

Phased Retirement—

An Important Part of the Evolving Retirement Scene

by **Anna Rappaport**

As patterns of work and retirement are changing, changes are needed in societal patterns, legislation and regulation to give workers and employers better options. The primary focus of this article is creative working arrangements. The author argues that creative work options are important and that phased retirement helps meet the needs of both individuals and employers. She provides practical information to employers and encourages improvements in the environment to make these programs easier to implement and utilize. The article is based on testimony provided to the ERISA Advisory Council in July 2008, as well as other continuing work on phased retirement.

INTRODUCTION

As baby boomers have been reaching retirement age, there has been a great deal of focus on the “new retirement.” Working in retirement is a big part of the new retirement and seems to be another way to think about phased retirement. There is no standard legal or agreed-on definition of phased retirement.¹ The term has been used to mean different things to different people. The author thinks of *phased retirement* as any arrangement that allows people to move from full-time work to no-paid work in steps. Sometimes people move in and out of work or work seasonally or occasionally. Under such a definition, about half of all American workers phase into retirement in some way, very often without formal support or a formal program from a long-term employer.

The author thinks of phased retirement in several different ways:

- As methods of accessing retirement funds while working
- As a pension issue primarily
- As a set of creative work arrangements that

may reflect something different from full-time work or full-time retirement.

This article’s primary focus is creative working arrangements. Its goals are to provide practical information to employers to help with creative work options and phased retirement, and to encourage improvements in the environment to make these programs easier to implement and utilize.

THE IMPACT OF THE PENSION PROTECTION ACT

The Pension Protection Act (PPA) opened up new options for companies that sponsor defined benefit (DB) retirement plans. Until PPA, employers were not allowed to pay retirement benefits from such a plan—as either a pension or a lump-sum payment—until an employee had terminated employment or reached the plan’s normal retirement age. This restriction was one of many deterrents to employers implementing a formal, phased retirement program. The new law eased that restriction. With the benefit year that begins on or after

January 1, 2007, defined benefit payments may be made to employees who are aged 62 or older *even if they continue to work*. However, the Internal Revenue Service (IRS) still needs to provide more detailed guidance about what the new law means. The IRS issued Notice 2007-8 and posed several questions with regard to phased retirement. The IRS had previously issued proposed phased retirement regulations several years ago, and one of the questions was whether these proposed regulations should be finalized or abandoned.

The author and other commenters indicated to the IRS that broad questions should be addressed including the following:

- At what ages are individuals seeking to continue work and redefine their work obligations?
- How important are in-service distributions and what is the range of how they might be structured so that they would be attractive to employers and employees?
- What safe harbors would assist employers in rehiring retirees?
- What safe harbors are needed to assure employers that design job options that they will not be creating age discrimination compliance problems?
- Are there related issues when employers focus on the Medicare as secondary payer rules?

The issues surrounding these regulations remain open, and many details with regard to what can be done with pensions are unclear. In addition, many experts and most employers believe that the age 62 limit in PPA is too stringent. As patterns of work and retirement are changing, changes are needed in societal patterns, legislation and regulation to give workers and employers better options. Other areas need change to clarify and make easier the payment of pensions to those in a phased retirement arrangement. The author encourages Congress, federal agencies and employers to work together to open up the way to new employment options and to encourage greater use of options already in place.

Few employers have adopted programs to utilize the provisions of PPA. Policy issues remain under discussion. A working group attached to Georgetown University Law Center's Workplace 2010 initiative is looking at policy issues surrounding phased retirement. This topic was on the agenda of the 2008 ERISA Advisory Council.

Before PPA, employers already had other options for offering phased retirement, and that is where most of the action is. However, these options are not well understood and remain underutilized. Two that are important are:

1. Phased retirement under a defined contribution (DC) pension plan: Programs that involve distributions solely from a DC plan can start as early as age 59½ and are unaffected by the new law. DC plans can be used to help support phased retirement and the creative work arrangements discussed in this article.

