

PROVIDENCE, SC. SUPERIOR COURT

(FILED: October 27, 2025)

PATRICIA DUBOIS	:	
	:	
<i>Appellant,</i>	:	
	:	
v.	:	C.A. No. PC-2024-00731
	:	
EMPLOYEES' RETIREMENT	:	
SYSTEM OF RHODE ISLAND	:	
	:	
<i>Appellee.</i>	:	

DECISION

LANPHEAR, J. Before this Court is the appeal of Patricia Dubois of a January 18, 2024 decision of the Retirement Board (the Board) of the Employees' Retirement System of Rhode Island (ERSRI), which denied her request to recoup the sum of \$3,129.66 that ERSRI reduced from her pension benefit pursuant to G.L. 1956 § 16-16-24. Jurisdiction is pursuant to G.L. 1956 § 42-35-15. For the reasons set forth herein, this Court denies Ms. Dubois's appeal and affirms the Board's decision.

I

Facts and Travel

A

Dubois's Post-Retirement Employment

Ms. Dubois is the former Superintendent of the Gloucester School Department. She formally retired from her position on July 1, 2009. Between August 25, 2020 and August 24, 2021, Ms. Dubois admirably returned as Superintendent to ensure academic instruction and school operations continued safely through the pandemic. Ms. Dubois worked

109 post-retirement days. She worked ninety-three and one-half days from August 25, 2020 to June 25, 2021 and fifteen and one-half days from June 26, 2021 to August 24, 2021. She continued to work past June 26, 2021 to support school reopenings, hire staff, and implement safety protocols for the following school year.

B

The Executive Orders

Section 16-16-24 allows retired teachers to reenter the workforce provided they do not work beyond ninety days in a single school year. Section 16-16-24. If retirees exceed the ninety-day cap, ERSRI must reduce their pension benefit accordingly. On December 30, 2020, during the COVID-19 pandemic, then-Governor Gina Raimondo issued Executive Order (EO) No. 20-110 which incentivized retirees to return to “active state service” to support the reopening of schools and provide additional staffing capacity to districts. Certified R. at 026. EO No. 20-110 stated:

“The *prohibitions and restrictions on post-retirement employment* by persons who have retired under the provisions of R.I. Gen. Laws Title 16, 36, or 45 contained in R.I. Gen. Laws §§ 16-16-24 and 36-10-36 are hereby *suspended* with respect to those specific retired teaching and administrative staff members identified by [a school district].”¹ *Id.* (emphases added).

Essential to this case, EO No. 20-110 temporarily proscribed the effect of § 16-16-24(a),² which, in absence of the Executive Order, allowed a retiree to

“substitute as a teacher at state schools and in the public schools of this state for a period of *no more than ninety (90) days* in any one

¹ The term school district may refer to a “Local education agency.” *See* 34 C.F.R. § 300.28.

² EO No. 20-110 also addresses restrictions on post-retirement employment codified under a parallel statute, G.L. 1956 § 36-10-36. However, both parties’ arguments are based on the order’s effect on G.L. 1956 § 16-16-24, and thus this Court declines to review the applicability to the restrictions under § 36-10-36.

school year without any forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving, or may receive, as a retired teacher.”³ Section 16-16-24(a) (emphasis added).

While EO No. 20-110 stated it would “remain in full force and effect until January 28, 2021 unless renewed,” the effect on reemployment was a “finite duration during the 2020-2021 school year ending on June 25, 2021” EO No. 20-110 encouraged retirees to reenter the workforce by removing the ninety-day restriction that would otherwise subject them to pension reductions.

Subsequent orders extended EO No. 20-110 monthly until Governor Daniel McKee signed EO No. 21-71 on June 18, 2021, which suspended the retirement benefit on June 25, 2021. The employees’ retirement benefits would once again be suspended as they were prior to the Executive Orders. On September 8, 2021, Governor McKee issued EO No. 21-96 which contained identical language regarding post-retirement employment but setting a firm October 7, 2021 expiration date.

The Legislature codified EO No. 21-96 by amending § 16-16-24 with §§ 16-16-24.1 and 16-16-24.2. Section 16-16-24.1, as enacted by P.L. 2022, ch. 8, § 1, became effective on March 28, 2022 with a sunset provision “upon the conclusion of the 2021-2022 school year” and § 16-16-24.2, as enacted by P.L. 2023, ch. 2, § 1, became effective March 22, 2023 with a June 20, 2025 expiration date. Both statutes allowed a school district to temporarily fill positions that may exceed the ninety-day cap on post-retirement employment. Sections 16-16-24.1 and 16-16-24.2.

