

NORTHERN CALIFORNIA PIPE TRADES TRUST FUNDS FOR UA LOCAL 342

935 Detroit Avenue, Suite 242A, Concord, CA 94518-2501 • Phone 925/356-8921 • Fax 925/356-8938

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JUNE 2023

TO: PLAN PARTICIPANTS

**RE: NORTHERN CALIFORNIA PIPE TRADES PENSION TRUST FUND (“PLAN”)
RETIREES RETURNING TO WORK IN THE PIPE TRADES INDUSTRY AND SUSPENSION OF
RETIREMENT BENEFITS (IMPORTANT!)**

This Important Notice does not apply to Surviving Dependents, Beneficiaries, or Alternate Payees.

Enclosed is the Plan’s Suspension of Retirement Benefits Notice which explains when and how your Retirement Benefits can be suspended if you return to any work known as Prohibited Employment (under the terms of the Plan) after retirement.

If you are currently retired, with the commencement of your Retirement Benefit, you were provided a summary of the rules governing the Plan’s Suspension of Benefits. This Notice is a reminder of these rules and certain obligations you have under the Plan.

If you are not yet retired, this Notice provides you with information that will apply upon the commencement of your Retirement Benefit.

The Board of Trustees of the Plan would like to remind you of the following:

- If you are considering returning to work after retirement, it is your obligation to submit a written request and a letter from your proposed Employer which includes your job title and an outline of all of your job duties to the Trust Fund Office (“TFO”) at least 30 days prior to your anticipated start date.
- Since the UA’s jurisdiction includes Canada, the Board of Trustees of the Plan considers Canada to be part of the “Pipe Trades Industry” definition of Prohibited Employment. Your Retirement Benefits will be suspended if you return to work in the Pipe Trades Industry in the United States or Canada, unless your work qualifies for an exception under Plan rules.
- You may be required to provide continuing proof of your Non-Prohibited Employment to the Board of Trustees or its delegates at any time. Failure to provide such requested information is grounds for suspension of your Retirement Benefits.
- Failure to comply with Plan rules, including notifying the TFO of your intent to return to work, may result in the loss of your right to Retiree Health and Welfare Benefits.
- If you work in Prohibited Employment more than once, you will be permanently ineligible for Retiree Health and Welfare Benefits.
- If you return to work, you must also notify the TFO in writing when your employment ends.
- When there is Full Employment, or Full Employment in certain designated positions, the Board of Trustees may establish a Temporary Retiree Return to Work Program for non-Disabled Retirees. Refer to the Temporary Waivers of Suspension Section of the enclosed Notice for additional information.

For more details, refer to the enclosed Notice or Article XI of your Summary Plan Description.

You may submit a written request to the TFO for a copy of the U.S. Department of Labor regulations (29 C.F.R. § 2530.203-3) which allow for the suspension of your Retirement Benefits from the Plan.

If you have any questions, please contact the TFO at 925/356-8921, ext. 246.

Sincerely,
The Board of Trustees

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RETIREMENT BENEFITS NOTICE (IMPORTANT!)

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SUMMARY OF RULES IF YOU RETURN TO WORK AFTER RETIREMENT

All retired Participants are prohibited from working in most positions in the Pipe Trades Industry and must provide written notice to the Trust Fund Office (“TFO”) prior to commencing any type of work.

If a Participant is receiving a monthly Retirement Benefit from the Northern California Pipe Trades Pension Plan and **returns to prohibited covered work in the Pipe Trades Industry in the United States or Canada, their Retirement Benefits will be suspended** in accordance with the Plan Document under the rules summarized below.

Retirement Benefits will also be suspended if a Participant works past Normal Retirement Age (Age 65) in the Pipe Trades Industry in the State of California for 40 hours or more per month, subject to some limited exceptions.

