

UPTOWN

Law enforcement retirement system requires careful policy planning

Hiring policies have always required municipalities to seek legal advice before implementation, but retirement plan changes have brought retiree issues to the forefront of personnel debates.

In 2002, the General Assembly modified the retirement options for members of the S.C. Police Officers Retirement System (SCPORS) to allow members to return to work for an agency covered by the S.C. Retirement Systems (SCRS) after a 15-day separation period. Upon returning to work, the member would not be subject to any earnings limitations and would draw his retirement benefits in addition to his salary.

Although members have always been allowed to retire and return to work, the salary limitation on yearly earnings did not make this option attractive for many officers. With the lifting of the earnings cap, MASC anticipates more employees will take advantage of this benefit. Currently, 1,723 law enforcement officers are eligible to retire under the new plan. Over the next five years, more than 3,500 more officers will be eligible. Although the earnings limitation has been lifted only for members of SCPORS, the General Assembly may consider offering this program to other SCRS members, too.

After meeting with a representative group of managers, administrators and human resource professionals, MASC determined no single policy would fit the needs of all members. Rather than drafting a model policy, the following are some issues each municipality should consider when drafting its own policy. Municipalities should also keep in mind that whatever policy they adopt for members of SCPORS might become applicable to all employees in the near future.

If I let one employee retire and return, do I have to let all employees return?

No. Unlike the TERI program, the employer gets to decide whether an employee may return after retiring.

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The care of one's place – whose job is it, anyway?

Learn more at the Community Builders Conference

*by Beppie LeGrand, program associate
Community Builders*

John W. Gardner, 89, former Marine and educator, foundation executive and cabinet secretary, author of noted books and the founder of such major organizations as Common Cause, recently passed away after an extremely full life. He once said, "Don't expect a man on a white horse to save your country, city, region. Don't wait on some establishment, 'them.'"

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However, you will need a good reason if you permit some employees to return and not others, or you may be faced with a discrimination lawsuit. As always, documentation is important.

How long must an employee be "retired" before he is rehired?

The statute says an employee must be retired "at least" 15 days. A municipality may require a longer waiting period. For example, for budgetary reasons, you may want to require an employee wait the same number of days as he is paid for annual leave upon retirement. If you pay 45 days of annual leave upon retirement, you may want to require the employee to wait 45 days before returning.

Do I have to rehire the employee? If I do rehire, do I have to place the employee in the same position he held prior to leaving?

No. Unlike TERI, you do not have to guarantee the employee a return to his old job or to any job. We advise you do not guarantee position or salary, except in unusual or limited circumstances. Any exceptions should be closely monitored and documented.

May the municipality develop criteria for permitting employees to return?

Yes. Some suggestions are:

- The employee wishing to retire and return may not have any documented disciplinary actions in the preceding two years.
- The employee wishing to retire and return must have attained a score of "satisfactory" in every category of his performance evaluation for a specified period of time (for example, the preceding two years).

Another criteria might be to permit only employees who have been with the employer a certain number of years (for example, 15 years) to participate. Although there is nothing unlawful about this requirement, it seems arbitrary. You may have an excellent employee who has been with the municipality fewer than the required number of years who decides to retire and go to work elsewhere. If you decide to waive this years-of-service requirement for an employee, you will need to justify why it is not waived for another.

May the municipality require the retiree to go through the interview process?

Yes. You may treat the retiree as a new applicant who must be interviewed for an open position. You may require a drug test and physical examination, just as you would for any applicant. If employees need additional certification or testing that the former employee did not have, you may require that he attain such certification.

May the municipality set a limit on how long retirees may work after they return?

Yes. Your policy may include a limit on the time retirees may work after they return. Permitting employees to return with no time limit can cause concern that there will never be an "incentive" for the employee to leave. This can lead to morale problems. If more senior employees do not leave, junior employees have no chance for advancement.

However, imposing a "fixed" time limit may cause you to lose good employees you would rather keep. You could waive the requirement for an exceptional employee, but these waivers should be justified and documented as to why you are waiving the requirement for one employee and not another.