³ Teacher “includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools” Section 16-16-1(a)(12).

C

The Board's Decision

On April 7, 2023, ERSRI notified Ms. Dubois that it would recoup \$3,129.66 from her April 2023 pension check. The letter explained the fifteen-and-one-half-days Ms. Dubois worked between June 26, 2021 and August 24, 2021 exceeded the ninety-day post-retirement limit because, as of June 25, 2021, she worked ninety-three-and-one-half days. The letter explained that EO No. 21-71 expired on June 25, 2021 and the fifteen-and-one-half-days were in contravention of the ninety-day cap under § 16-16-24.

Ms. Dubois submitted an appeal on May 4, 2023. On May 22, 2023, ERSRI notified Ms. Dubois it reaffirmed the April 7, 2023 decision. On May 22, 2023, the counsel for the Board notified Ms. Dubois a hearing officer was appointed to oversee her appeal. The hearing occurred on July 24, 2023, and the officer issued a recommendation on December 4, 2023 affirming ERSRI's April 7, 2023 and May 22, 2023 decisions. The recommendation concluded "the additional fifteen and a half (15.5) days [Ms. Dubois] worked after June 25, 2021 were subject to the post-retirement prohibitions and restrictions of [§ 16-16-24] since the suspension of those prohibitions . . . ended on June 25, 2021." Certified R. at 168-69. The officer reasoned EO No. 20-110 and 21-71 were directed at suspending the language of § 16-16-24(a) pertaining to "reductions in or forfeitures of pension benefits of those retirees who work in . . . public schools . . . for a period of more than ninety (90) days in any school year," *id.* at 169-170, and not toward the ninety days themselves. *Id.* at 161.

On January 18, 2024, the Board reviewed and voted to accept the recommendation to deny Ms. Dubois her pension benefit. On February 2, 2024, Ms. Dubois commenced this appeal pursuant to § 42-35-15.

II

Standard of Review

Under § 42-35-15 “[a]ny person . . . who has exhausted all administrative remedies available to him or her within [an] agency, and who is aggrieved by a final order in a contested case is entitled to judicial review” by this Court. Section 42-35-15. This Court “may affirm the decision of the agency or remand the case for further proceedings,” and may reverse or modify an agency’s decision if:

“[S]ubstantial rights of [Ms. Dubois] have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

“(1) In violation of constitutional or statutory provisions;

“(2) In excess of the statutory authority of the agency;

“(3) Made upon unlawful procedure;

“(4) Affected by other error of law;

“(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

“(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Section 42-35-15(g).

This Court must not “substitute its judgment for that of the agency as to the weight of the evidence on questions of fact” and will defer to an agency’s factual determinations if they are supported by legally competent evidence on the record. *Id.*; *Town of Burrillville v. Rhode Island State Labor Relations Board*, 921 A.2d 113, 118 (R.I. 2007). Legally competent evidence is defined as “such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance.” *Rhode Island Temps, Inc. v. Department of Labor and Training, Board of Review*, 749 A.2d 1121, 1125 (R.I. 2000) (quoting *Center for Behavioral Health, Rhode Island, Inc. v. Barros*, 710 A.2d 680, 684 (R.I. 1998)).

In contrast to an agency’s findings of fact, an agency’s determinations of law, including issues of statutory interpretation, “are not binding on the reviewing court” *Pawtucket Transfer Operations, LLC v. City of Pawtucket*, 944 A.2d 855, 859 (R.I. 2008) (internal quotation omitted). Instead, this Court reviews the record *de novo* in order “to determine what the law is and its applicability to the facts.” *Id.* (internal quotation omitted).

III

Analysis

Ms. Dubois requests the decision of the Board be reversed and the Board be ordered to reimburse the \$3,129.66 deducted from her pension benefit. First, she contends the Board misinterpreted the effect of the Executive Order on the ninety-day work restriction. Second, Ms. Dubois asserts the Board erred in concluding that §§ 16-16-24.1 and 16-16-24.2 cannot be applied retroactively to reduce her pension benefit.

A

1

Tolling

Ms. Dubois asserts the Board misinterpreted EO No. 20-110 and its successor EO No. 21-71, Pl.’s Br. at 11-15, because the usage of the term “suspension” as applied to the “prohibitions and restrictions” on post-retirement employment creates an “absurd result” in contravention of this Court’s principles of statutory interpretation (citing *Zambarano v. Retirement Board of Employees Retirement System of State*, 61 A.3d 432, 436 (R.I. 2013)). Specifically, she claims the Executive Orders did not temporarily lift the forfeiture of pension benefits for retirees in excess of ninety days but rather functioned as a ‘tolling’ mechanism by postponing the ninety-day cap until June 25, 2021. In other words, Ms. Dubois’s post-retirement days only began to accrue on June 26, 2021, *after* EO No. 21-71 expired.