A lot has been happening in U.S. society that affects when and how people aged 55 to 75 will participate in the paid labor force and when and how they will retire. ◀

2. Phased retirement through rehiring or working with retirees: Once an employee has retired, an employer may rehire him or her while continuing to make DB pension payments. This arrangement is sanctioned after a bona fide termination of employment, but there is no specific legal definition of what constitutes a bona fide termination of employment.

The most common form of phased retirement is rehiring of retirees, which was not affected by the PPA provisions. It remains the most important form of phased retirement. The legal uncertainties surrounding it are unchanged and have not been addressed by either PPA or the earlier proposed regulations.

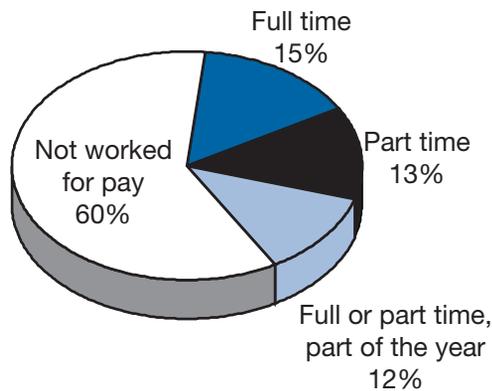
CONTEXT

A lot has been happening in U.S. society that affects when and how people aged 55 to 75 will participate in the paid labor force and when and how they will retire. Key drivers of the evolving situation include:

- An aging labor force and population as baby boomers reach traditional retirement ages, accompanied by shifts in labor force participation. After many years of declining male labor force

**FIGURE 1
PERCENTAGE OF PERSONS
RETIRED FROM THEIR PRIMARY
OCCUPATION AND CHOOSING
PHASED RETIREMENT**

**Phased retirees: i.e., those working for pay
in the last year (n=274)**



Source: 2005 Risks and Process of Retirement Survey, Society of Actuaries.

participation at higher ages, these labor force participation rates are increasing.²

- A higher proportion of the people in the labor force at ages 65 to 69 working full time³
- An evolving pension system with a substantial decline in DB plans and major growth in DC plans
- Growing recognition that working longer is important for many individuals and for society at large. Focus on creative and flexible job options and how they can be facilitated.
- Focus on differences in how people in the third age group would like to work, and are working, including definition and study of encore careers.⁴ Interest on the part of people who are collecting retirement benefits continuing to work on some basis leading to a lot of discussion about “working in retirement”
- Interest in phased retirement including retiring gradually or moving gradually from full-time work to total exit from the labor force.

This article supports the proposition that creative work options are important and that phased retirement helps meet the needs of individuals and employers. It also offers some recommendations to policy makers and other stakeholders.

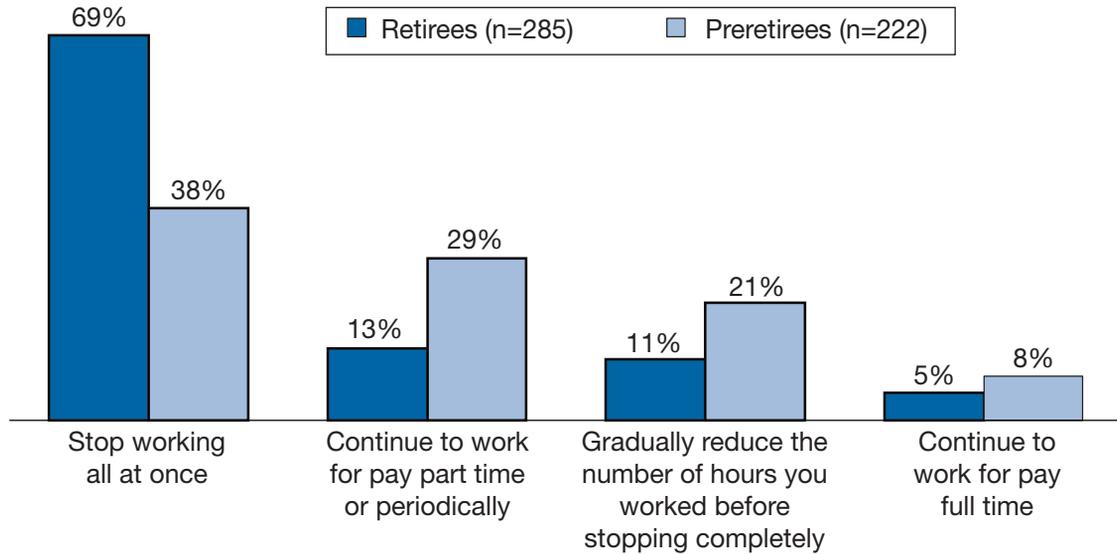
**PHASED RETIREMENT: EMPLOYEE
AND INDIVIDUAL PERSPECTIVE**

