 818 elected to have new Local 818 members participate in CMERS.

It appears that the interpretation of a "participating employer" in regard to rehired retirees changed in 2011. It has been my experience as a pension actuary that a terminated employee is subject to the plan provisions in effect at the time of termination of employment. When you terminated your employment at the City of New Britain in 2008 and took a non-union non-CMERS position at the City of Hartford, you would have been able to collect your CMERS pension benefit in May 2012 and continue to work at the City of Hartford. If the current interpretation had been in effect in 2008, your employment decision may have been different.

I would think that the intent of the change in the interpretation of the rehired retiree language is to prevent "double-dipping", where the employee is collecting a CMERS pension and is also working and accruing service toward a possible second CMERS

***THE EMPLOYERS' GUIDE  
TO THE CMERS***

***THE CONNECTICUT MUNICIPAL EMPLOYEES  
RETIREMENT SYSTEM***

***JULY 2011***

## Introduction

The Connecticut Municipal Employee Retirement System (CMERS) is pleased to be able to provide this CMERS retirement guide to its employers and their benefit, human resource, payroll, and personnel directors.

This guide will go through the benefits that are available when an employee terminates employment. The first section discusses eligibility for the different benefits, the second section details the exact forms required for each. There is a special section at the end that covers a member who is deceased, either before or after retirement.

It is a work in progress. Future sections will include comprehensive information on Purchases, Contributions and similar topics. Employers will be notified as sections are added.

money is owed to the estate of the deceased.

## **RE-HIRED RETIREES**

The Legislature recently changed the statute to exclude part time positions (a position that is *less than 20 hours* per week on a customary basis) from the CMERS re-hired retiree limitations. Once a CMERS employee retires he or she is prohibited from returning to work in the same municipality or in a municipality that participates in the CMERS except in a 90 working day temporary capacity or if the individual works less than 20 hours per week.

Whether a rehired retiree falls under the restrictions of CGS Section 7-438 is now a three prong determination.

The first prong is to determine if the retiree is working at the "*same municipality from which he was retired or any other participating municipality*". If the retiree returns to work for an employer that participates in the CMERS he meets the first prong. This is true whether or not the department of the participating municipality where the retiree is re-employed participates in the CMERS or not. It is important to note that Housing Authorities, Boards of Education and towns are generally considered to be separate employers under CMERS. If a Town belongs to the CMERS and a Board of Education does not, a "Town" retiree can work for the Board of Education without invoking the restriction. However, for example, the Public Works Department of a municipality is a member of the CMERS and no other departments are; any employment with any department of that municipality will still be subject to the 90 day re-employment provision.

The second prong is to determine whether the position is less than 20 hours a week. If the retiree is hired for a position that is customarily less than 20 hours per week he or she will be exempted from the rehired retiree provisions of the CMERS. For example, a retiree hired to answer phones Monday, Wednesdays and Fridays mornings for 15 hours a week would be exempt from the rehire provisions: however – if at any time the employee had to work over 20 hours the entire work week (5 days) would be "counted" toward the 90 day restriction.

The last prong concerns the 90 working days. "Working days" will be determined by the number of hours and number of days worked in a week. If the number of hours worked in a week is 20 hours or greater – then the days worked will be considered "working" days for purposes of rehire restrictions regardless of actual hours worked each day. For example, a retiree is hired to answer telephones Monday, Wednesdays and Fridays for a total of 21 hours a week. This retiree will incur three working days toward the 90 day restriction. The days do not have to be continuous or be full eight hour days to be counted as a day. If a retiree is rehired to work a varying number of hours, as needed; any week where the retiree works 20 hours or more will have every day the retiree worked counted as a working day for the 90 day limitation. Any week when this retiree works less than 20 hours a week will not have the days counted as working days towards the 90 day limitation.

Here are some examples to help navigate this area:

1. A CMERS employee vests after five (5) years and can take a retirement at any age (albeit actuarially reduced). Sam Jones, a 30 year old employee worked for the City of Nutmeg (a participating municipality) for six years. He left to work for the Town of Habit, a non-CMERS municipality and started to start to receive a CMERS retirement benefit (albeit substantially reduced) at the age of 36. There is no rehired retirement restriction with regard to this

employment.

2. Former Fire Fighter John Smith retired July 9, 2005 from the City of Nutmeg Fire Department with 25 years of service. He collects a CMERS pension benefit. He went directly from fire fighter to the position of full time building inspector in the City of Nutmeg – a position not covered by the CMERS retirement system but in the same municipality. Smith is covered by the rehired retiree restrictions and subject to the 90 day rule.
3. Former Fire Fighter John Smith retired July 9, 2005 from the City of Nutmeg Fire Department with 25 years of service. He collects a CMERS pension benefit. He went directly from fire fighter to the full time position of Special Building Project Coordinator with the Board of Education in the City of Nutmeg – an entity/employer which his not covered by the CMERS retirement system. There is no restriction with regard to this employment.
4. Former Fire Fighter John Smith retired July 9, 2005 from the City of Nutmeg Fire Department with 25 years of service. He collects a CMERS pension benefit. He went directly from fire fighter to a full time position of Special Building Project Coordinator with the Board of Education in the City of Nutmeg – an entity/employer which is covered by the CMERS retirement system. Smith is covered by the rehired retiree restrictions and subject to the 90 day rule.
5. Former Fire Fighter John Smith retired July 9, 2005 from the City of Nutmeg Fire Department with 25 years of service. He collects a CMERS pension benefit. Several years after retirement, he accepts the part time position of Special Building Project Coordinator (2 days a week @ 8 hours a day) with the Board of Education in the City of Nutmeg – an entity/employer which is covered by the CMERS retirement system. There is no restriction with regard to this employment.
6. Former Fire Fighter John Smith retired July 9, 2005 from the City of Nutmeg Fire Department with 25 years of service. He collects a CMERS pension benefit. Several years after retirement, he accepts the part time position of Special Building Project Coordinator (3 days a week @ 8 hours a day) with the Board of Education in the City of Nutmeg – an entity/employer which is covered by the CMERS retirement system. Because this position works 24 hours a week, Smith is covered by the rehired retiree restrictions and subject to the 90 day rule. Smith would be considered as working 3 days a week – he would reach the 90 day restriction in about 30 weeks.
7. Former Fire Fighter John Smith retired July 9, 2005 from the City of Nutmeg Fire Department with 25 years of service. He collects a CMERS pension benefit. Several years after retirement, he accepts the part time position of Special Building Project Coordinator (2 days a week @ 8 hours a day) with the Board of Education in the City of Nutmeg – an entity/employer which is covered by the CMERS retirement system. There is no restriction with regard to this employment. However, a building situation occurs where Smith must work two extra days a week over the summer to prepare the buildings for school opening. During these weeks, Smith would be considered as working 4 days a week and all his time would count toward the 90 day restriction.
8. Former Fire Fighter John Smith retired July 9, 2005 from the City of Nutmeg Fire Department with 25 years of service. He collects a CMERS pension benefit. Several years after retirement, he accepts the part time position of Special Building Project Coordinator (2 days a week @ 8 hours a day) with the Board of Education in the City of Nutmeg. Both entities/employers are covered by the CMERS retirement system. He also ran for public office and is elected to the Assessor position a paid position with office hours totaling 12 hours per week. The total amount of time exceeds 20 hours a week. John must either give up one of his position or be subject to the 90 day restriction in approximately 13 weeks.