If you impose a fixed time limit, make sure the employee understands the limit is not a guarantee of employment for that period. If the employee's performance becomes less than satisfactory or he violates policy, he will be disciplined (and discharged), just as any other employee.

Is the rehired employee entitled to health insurance benefits on the same basis as other employees or on the same basis as retirees?

This is up to each municipality. Many municipalities permit retired employees to remain on the municipality's health insurance program. Some require the retirees to pay the entire premium, some pay 100 percent of the premiums for the retirees and some pay retiree premiums on the same percentage basis as they pay for employee premiums. Some employers permit retirees to remain on the health insurance program indefinitely, while some permit retirees to remain on the program until they qualify for (not enroll in) Medicare.

It appears employers may treat the "rehired" retirees the same as other retirees. If retirees must pay their own premiums, you may require rehired retirees to pay their own premiums. However, if the employer pays for retiree benefits, it must also pay for the rehired retirees' benefits.

If an employee is rehired, does he accrue benefits as a new employee or does he get credit for past service?

This also is up to each municipality. You may treat rehires as new employees or credit past service. If you credit past service, employees will accrue leave time at a higher rate and would be eligible for longevity pay, if offered by your municipality. Some employers currently have a break-in-service policy, which deals with how all former employees returning to work are treated if they return within a specified

time period. This policy would apply to a rehired retiree. Review the policy to ensure it reflects the municipality's intention for rehired retirees.

Does a rehired retiree get credit for sick and/or annual leave benefits accrued but not paid out at retirement?

The municipality may permit the employee to retain such leave credits. However, if the employee is treated as a new employee, it follows that any sick and vacation leave not used before retirement or paid out upon retirement is forfeited.

Can the municipality require a rehired employee to waive his grievance rights?

No. The statute says an employee rehired by an agency covered by the State Employee Grievance Procedure Act waives his grievance rights upon being rehired. There is no similar provision for municipal and county government. The County & Municipal Grievance Procedure Act provides that employees with six months of satisfactory service are entitled to a grievance hearing. Therefore, in the absence of a statutory provision similar to that for state employees, a municipality may not require an employee to waive grievance rights.

In conclusion

Municipalities have many options when drafting a policy for rehiring retirees. When adopting a policy, consider the circumstances and conditions in your community. Examine the cost associated with each option and the policy's impact on any potential future participants. Examples of municipal and county policies currently in place may be found on the MASC Web site at www.masc.sc.

If you have any questions, please call Gary Cannon, MASC's director of intergovernmental relations, at 803.933.1203 (e-mail gcannon@masc.sc), or call Linda Edwards, attorney with Gignilliat, Savitz and Bettis, at 803.799.9311 (e-mail lpedwards@gsblaw.net).

2002 Achievement Award Winner

Population Category 5,001-10,000: City of Fountain Inn

New civic center brings community together

When the Greenville County School District built a new elementary school, the City Council saw great potential for using the old building as a community civic center. The main building of the school was built in 1939 as part of the Federal Emergency Administration of Public Works under President Franklin Roosevelt. The building's age and architecture made it eligible for state and national historic registers. With the vision of a civic center complex in mind, City Council convinced the county to sell the former elementary school to the City for \$550,000. The City then donated a portion of the land to the Greenville County Library to construct a large satellite library facility.

After purchasing the old school, the City sought grants and private donations for renovations. The City collaborated with Senior Action to renovate the school cafeteria into an activity center for seniors. Seniors now meet there daily for catered meals and various activities ranging from line dancing to health screenings. With the help of a grant from the S.C. Department of Health and Human Services, the City completed many renovations, including installing new wiring, plumbing, a heating and air system, a handicapped-accessible restroom and ramps. The City also created an attractive courtyard area outside the activity center.

Besides installing the handicapped-accessible restroom and ramps, the City needed to install an elevator to meet Americans with Disabilities Act requirements. To not disrupt the exterior appearance and to preserve the



Seniors meet at the Civic Center Complex daily for catered meals and various activities ranging from line dancing to health screenings.

building's historic aspects, the elevator was added to the rear of the building. The elevator opens into a stairway to maintain the interior appearance.