Researchers have been analyzing the Health and Retirement Survey (HRS) for a number of years to understand patterns of work and bridge jobs among those near and at retirement ages. About half of the U.S. workforce is moving from full-time work to full-time retirement through a variety of means. Few of them are part of formal phased retirement programs. Rather:

- Many employees work part time in a regular job before leaving the workforce, and some work part time for many years during their careers. Part-time work opportunities are commonplace in some industries, such as health care and retail industries.
- Other employees retire from a long-term job and then go back to work. Some go back on a project or temporary basis, some part time and others full time. The *Society of Actuaries’ 2005 Risks and Process of Retirement Survey* explored whether working retirees were working for the same or a different employer and what they were doing. Of the retirees who were working in retirement, 31% were working for the same employer as before retirement; 45% were doing the same type of work as before retirement; and an additional 26% were doing different work, but using the same skills that they had used before retirement. See Figures 1 to 4 for more results from that survey.
- A report from The Conference Board,⁵ “Phased Retirement After the Pension Protection Act,” describes the difference between *phasing a little* and *phasing a lot*, and between *phasing preretirement* and *phasing postretirement*. *Phasing a little* means working close to a full-time schedule and *phasing a lot* means work that is very different from a regular full-time schedule. In many cases, “phasing preretirement” and “phasing a little” go hand in hand, and “phasing a lot” and “phasing postretirement” go hand in hand. See the following discussion for more detail on “phasing a little” and “phasing a lot” and for information on how these concepts can apply to different jobs.
- Many people are choosing encore careers. The MetLife encore career study focuses on purpose-driven work and provides insight into those who are in encore careers as well as those who are interested in them. The 2008 MetLife Foundation/Civic Ventures Encore Career Study indicates that encore careers are

FIGURE 2

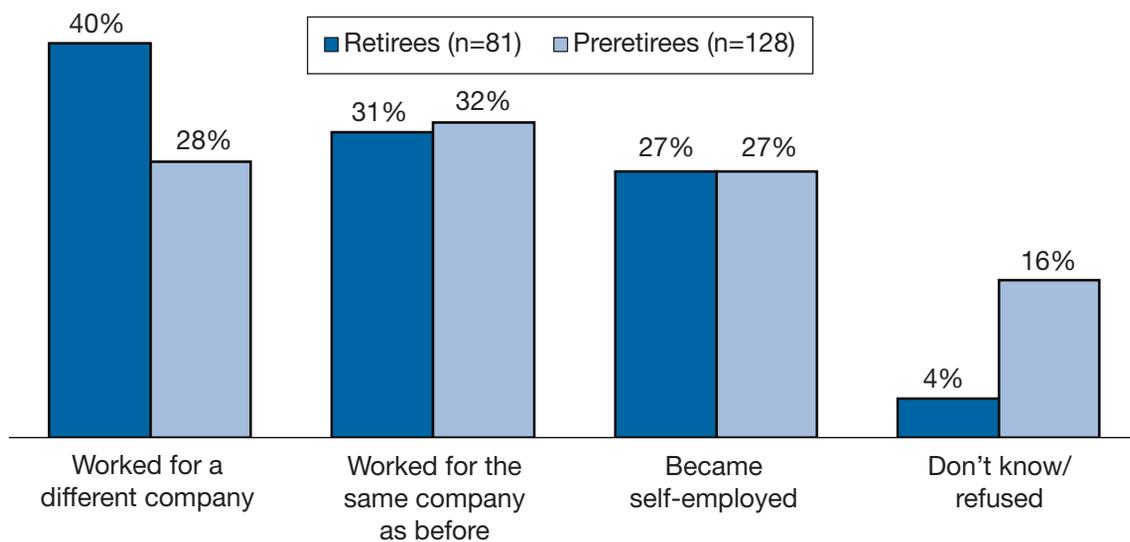
PHASED RETIREMENT AMONG RETIREES AND EXPECTED PHASED RETIREMENT AMONG PRERETIREES