Pursuant to the SECURE Act 2.0, although the Required Minimum Distribution (“RMD”) Age has changed to April 1st of the year following the year that the Participant attains Age 73 (before January 1, 2033), and then later on to Age 75 (for those who attain Age 74 on or after January 1, 2033), (previously the RMD Age was 72), unless and until government regulations say otherwise, **for Suspension of Benefit purposes Age 70.5 will be used. Therefore, if a Participant returns to work or continues to work after April 1st of the year following the year that they attain Age 70.5, Retirement Benefits will not be suspended. Meaning effective April 1st of the year following the year you attain Age 70.5, the rules on RMD override the Suspension of Benefit rules.**

Until and unless government regulations state otherwise, if a Non-five percent owner Participant returns to work or continues to work after April 1st of the year following the year that they attain Age 70.5, the Participant’s accrued benefit shall be actuarially increased to consider the period worked after April 1st of the year following the year they attained Age 70.5 in which the Participant was not receiving any benefits under the Plan. Such actuarial increase will be calculated in accordance with IRC Section 401(a)(9)(C) and regulations issued thereunder.

WARNING – If a retired Participant under Age 65 returns to work in Prohibited Employment, Retirement Benefits will not be resumed until Normal Retirement Age as defined below.

1. **Prohibited Employment**

a. **No Industry Work Prior to Age 65**

Participants under Age 65 returning to **any** work in the Pipe Trades Industry in the United States or Canada, will have their Retirement Benefits suspended, **unless** the work qualifies under some limited exceptions.

The term "Pipe Trades Industry" includes all work, public or private, covered, or if not actually covered, of the type covered by any Collective Bargaining Agreement of the UA or any Local Union of the UA, as well as any other type of work performed for any business engaged in the Pipe Trades Industry. The Pipe Trades Industry encompasses plumbing and pipefitting work.

Such work, which is also known as "Prohibited Employment," includes without limitation any of the following:

- 1) Work in employment of the type performed by Participants covered by the Plan, known as "Covered Employment";
- 2) Work which requires directly or indirectly the use of the same skills used by Participants covered by the Plan;
- 3) Work in employment for compensation or wages of any kind or for profit in the Pipe Trades Industry;

- 4) Work for profit as an owner or partner in any business directly or indirectly connected with the Pipe Trades Industry; and/or
- 5) Work where you supervise Participants, except as permitted outside of the Collective Bargaining Agreement, in the same trade or craft or directly or indirectly use the same skills as Participants covered by the Plan.

The minimal exceptions to these restrictions are summarized in Section c. below.

"Prohibited Employment" is interpreted in the broadest manner. "Hours" includes all hours for which compensation is paid or payable. Prohibited Employment includes work in which a salary is paid (including hourly, daily, weekly, bi-weekly, bi-monthly, monthly, annually, or any other rate), for which one might be considered an "Independent Contractor," work for which one will be entitled to receive deferred Retirement Benefits, or work in which one might be due or actually receive anything of value in exchange for the services rendered.

b. Limited Work Allowed After Age 65 (prior to April 1st of the year following the year Age 70.5 is attained)

Work In California. After a Participant's Normal Retirement Date (the first of the month after attainment of Age 65), Retirement Benefits will be suspended if work is performed in the Pipe Trades Industry in the State of California for 40 hours or more per month as follows, subject to some limited exceptions:

- 1) The type of work performed by Participants covered by the Plan; **or**
- 2) Work which requires directly or indirectly the use of the same skills used by Participants covered by the Plan; **or**
- 3) Any supervision of Participants in the same trade or craft, or directly or indirectly using the same skills as Participants covered by the Plan. This includes, without limitation, self-employment, salaried, hourly, and independent contract employment.

Work Outside California. Upon the attainment of Age 65, there is no limit on the number of hours a Participant may work outside of the State of California.

c. Exceptions to Industry Service Definition (Refer to Item 2 below – Written Request for Determination)

The Board of Trustees has total and absolute discretion to determine whether your anticipated or actual employment is Prohibited Employment. The Board of Trustees has delegated these determinations to UA Local 342. **A written request for approval prior to commencing any work is required. Upon review, written notification of the determination will be provided to you.**

Exceptions to Industry Service is defined as:

- 1) Work in the Pipe Trades Industry for the Government of the United States, the State of California, a political subdivision of the State of California, a County, City, or other government agency; **or**
- 2) Work which is not covered by any Collective Bargaining Agreement of the UA or any Local Union of the UA; **or**
- 3) Employment that does not directly or indirectly replace the employment of a bargaining unit Participant; **or**
- 4) Employment that will not impinge upon the jurisdictional claims of UA Local 342.