Greenville County School District donated 10 computers for a computer classroom, and the City offers classes on such topics as Microsoft Word and building computers. Private donations of more than \$30,000 allowed the City to restore the 500-seat auditorium. The auditorium has hosted events such as "The Nutcracker" suite ballet, concerts and local theater groups. To assist in the oversight of civic center activities, the City relocated the Public Works, Building Standards and Clerk of Court offices into the civic center. Local civic groups volunteered their support in many ways, such as assisting in landscaping and by donating pianos for the auditorium.

Creating the Civic Center Complex brought the Fountain Inn community together to provide educational and cultural activities for people across the Upstate.

Contact: Kelly Tucker, 864.409.3334

South Carolina feels the bite of West Nile virus

In August, the S.C. Department of Health and Environmental Control (DHEC) confirmed the first human case of West Nile virus in South Carolina. The virus, which is transmitted when an infected mosquito bites humans and animals, has no effective vaccine or treatment.

"I urge South Carolinians to be aware of West Nile virus and to take some simple steps to protect themselves against mosquito bites," said DHEC Commissioner C. Earl Hunter. "We have known for a long time that the West Nile virus would be found in South Carolina since other states, such as North Carolina and Georgia, have found birds with the virus."

Local governments play a critical role in protecting the public from the West Nile virus. They serve on the front line, providing information to the medical and environmental agencies that first identify possible outbreaks. They also manage mosquito control programs and educate citizens on how to reduce their chances of contracting the virus.

"Just like any crisis, cities are at the forefront of this fight," said Howard Duvall, MASC's executive director. "The virus is not going away any time soon, so municipalities must continue enforcing ordinances on property maintenance and emphasizing to citizens the importance of clean lots containing no standing water."

Citizens' role in eliminating potential breeding habitats for mosquitoes is essential in fighting this virus. Municipalities must inform their citizens about the dangers of standing water around their homes, such as in flower pots and old tires. Municipalities should also encourage citizens to use insect repellent and to wear long-sleeved shirts and long pants outside.

Health care workers first discovered the West Nile virus in New York in

1999. Since that time, 37 states – including South Carolina – and the District of Columbia have reported positive findings. However, Hunter said the confirmation of the West Nile virus in South Carolina should not be a cause for alarm.

"The chance of becoming ill from West Nile virus is low," Hunter said. He emphasized that only mosquitoes transmit the virus – the virus does not pass directly from animals to humans.

Hunter described West Nile virus symptoms as flu-like – a fever, headache, weakness, swollen glands and a rash. "In most cases, the virus results in a very mild disease, and many people who may be exposed never become sick," he explained. "The virus can, in rare cases, cause encephalitis and even death."

For more information on West Nile virus, visit DHEC's Web site at www.scdhec.net.

To reduce the risk of becoming infected with the West Nile virus:

- Stay indoors at dawn, dusk and in the early evening. Make sure screens on windows and doors are in good repair.
- If you must be outdoors during these times, wear long-sleeved shirts and long pants to prevent being bitten by mosquitoes. Spray clothing with repellents containing Permethrin or DEET, because mosquitoes may bite through thin clothing. Use insect control products such as citronella candles or lawnmower foggers.
- Apply insect repellent sparingly to exposed skin. A good repellent will contain 20 percent to 30 percent DEET. DEET that is stronger than 30 percent may cause side effects, mainly in children.
- Keep your shrubs and grass trimmed.

Source: S.C. Department of Health and Environmental Control.

Reduce your risk

Mosquitoes breed in stagnant water in rain barrels, tubs, tires, bird baths, catch basins, cesspools, ditches, ground pools and other places where water stands for more than a week. Because of their breeding habits, the best way to control these mosquitoes is to get rid of stagnant water:

- Empty containers that hold water for any period of time, and turn them over if possible.
- Keep ditches free of trash so water will continue to flow.
- Keep septic tanks in good repair.
- Clean leaves and other trash from gutters regularly.
- Maintain swimming pools with proper chemicals.
- Stock ornamental pools/ponds with mosquito-eating fish.

Source: S.C. Department of Health and Environmental Control.

IRS tax filing requirements for local governments

Municipalities may use this chart as a reference for federal filing deadlines for payroll (employee related) returns and information (non-employee related) returns and forms. This chart focuses on federal returns and forms and does not include any state-related forms or returns.