Source: 2005 Risks and Process of Retirement Survey, Society of Actuaries.

FIGURE 3

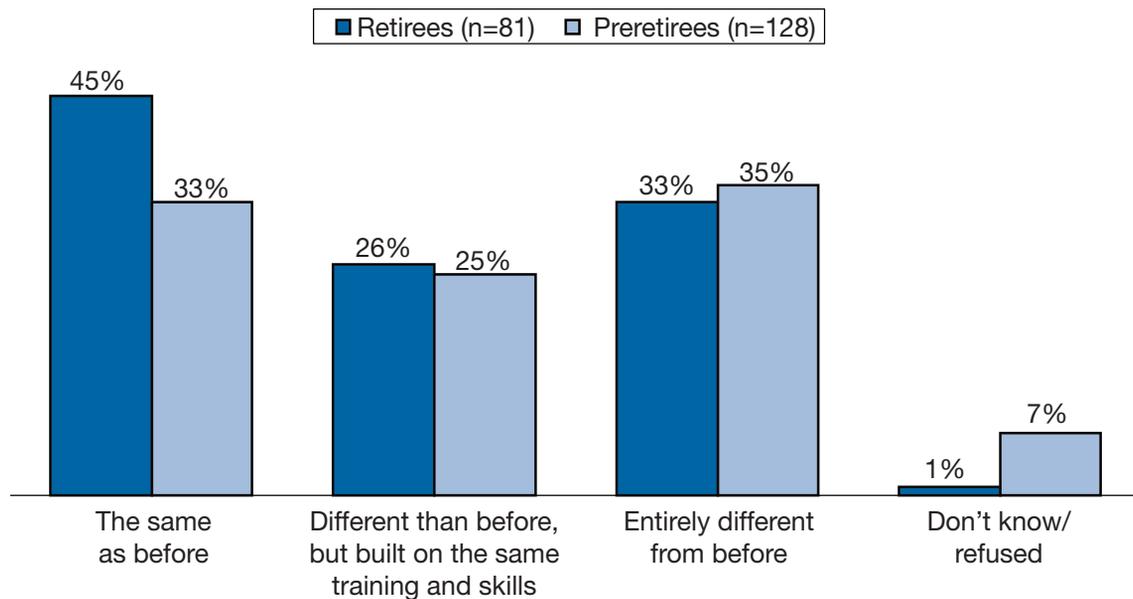
WORK ACTIVITY AMONG RETIREES AND EXPECTED WORK ACTIVITY AMONG PRERETIREES: EMPLOYMENT VS. SELF-EMPLOYMENT



Source: 2005 Risks and Process of Retirement Survey, Society of Actuaries.

FIGURE 4

WORK ACTIVITY AMONG RETIREES AND EXPECTED WORK ACTIVITY AMONG PRERETIREES: TYPE OF WORK PERFORMED



Source: 2005 Risks and Process of Retirement Survey, Society of Actuaries.

already a reality for between 5.3 million and 8.4 million trailblazers aged 44 to 70.⁶ The study indicates that half of those aged 44 to 70 who are not yet in encore careers are interested in such careers.