NOTE: Continued Proof May be Requested

Initial and continuing qualification of such employment as Non-Prohibited Employment is determined solely by the Board of Trustees or its delegates and continued proof that such employment meets the criteria may be required at any time. Failure to provide requested information regarding your continued employment or any other matter is grounds for suspension of your Retirement Benefits.

Presumption Regarding No Disability

If a Participant who retired on a Disability Retirement should return to work, the Plan will assume the Participant is no longer eligible to receive a Disability Retirement Benefit. However, in rare situations, for good cause, an exception may apply.

Temporary Retiree Return to Work Program (Full Employment / Special Needs - Disabled Retirees not eligible)

When there is Full Employment, or Full Employment in certain designated positions and the Board of Trustees establishes a Temporary Retiree Return to Work Program, Retirees who are **disabled are not eligible to return to work, even if the Retiree did not retire under a Disability Retirement. The Board of Trustees has discretion regarding the duration of any Temporary Retiree Return to Work Program for Non-Disabled Retirees.**

2. **Written Request for Determination**

Prior to commencing any Work After Retirement, a Participant **must** request a determination from the Board of Trustees on whether such contemplated Work After Retirement will be prohibited under the Plan, by submitting a written request to the TFO. The written request must be submitted with a letter from the proposed Employer which includes the specific job title and an outline of all the job duties. The TFO will notify the Participant of the determination within a reasonable time, not to exceed 90 days, unless the Board has not been provided sufficient information to make such a determination or unless special circumstances exist.

Failure to request an advance determination from the Board of Trustees may result in a suspension of Retirement Benefits until such time as a review of the information can be made. It is the Participant's responsibility to allow sufficient time for the Board of Trustees to review a request.

3. **Plan Presumptions Allowed by Department of Labor ("DOL") Regulations**

Failure to report work in the Pipe Trades Industry and if any Plan Representatives learn that a Retiree has performed or is performing such work, the Plan will act on the basis of a **rebuttable presumption** that at least 40 hours per month of work has been performed in Prohibited Employment until notice is given that the Prohibited Employment has ceased.

Furthermore, if any Plan Representative learns that a Retiree has performed or is performing such work at a construction site, the Plan will act on a **rebuttable presumption** that employment at that job site with the same employer for at least as long as that employer has worked at the job site as the time for which the Retiree has violated Plan provisions. However, the Retiree shall have the opportunity to prove that these presumptions are not true by establishing that the work being performed was not or is not an appropriate basis for suspension of Retirement Benefits. The Board of Trustees or its delegate is the only entity that can make this determination.

4. **Access to Information**

If requested, the Plan must be provided with access to reasonable information for the purpose of verifying employment, such as time sheets, logs or records, income tax returns (including attachments), W-2 Forms, and any other employment or income-related records. The Plan may also require that the Retiree provide written authorization for the TFO to obtain access to your Social Security records, which will assist the Plan in determining your work history.

Any request from the Plan for information from your employer, contractor, subcontractor, union, government agency, or any other person or entity relating to any Work After Retirement shall be provided timely.

5. **Notices / DOL Regulation / Appeal**

If Retirement Benefits are suspended, the Plan will notify the Retiree by First Class Mail during the first calendar month in which payments are suspended. The notice will include the reason for the suspension and a general description of the Plan's Benefit Suspension provisions, including a description of the specific periods of employment and the Plan's Claims and Appeals Procedures. Plan rules state that **if a Retiree is eligible for Retiree Health and Welfare Benefits, and Retirement Benefits are suspended more than once due to Prohibited Employment, Retiree Health and Welfare Benefits will be suspended indefinitely.**

In addition, failure to comply with all Plan rules, including notifying the TFO of employment or obtaining approval from the Board of Trustees prior to commencing any Work After Retirement, may result in the irrevocable loss of your rights to Retiree Health and Welfare Benefits.

WARNING: Retiree Health and Welfare Benefits
If the Retirement Benefit is suspended more than once due to returning to Prohibited Employment,
the Retiree will permanently lose rights to Retiree Health and Welfare Benefits.
Refer to the Health and Welfare Plan rules.