Who is Responsible?

The mayor and council are responsible for making sure all tax returns are filed accurately and timely. “Even if the council delegates the responsibility to the clerk to file the tax returns, the mayor and councilmembers are still liable if the returns are not filed,” said Howard Duvall, MASC’s executive director. “The IRS can penalize the mayor and councilmembers – not the city – if the tax returns are not filed properly.” Duvall emphasized that elected officials are personally responsible – the IRS can place liens on municipal officials’ personal property if the city fails to comply with IRS regulations.

Where to File

Consult the IRS instructions for each tax return or tax form.

Penalties

There can be significant penalties to a local government for failure to file tax returns when due, pay taxes when due, to withhold or deposit withholding taxes when due or to file information returns when due. There is a wide range of potential penalties. More information on the exact penalties can be found on the instructions for each tax return or form.

“It’s much easier to file on time than to try to fit penalties into tight budgets,” said Duvall. “It is important for municipalities to file all tax returns when due

Category/Form	Purpose	Reporting Period	Due Date(s)
Payroll Returns (Employee Related):			
941	To report Social Security and income taxes withheld and Social Security taxes paid by the employer.	Quarterly	4/30, 7/31, 10/31, 1/31
W-2	To report payment of wages, other compensation, income tax withheld and Social Security and Medicare taxes withheld.	Annual	1/31 – to employee 2/28 – to Social Security Administration.
W-3	To transmit W-2s to Social Security Administration.	Annual	2/28
1099-R	To report distributions from retirement or profit-sharing plans, IRAs, SEPs or insurance contracts.	Annual	1/31 – to payee 2/28 – to IRS
5500 or 5500-C/R	To report information concerning employee benefit plans (for example, pension, deferred compensation) maintained by the employer.	Annual	7/31 (or, if reporting on a fiscal year, the last day of the 7th month after the close of the plan year.)
Federal Tax Deposits (Form 8109 or file electronically)	To deposit Social Security and income taxes withheld.	Depends upon whether you are a monthly or semi-weekly depositor.*	Depends upon whether you are a monthly or semiweekly depositor.*
	<i>*See IRS Publications 15 and 966 for more information.</i>		
Information Returns (Non-Employee Related):			
1099-MISC	To report payments of \$600 or more to unincorporated entities (including individuals) providing services, renting property to the organization or receiving commissions, fees, royalties or other non-employee compensation from the organization in the course of a trade or business.	Annual	1/31 – to payee 2/28 – to IRS
945	To report income tax withheld from non-payroll payments (for example, pensions, annuities and IRAs, back-up withholding).	Annual	1/31
Other Tax Returns or Forms:			
W-4	Employee’s Withholding Allowance Certificate The employer should remind employees to submit a new Form W-4 if their withholding allowances change or will change for an upcoming calendar year.	Annual (calendar year basis)	By December 1 for upcoming calendar year.
W-5	Earned Income Credit Advance Payment Certificate Eligible employees who want to receive advance payments of the earned income credit in an upcoming year must give the employer a new Form W-5 by the beginning of the new calendar year.	Annual (calendar year basis)	By December 31 for upcoming calendar year.
941c, W-2c, W-3c	Used to file corrections to respective payroll tax returns.	N/A	As soon as possible, after errors are found.
8300	Used to report receipt in a trade or business activity of \$10,000 or more of cash (for example, a property sale or utility bill).	N/A	15th day after receipt of cash.
8822	Used to report change of address of the reporting organization.	N/A	No deadline

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Enabling the disabled: Is your site for everyone?

While the Internet allows most of us to speed down the information superhighway, it can slam the doors of information in the face of millions of people with disabilities.

Only 10 percent of Web sites are considered fully accessible, according to the Center for Applied Special Technology (CAST), a nonprofit organization dedicated to universal designs for learning. In 1998, Congress passed Section 508 of the Rehabilitation Act of 1973 to address this issue. Section 508 requires federal agencies to make their electronic information accessible to disabled users. Disabled users include the physically challenged, sight impaired and hearing impaired, and people who require the use of assistive technology to use the Internet.