DIFFERENT IDEAS ABOUT PHASING: “PHASING A LITTLE” VS. “PHASING A LOT”

- *Phasing a little* means making a modest change in regular work schedule and conditions. The employee who is *phasing a little* probably remains a regular employee with a fixed work schedule and continued benefits.
- *Phasing a lot* means a big change—probably a drastic change—in schedule or duties. Many employees who are *phasing a lot* do not have a regular work schedule but may work irregularly on demand or on a project basis. Table I contrasts “phasing a little” and “phasing a lot.”
- Phasing can start before retirement and continue into retirement. The employee who starts

phasing before retirement is most likely “phasing a little,” whereas the employee who continues to work after retirement but works on a very different basis is likely to be “phasing a lot.”

- Table II provides an example based on a bank teller in a multibranch bank. The employee phasing preretirement and “phasing a little” may work a three- or four-day-a-week schedule at a branch regularly assigned, with pay on a pro-rata basis and regular benefits. That individual is unlikely to be collecting pension benefits during the “phasing a little” period. The employee “phasing a lot” may be used as an on-call floater to fill in where needed in different branches with a totally variable schedule. The employee “phasing a lot” will probably be collecting his or her pension if there is a pension plan and not be covered by active employee health benefits. He or she will probably have the option to turn down an assignment when offered. An example of a research scientist is also provided.

TABLE I
DIFFERENT OPTIONS FOR PHASED RETIREMENT

	Phasing a little	Phasing a lot
Schedule options	For example: <ul style="list-style-type: none"> • Working 20% fewer hours, or compressing work into fewer days • Taking extra vacation time • Commitment to work at least 70% of usual schedule on flexible basis 	For example: <ul style="list-style-type: none"> • 60% or less of usual work hours or work load • Seasonal or occasional work • On-call status • Project work • Job sharing
Employment relationship	A regular employee	May be viewed as a regular employee, a temp or a consultant
Pension payments likely to be part of the arrangement	Usually not, at present. It remains to be seen whether partial payments after the age of 62 will become more common.	Yes, particularly for those people who are working in retirement
Level of commitment and job definition required	Ongoing commitment to specific job and job definition	May involve ongoing commitment or may allow choosing whether to work on a project-by-project basis
Gain in flexibility for company and employee	Moderate	Can be very large
Income predictability	Same as for regular job	Limited predictability, except in high-demand occupations
Employer health benefits	Preretirement phasing most attractive if health benefits remain available	<ul style="list-style-type: none"> • Retiree health coverage is unaffected by phasing. • Postretirement phasers are usually not entitled to receive same health benefits as active employees. Therefore, this option may not be feasible for those who lack retiree health benefits or coverage through another family member and/or who are not yet Medicare-eligible.
Flexible work options such as different length shifts, part time	Often same flexible work options as those offered to other employees	Flexible work options may be different from those offered to other employees.

Source: Phased Retirement After the Pension Protection Act, The Conference Board, 2007.

TABLE II**PHASED RETIREMENT OPTIONS APPLIED TO DIFFERENT JOBS**

	Phasing Preretirement	Phasing Postretirement
Bank teller	<ul style="list-style-type: none"> • Work four days a week on an ongoing basis • Work as a regular employee • Work at the “normal” work location • In the future, could be paid partial pension after the age of 62, if company policy allows. 	<ul style="list-style-type: none"> • Work as fill-in during vacations or on-call during the year • Work as a temporary or through a retiree pool • In a bank with multiple branches, might be able to work in different locations, but working from home or from a seasonal residence not possible • Paid pension and appropriate compensation for work
Research scientist	<ul style="list-style-type: none"> • Move out of management role, take on mentoring of some younger scientists and reduce number of projects • Paid salary on prorated or other agreed-upon basis, rather than by the job or project • Potential for a lot of flexibility of time with agreed-on commitment; type of work being done may or may not require specific location • Could be paid partial pension if after the age of 62 in addition to salary; at present, unlikely that such payment is being made 	<ul style="list-style-type: none"> • Serve as advisor, trainer or team member on specific projects • Paid pension and part salary, or paid by hour or project while collecting pension • Time commitment as agreed on; work probably involves significant flexibility of place

Source: Phased Retirement After the Pension Protection Act, The Conference Board, 2007.