The Board replied the Executive Orders’ language is clear and unambiguous, requiring the Board to give them their plain and ordinary meaning. The Board argues the language suspending “prohibitions and restrictions on post-retirement employment” only suspended pension reductions pursuant to § 16-16-24. ERSRI’s Mem. at 9. In sum, Ms. Dubois contends the Executive Orders “reset” any accrual of the ninety days between August 25, 2020 to June 25, 2021 “to zero” so the days she worked did not count against her between June 26, 2021 and August 24, 2021. Pl.’s Br. at 3.

“It is well settled that when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Powers v. Warwick Public Schools*, 204 A.3d 1078, 1086 (R.I. 2019) (quoting *Whittemore v. Thompson*, 139 A.3d 530, 540 (R.I. 2016)). Only when a statute is ambiguous “it is incumbent upon us to ‘apply the rules of statutory construction and examine the statute in its entirety to determine the intent and purpose of the Legislature.’” *Id.* at 1086 (quoting *State v. Diamante*, 83 A.3d 546, 548 (R.I. 2014)).

The language of EO No. 20-110 and its successor EO No. 21-71 cannot be interpreted to simply toll the ninety-day work restriction under § 16-16-24, as the Executive Orders say something different. The Executive Orders are clear and ambiguous because they specifically use the term “suspended” as applied to the “prohibitions and restrictions on post-retirement employment” Certified R. at 173. The Executive Orders identify a clear cause and effect between the term “suspended” and § 16-16-24’s pension benefit restrictions. Ms. Dubois asks this Court to ignore the plain and ordinary meaning of the Executive Orders’ language and recast the term “suspended” to toll the number of days she worked between December 30, 2020 through June 25, 2021. There is no express or implied language suggesting the tolling of the

ninety days. However, “[i]t is not the function of the Court to add language to an otherwise clear and unambiguous enactment.” *State v. Fuller-Balletta*, 996 A.2d 133, 143 (R.I. 2010).

Therefore, the Court disagrees with the contention that the ninety-day work restriction under § 16-16-24 was not tolled by either EO No. 20-110 or EO No. 21-71. It was not tolled, it was suspended.

2

Prohibitions and Restrictions

Ms. Dubois also contends the Board erred in interpreting ‘suspension’ to apply to the pension benefit penalties and not to the accrual of post-retirement work days. Ms. Dubois’s position “is not consistent with the language, purpose, and effect of [§ 16-16-24].” Certified R. at 169.

The plain and ordinary meaning of “suspended” as applied to “prohibitions and restrictions,” *id.*, refers directly to the “forfeiture of, or reduction in, the retirement benefits and allowances the teacher is receiving” and not the ninety-day cap. Section 16-16-24(a). The statute is unambiguous because a suspension of forfeitures or reductions in retirement benefits for retirees who worked beyond the ninety-day cap would mean there was no reason to suspend the ninety-day accrual during the post-retirement employment period. The Executive Orders functioned exactly as they were intended: Ms. Dubois worked ninety-three-and-one-half-days from August 25, 2020 to June 25, 2021 and was only penalized for the fifteen-and-one-half-days from June 26, 2021 to August 24, 2021 after EO No. 21-71 expired.

This Court sees no reason to deviate from the Board’s conclusion that by the plain and ordinary terms of the Executive Orders and § 16-16-24, Ms. Dubois continued to work more than ninety days past the expiration date of EO No. 21-71.

School Year and Expiration Date

Ms. Dubois asserts the Board’s conclusion that the Executive Orders’ June 25, 2021 expiration date was erroneous because there is “conflicting evidence” regarding the definition of “school year.” Pl.’s Br. at 12. She reasons the 2020-2021 school year ended on August 25, 2021 and not June 25, 2021 as stated in the Executive Orders. She points to an expectation that school administrators—such as superintendents—work beyond the 180-day traditional school year and into the summer. (Citing Certified R. at 040-042, Hr’g Tr. 8:2-25, July 24, 2023.)