The standards attempt to prevent design that depends too much on sight, hearing or touch, so those who are blind, deaf or can't use their hands will be able to use technology.

"Although state and local governments currently are not required to comply with Section 508, it's always a good idea to make your information as

accessible as possible," said Howard Duvall, MASC's executive director. "The Americans with Disabilities Act covers not only access to government buildings, but access to information on Web sites, as well."

Several local governments have been promoting accessibility for several years. San Jose, Calif., has developed "Web Page Disability Access Design Standards" for its Web site (www.ci.sj.ca.us). For users with visual disabilities, San Jose's Web site has been designed to be used with a screen reader. For users who are deaf or hard of hearing, the Web site requires all video and audio clips to have text transcriptions or descriptions with a closed-captioned hyperlink.

To help Web designers build fully accessible sites, CAST created the "Bobby" program. Bobby is based on Web accessibility guidelines from the World Wide Web Consortium, an international consortium with more than 500 members that develops and promotes standard technologies for the Web.

To test the accessibility of a Web page for free, log on to

Guidelines at a glance

To meet Web site disabled-accessibility standards, Web sites (among other things):

- **Should provide text alternatives to graphics, audio and images.**
- **Should not rely on HTML tables for layout and design, as is commonly the case on thousands of sites. Such tables should only be used for tabular data.**
- **Must be navigable without the use of a mouse or similar device.**
- **Should avoid frames and pop-up windows that screen readers can't translate.**
- **Should not rely on color as a sole identifier.**

Source: World Wide Web Consortium

www.cast.org/bobby and type in the address of the Web page to be analyzed. Bobby delivers a detailed accessibility report that lists barriers and explains how to eliminate them. A site that complies with the accessibility guidelines is allowed to display the "Bobby Approved!" icon.

"Bobby is becoming of increasing interest to businesses and government because of requirements for accessibility of Web sites ... under the Americans with Disabilities Act," explained Judy Brewer, director of the World Wide Web Consortium's Web Accessibility Initiative in Cambridge, Mass.

For more information, visit www.w3c.org or www.section508.gov.

Tax Filing continued from page 5

and to pay, deposit or withhold all taxes when due."

Other Resources

The following are resources for local governments in reviewing federal compliance and tax deadlines. They can be found on the IRS's Web site at www.irs.gov or by calling 1.800.TAX.FORM.

- IRS Circular E – Employer's Tax Guide – Publication 15
- IRS Employer's Supplemental Tax Guide – Publication 15A
- IRS Publication 963 – IRS Federal/State Reference Guide

This article is for information purposes only and is not meant to replace legal advice. If you have questions about tax-related issues, please contact your tax adviser.

Conference continued from cover

You have to do it yourself. *Every man (and woman) is a leader. Make alliances. Respect others. Get with it.*

The care of one's place, the needs of the soul, and the nurturing of the spirit and health of a place may sound like chapters in a Deepak Chopra book, but these three elements are key to the rebirth and future life of a place.

In my role with Community Builders (formerly the S.C. Downtown Development Association), I regularly travel to towns in South Carolina and neighboring states. It can be difficult to differentiate between towns, especially when all you see is overgrown landscapes, vacant lots, and dilapidated and empty buildings. These leave an overwhelming negative and hopeless impression with the traveler. I ask myself, "How can a town so far gone ever be brought back to life?" "Whose job is it to encourage and support community revitalization?" I wonder.

On the other hand, "Anytown" can be a place of cared-for buildings, well-manicured and maintained landscapes, and appropriate in-fill projects with vibrant businesses and busy pedestrian ways. How does this happen? Who is behind the success of such a town?

It happens when citizens join with local governments to take ownership of the place they live. Often, they organize and seek professional assistance. They meet and develop a plan. Many write community covenants adopted by city council. Local governments are encouraging community participation, realizing it takes many heads and hands to turn a town around or to keep one from heading in the wrong direction.

