

# NORTHERN CALIFORNIA ELECTRICAL WORKERS PENSION PLAN

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## **ANNUAL NOTICE**

**TO: ALL RETIRED PENSIONERS UNDER THE NORTHERN CALIFORNIA ELECTRICAL WORKERS PENSION PLAN**

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You have previously been notified of the Plan's provisions relating to prohibited employment, overpayment, recovery of overpayment and the procedure you should follow to obtain a review of whether your post-retirement employment constitutes prohibited employment. In general, and unless a specified exception applies, your benefits will be suspended for any period in which you engage in "prohibited employment" as defined under the Plan. You must notify the Plan Office before you engage in any work of a type that is, or may be, prohibited, including the jobs described below that may qualify you for an exception from prohibited employment. Furthermore, you must notify the Trust when your prohibited employment has ended in order to resume your monthly pension payments.

Before attainment of Normal Retirement Age (65), prohibited employment means the performance of services in any branch of the Electrical Trade in the United States, and includes any work involving any electrical knowledge acquired as an Employee. When determining whether employment is prohibited employment, hours or hours of service include all hours for which compensation is received, whether for actual work, illness, incapacity (including disability), leave of absence or layoff. No more than 501 consecutive hours for which compensation is received, but for which no services are performed, will be counted as prohibited.

After attainment of Normal Retirement Age, prohibited employment means the performance of services of 40 hours or more during the month:

- (1) in the ten counties comprising the San Francisco Bay Area: San Francisco, Alameda, San Mateo, Contra Costa, Marin, Solano, Napa, Santa Clara, Sonoma and San Benito;
- (2) of the type performed by Employees covered by the Plan on the date your pension began or would have begun but for these rules;
- (3) which requires directly or indirectly the use of the same skills you employed on the date described in (2) above, including any supervision of employees in the same trade or craft or directly or indirectly using the same skills as Employees covered by the Plan on that date.

If you are employed in the work of the type described above, and no exception applies (see below), your pension payments will be suspended for a period equal to the number of months during which you are so employed. If you fail to give written notice to the Plan Office within 15

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days of commencing prohibited employment, pension payments will be suspended for as many months as it is reasonable for the Board to assume that you may have been employed (which may apply for the full duration of an active construction site), and also for three months following the period of your prohibited employment that begin before you attain age 65. If you have attained age 65 and have failed to give notice to the Plan of prohibited employment, the Board will presume that you have worked at least 40 hours in the month and any subsequent month before you give written notice that you have stopped working in prohibited employment. You may rebut this presumption by presenting sufficient evidence that your work was not of a type or duration that supports suspension of your benefits. You will also be entitled to a review of any adverse determination that your benefits are to be suspended by filing a written request within 90 days of the date of the determination.

The Plan provides several exceptions that allow a retiree to work in what is otherwise Prohibited Employment. Those exceptions are work:

- (i) as a private or public building or electrical inspector;
- (ii) as an instructor in Taft-Hartley trust apprenticeship and training program;
- (iii) in sales of electrical equipment or products;
- (iv) in the manufacturing or marketing of electrical or electronic products and systems which does not substitute for on-site fabrication protected or which is sought to be protected under IBEW Inside Wire Agreements; and
- (v) service as an SFEW benefit plan trustee that constitutes Covered Employment.

The substance of the work, not its title, controls whether the work is prohibited or falls under one of the exceptions. You are encouraged to request a determination by the Board as to whether any work you are considering is prohibited. If, however, you are considering working in prohibited employment that qualifies under an exception, you must ask the Board to approve the exception in advance of its application or it will not apply. The request for an exception should include (i) the number of hours per month you are to be employed, (ii) the geographic location(s) where work is to be performed, and (iii) whether the work will require the use of skills acquired while you worked as an inside wireman. You must have an actual, bona fide offer of employment, as the Board will not make a determination on work that is hypothetical or speculative. Any advance determination, however, will apply only to the extent that the work actually performed is consistent with the information submitted with the exception request. You may be required to submit periodic proof that the exception continues to apply. If you fail to supply the Plan Office with sufficient information on which the Plan Office can verify continuing excepted work, your pension benefits may be suspended.

If the Trust pays you a monthly pension for any month in which you engaged in prohibited employment for which no exception applies, the overpayment may be offset by future amounts payable. In making such deductions the Trust may reduce your future monthly pension payments by 100% for the first month of any pension payment to which you would otherwise be entitled and up to 25% of future monthly payments until the full amount of overpayment is recovered.

To request further information on the applicable Department of Labor regulation, a copy of ERISA regulation §2530.203-3 is available from the Trust Office.