The Board contends Ms. Dubois “conflates” school year with the clear and unambiguous language of EO No. 21-71 which explicitly terminated the suspension of prohibitions on June 25, 2021 – regardless of whether administrators are continuing to work. Specifically, EO No. 21-71 states: “This Executive Order, superseding Executive Order 20-110, shall take effect immediately and remain in full force and effect through June 25, 2021 unless renewed, modified or terminated by subsequent Executive Order.” Certified R. at 031. The order is clear, this benefit ended on June 25, 2021 regardless of whether administrators are continuing to work.

This Court agrees with the Board. EO No. 21-71 states clearly and unambiguously the Executive Order expires on June 25, 2021. Given the near three-month gap between EO No. 21-71 (Order of June 18, 2021) and EO No. 21-96 (Order of September 8, 2021), there were no subsequent Executive Orders that extended the expiration date. As such, “there is no room for statutory construction,” *State v. Oliveira*, 882 A.2d 1097, 1110 (R.I. 2005) (internal quotation omitted), and EO No. 21-71 must be applied through its plain and ordinary meaning. Although Governor McKee signed EO No. 21-96 on September 8, 2021 with an October 7, 2021 expiration date, the Executive Order nonetheless contained no language effecting a retroactive

application and was signed *after* Ms. Dubois's employment with the School Department ended on August 24, 2021.

Therefore, the Board properly concluded that EO No. 21-71 and its suspension of pension forfeitures for post-retirement employment ended on June 25, 2021.

B

Retroactive Effect of Statutory Amendments

Ms. Dubois contends the amendments to § 16-16-24 require a retroactive application to Ms. Dubois's fifteen and one-half-days of post-retirement employment between June 26, 2021 and August 24, 2021, thus restoring her \$3,129.66 in pension benefits. Ms. Dubois asserts the newly amended statutes, §§ 16-16-24.1 and 16-16-24.2, should be given retroactive effect either under the theory the statutes "by implication" were designed to apply to retirees like Ms. Dubois or the statutes are retroactive because they are remedial in nature.

This Court held that "statutes will be given prospective application unless otherwise provided." *In re Alicia S.*, 763 A.2d 643, 646 (R.I. 2000). "Only when the Legislature, by express language or necessary implication, manifests its intent that a statute be given retroactive effect, will the courts apply it retrospectively[.]" *Id.* at 646-67. The Court will "examine[] whether [a] statute is substantive in nature, or remedial or procedural." *State v. Briggs*, 58 A.3d 164, 170 (R.I. 2013). "Substantive statutes, which create, define, or regulate substantive legal rights, must be applied prospectively" whereas "remedial and procedural statutes, which do not impair or increase substantive rights but rather prescribe methods for enforcing such rights, may be construed to operate retroactively." *Id.* (quoting *Pion v. Bess Eaton Donuts Flour Co.*, 637 A.2d 367, 371 (R.I. 1994)).

Sections 16-16-24.1 and 16-16-24.2 do not apply to Ms. Dubois's fifteen and one-half days because the statutes became effective after the 2020-2021 school year and after EO No. 21-71 expired. The statutes are prospective in operation and inapplicable to Ms. Dubois because they apply to retirees after Ms. Dubois completed employment on August 24, 2021. Absent express language in either statute indicating the Legislature intended a remedial effect, §§ 16-16-24.1 and 16-16-24.2 are prospective.

Finally, Ms. Dubois contends the statutes are procedural, requiring this Court to apply them retroactively. Pl.'s Br. at 18. Sections 16-16-24.1 and 16-16-24.2 are not procedural; rather, they are substantive because they “create, define, or regulate substantive legal rights” *Briggs*, 58 A.3d at 170 (quoting *Pion*, 637 A.2d at 371). The statutes, which allow retirees to exceed the ninety-day work restriction without suffering a pension forfeiture, provide a substantive right and not merely a mechanism to deliver that right to retirees.

Sections 16-16-24.1 and 16-16-24.2 lack the requisite language to summon retroactive application. Instead, the statutes are prospective and inapplicable to Ms. Dubois's fifteen and one-half days she worked between June 26, 2021 and August 24, 2021.

IV

Conclusion

After review of the entire record, this Court finds the Board's decision to recoup the sum of \$3,129.66 from Ms. Dubois's pension benefit is supported by substantial evidence and reasonable legal interpretation. The Board's decision is affirmed, and Ms. Dubois's appeal is denied.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Dubois v. Employees' Retirement System of Rhode Island**

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COURT: **Providence County Superior Court**

DATE DECISION FILED: **October 27, 2025**

JUSTICE/MAGISTRATE: **Lanphear, J.**

ATTORNEYS:

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