The needs of the soul

Compare "Anytown" to the human body. The veins and arteries are the roads and pedestrian ways. The skeleton is the physical structure, and the

Topics you'll find at the Community Builders Conference Nov. 13-15, 2002 Greenville Hyatt

- **Downtown Hospitals: Is One in Your Future?**
- **X&Y – The Generation Gap Hits Main Street**
- **Designing Healthy Communities**
- **Keeping Out the Ugly**
- **The Road to Better Roads**

architecture is the muscle and flesh that holds it all together. But where is the heartbeat? What defines the soul of the community? The heartbeat comes from each person who loves the community. Collectively, these people create the community's soul. To neglect the architecture, roads, pedestrian ways and the physical place drains this soul.

The nurturing of the health and spirit

Whose responsibility is it to breathe new life into the soul of a community? Citizens must make it their responsibility to work with local governments to ensure their needs and desires are known. Local governments must take responsibility to keep citizens informed of future plans for growth and change while encouraging citizen participation.

Together, the two can work hand in hand to build a community with a strong heartbeat and the spirit of place where people want to live and be a part of its future.

Join us at the 2002 Community Builders Conference in Greenville on Nov. 13-15. Go home with the tools to become a caretaker of your community's growth and future.

For more information on the conference, please call Community Builders at 803.933.1224 or e-mail community@masc.sc.

News Briefs



■ Four business licensing officials recently passed the Accreditation in Business Licensing exam offered through the S.C. Business Licensing Officials Association, an affiliate of MASC: Melissa Babson of the City of North Myrtle Beach, Jeffrey Bowman of the City of Greenville, Olin Gambrell, CMFA, of the Town of Edgefield/Town of Johnston, and Steven Landrith of the City of Greenville.

■ Miriam Hair, MASC's deputy executive director, and Johnston Mayor Dean Campbell, public information specialist for Westinghouse Savannah River Co., have been named to the Class of 2003 Leadership South Carolina. About 50 individuals are selected each year for participation in Leadership South Carolina. During the one-year class, topics including the state's natural resources, social issues and quality of life will be addressed.



Classifieds

■ The City of Chester is accepting applications for a recreation director. Position requires a bachelor's degree in parks and recreation administration or related field supplemented by one to two years of experience in parks and recreation administration, or an equivalent combination of education and experience. Send applications to the City of Chester Personnel Department, Attention Carla Roof, 100 West End Street, Chester, SC 29706, or e-mail to croof@infoave.net.



FAQ

Must the mayor sign checks for the city?
Not necessarily. In every form of government, the council determines who has the authority to sign checks for the city. As a best practice, giving more than two people the authority to sign checks and requiring two signatures on all checks is recommended.



Educational Opportunities

Municipal Finance Officers, Clerks and Treasurers Association

■ **Oct. 15-17**, will hold its Annual Meeting at Ocean Drive Resort in North Myrtle Beach. Topics include financial administration, legislative update, emergency management, records management and credit card payments.

Business Licensing Officials Association

■ **Oct. 16-18**, will hold its Annual Meeting at Ocean Drive Resort in North Myrtle Beach. Topics include bankruptcy, a legal update and various roundtable discussions.

Managers/Administrators

■ **Nov. 1**, will hold a quarterly meeting at the Clarion Town House Hotel in Columbia.

S.C. Utility Billing Association

■ **Nov. 6**, will hold its Fall Meeting at the Sheraton Hotel in Columbia.

S.C. Community Development Association

■ **Nov. 7**, will hold its Fall Meeting at the Adam's Mark Hotel in Columbia.

Community Builders

■ **Nov. 13-15**, will hold its Community Builders Conference at the Hyatt Regency in Greenville. See related article on page 1.

S.C. Association of Stormwater Managers

■ **Nov. 15**, will hold its Quarterly Meeting at the State Museum in Columbia.

S.C. Municipal Personnel Association

■ **Dec. 4-6**, will hold its Annual Meeting at the Myrtle Beach Wyndham Resort.

S.C. Municipal Insurance and Risk Financing Fund

■ **Dec. 4**, will hold its members' meeting at the Sheraton Hotel in Columbia.

S.C. Municipal Attorneys Association

■ **Dec. 13**, will hold its Annual Meeting at the Clarion Town House Hotel in Columbia.

For more information about these meetings or other MASC meetings not listed, please call 803.799.9574, or visit our Web site at www.masc.sc

UPTOWN

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