The applicable DOL regulation allowing the suspension of Retirement Benefits may be found in the Code of Federal Regulations. A copy of that regulation (29 C.F.R. § 2530.203-3) is available from the TFO upon written request.

Any decision of the Plan to suspend Retirement Benefits is entitled to a review by submitting a written request to the Plan within 60 days of the date of the Notice of Suspension. The Plan's Claims and Appeals Procedures apply to a suspension of Retirement Benefits.

If monthly Retirement Benefits have been suspended, the Retiree should notify the Plan when the Prohibited Employment has ended. The Trustees have the right to withhold Benefit payments until such notice is received by the TFO and Plan Representatives determine that the notice is accurate.

Retirement Benefits for those who retire early (prior to Age 65) and return to Prohibited Employment will not be resumed until the Retiree has attained Normal Retirement Age except for:

- (a) Participants who qualify for a Disability Retirement after returning to Industry Service; or
- (b) Retirees who retired on a Disability Retirement who return to Industry Service after recovering from the disability and subsequently qualify for Early or Disability Retirement; or
- (c) Non-Disabled Retirees who are approved by the Board of Trustees or its delegates to temporarily return to work under a Temporary Retiree Return to Work Program during temporary shortages of available qualified individuals for work in the trade. Refer to the Temporary Waivers of Suspension section of this Notice for additional information.

6. Payment Resumption/Offset Amounts Owed to Plan

If a Retiree is working in Prohibited Employment and has attained Normal Retirement Age, Retirement Benefits will be suspended for a period equal to the number of months during which Prohibited Employment was performed. However, should the Retiree stop working and want to resume commencement of Retirement Benefits, timely notification (within 15 days) must be submitted in writing to the TFO certifying that the Retiree is no longer working. Failure to give such notice and certification will delay the payment resumption of your Retirement Benefits. Once the TFO is notified in writing and furnished the required certification or information of your non-employment or sufficient information to establish that any employment does not constitute Prohibited Employment under Plan rules, suspended Benefits will resume after the last month for which Benefits were suspended, or the month following receipt of the notice, whichever is later, subject to any permissible offsets.

If the Plan has paid a monthly Retirement Benefit for any month in which a Retiree engaged in Prohibited Employment prior to Normal Retirement Age, the Plan may offset all such amounts from future Retirement Benefits before reinstating the Retirement Benefit and paying any further Retirement Benefits. If the Plan paid any Retirement Benefits for any month in which Prohibited Employment was performed on or after Age 65, the Plan may reduce your future Retirement Benefits by 100% for the first three months of any Retirement Benefit payment and up to 25% of future monthly payments until the full amount of the overpayment is recovered. Any overpayments not recovered at the time of death may be offset against any death benefits or survivor benefits that may be payable to culpable individuals. Culpable individuals are those who are responsible such as through misrepresentation or omission or knew about a prohibited employment but did not notify the TFO in advance.

WARNING: Innocence is Not a Defense

The DOL regulations allow the offset of Benefits owed to the Plan, regardless of whether you know or did not know of your entitlement to the payments.

7. Temporary Waivers of Suspension

The Board of Trustees may periodically approve Work After Retirement in Covered Employment to meet temporary shortages of available qualified individuals for work in the trade, for work requiring special individual skills, or for work for Signatory Employers that may be covered by the Collective Bargaining Agreement. This practice allows those who have already retired to be able to return to work to meet these special needs. The Board of Trustees reserves the right to rescind or modify this provision at any time. All waivers are temporary and subject to modification and/or termination at any time.

If a Retiree returns to approved Covered Employment under a Temporary Retiree Return to Work Program, additional Benefit Credits may be earned at the applicable rate. The amount of the Retirement Benefit previously earned will not be changed. Any additional Benefit Credits will be recalculated at the time of termination of re-employment. If a Retiree earns additional Benefit Credits after April 1st of the year following the year Age 70.5 is attained, those additional Benefit Credits earned will be recalculated as required by law.

Please also refer to your copy of the Plan rules known as the Summary Plan Description and Plan Document for more details on the Plan's Suspension of Benefit rules.

If you have any questions, please contact the TFO at 925/356-8921, ext. 246.

Sincerely,

The Board of Trustees