

SUSPENSION OF BENEFITS PROVISION

NORTHERN CALIFORNIA ELECTRICAL WORKERS PENSION TRUST

At the time of your retirement, you will be notified of the provisions of the Plan relating to prohibited employment, overpayment, recovery of overpayment and the procedure you would follow to secure a review of any monthly pension payments that have been suspended. In general, your benefits will be suspended for any period in which you engage in "prohibited employment" as defined under the Plan.

Federal law requires that all Pensioners be reminded annually that they **must** notify the Trust Office before engaging 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 suspension of benefits**. Furthermore, a pensioner who returns to such employment must notify the Trust when the employment ends and the Trustees have the right to withhold benefit payments until such notice is submitted.

Before attainment of Normal Retirement Age (65), "Prohibited employment"...means the performance of services in any capacity in the Electrical Industry in the United States."

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 your Pension Effective Date;
- (3) which requires directly or indirectly the use of the same skills employed by Employees on the Pensioner's Pension Effective Date; 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 the date the Pensioner retired.

"Prohibited Employment" and "work" includes "employment for which a salary is paid, work as an independent contractor; work for which the Participant receives a deferred benefit, and work for which the Participant receives anything of value in exchange for services rendered."

If you are employed in the work of the type described above after your retirement, your pension payments will be suspended for a period equal to the number of months during which you are so employed, **unless an exception, as explained below, has been granted**. If you fail to give written notice to the Trust of prohibited employment within 15 days after the commencement of such employment, pension payments shall also be suspended for the three months following the period of such employment, provided the additional suspension does not extend beyond your 65th birthday. If you are over age 65 and have failed to give

notice to the Plan of such employment, the Trustees will assume that you have worked for at least 40 hours in the month and any subsequent month before you give written notice that you have stopped prohibited employment. You have the right to prove that your work was not of a type or duration that entitled the Plan to suspend benefits. You will also be entitled to a review of any adverse determination by written request filed within 90 days of the date of any determination that your benefits are to be suspended.

The Plan provides a limited number of exceptions that allow a retiree to engage in otherwise Prohibited Employment. Those exceptions are:

- “(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 or
- (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.”

The Trustees have adopted administrative procedures for determining whether proposed service constitutes Prohibited Employment have been adopted. While a Participant has the right to an “optional advance determination of status” at any time, he/she must submit proof of an actual work offer and a detailed work description from the prospective service recipient. To actually claim an exception from Prohibited Employment, a “mandatory advance determination” must be filed with the Trust Office including 1) proof of actual excepted work and 2) a detailed description of the work to be performed from the service recipient. The detailed work description should include 1) the number of hours per month the retiree is to be employed, 2) the geographic location(s) where work is to be performed, and 3) whether the work will require the use of skills acquired while the individual worked in Covered Employment in the Electrical Industry. Any advance determination, however, will not bind the Trustees if the facts and circumstances of the work turn out to be other than what was represented at the time of review.

If the Trust pays you a monthly pension for any month in which you engaged in prohibited employment, the overpayment may be offset by future amounts payable. Such deduction after the Participant has attained Normal Retirement Age shall not exceed 25% of the payment, except that up to 100% of the first pension payment may be withheld upon again becoming eligible for payments after a suspension.

If you desire further information on the Department of Labor regulation, a copy of regulation 2530.203-3 is available at the Trust Office.