WHY CREATIVE AND RESTRUCTURED WORK ARRANGEMENTS: EMPLOYEE AND INDIVIDUAL PERSPECTIVE

One of the questions that some people will ask is why people choose a reduced or restructured work arrangement rather than work full time for a longer period. There are a number of reasons:

- Many professional and white-collar jobs, particularly those that do not pay for overtime, have become much more demanding and turned into stressful 50- and 60-hour-a-week jobs.
- Disability and physical limitations: A Congressional Budget Office (CBO) study indicated that of the people aged 50 to 61 not in the labor force, 54% of men and 40% of women were disabled. These people may still wish to work, but probably on a reduced basis. Research presented at the Society of Actuaries’ annual meeting in 2007 by Barbara Butrica of the Urban In-

stitute indicated that work at older ages is not limited to those in good health, but those in good health are much more likely to work. Of adults aged 55 and older in 2002, 39% were working, 51% of those in excellent health were working, 39% of those in good health were working and 20% of those in poor health were working. This research used the HRS as the underlying data source.

- Family members needing care: Many people aged 50 and over have parents or spouses who need regular help and care. Women are more affected by spending large amounts of time on caregiving than men.
- In couples where both worked regularly and one retires before the other, phased retirement may be a very good option for those who choose to continue working but want more time with their spouse.
- Being able to choose projects, have flexibility

with regard to time and degree of work commitment, and reduce work pressures

- Interest in a different life balance and ability to take more vacations and spend more time with family
- Interest in doing a different type of work.

It should also be noted that for many years, about four out of ten people retired earlier than planned, often due to job loss, ill health and family members needing care. In 2008, the proportion leaving earlier than planned increased to five out of ten.⁷ Many of these people would like to have continued working, but often on a basis that fits redefined priorities.

Restructured work arrangements can be within the same organization that a person retired from, a different organization or, in some cases, a combination if an individual is doing consulting or temporary assignments.

PHASED RETIREMENT: EXAMPLES OF WHAT EMPLOYERS HAVE DONE AND ARE DOING

Research reports from The Conference Board (TCB), plus a report from the MetLife Mature Market Institute, *Searching for the Silver Bullet: Leading Edge Solutions for Leveraging an Aging Workforce*, offer sources of information about what companies are doing. So does the American Association of Retired Persons (AARP) in its description of organizations that have been selected as Best Employers for an Aging Workforce.

The following are creative approaches to older worker employment and rehiring of retirees:

- The Southern Company uses a retiree pool. This is a utility, and retirees are used to fill in when there are extra demands from events such as major storms. Utilities commonly need extra help in such situations. Note that while many case studies describe professional and office jobs, these are blue-collar jobs (described in a TCB report and Webcast).
- YourEncore⁸ is a consulting and innovation company that works with a group of client organizations to do projects using a core of over 4,000 engineers and other experts, most of whom are retirees. The experts cannot work more than 1,000 hours in a year, and they may work for their former employers or others. YourEncore's original client companies were Eli Lilly, Proctor and Gamble, and Boeing Corporation, and it now has 30 Fortune 500 clients. As of July 2008, YourEncore had completed about 700 projects for clients involving

over 250,000 hours of work and it had also opened an office in the United Kingdom. YourEncore is an example of a third-party solution using an innovative approach well fitted to the needs of individuals and companies. However, it is limited to specialized work performed by highly trained experts (described in two TCB reports).

[AARP has a National Employer Team \(www.aarp.org/money/careers/findingajob/featuredemployers/info.html\).](http://www.aarp.org/money/careers/findingajob/featuredemployers/info.html)

The organizations listed with this service have a commitment to hiring seniors and are likely places for seniors to seek out employment. The listed organizations span retail, financial services, health care, communications, caregiving, staffing and security, the federal government, and transportation and travel. ◀

- The Aerospace Corporation is an independent nonprofit company that provides technical analyses and assessments for national security. The organization has a retiree casual program to bring back retired engineers. About 600 retirees are signed up for the program, and approximately 300 may be working at any one time (described in *Searching for the Silver Bullet*⁹).
- MITRE is another nonprofit organization that manages government-funded research and development programs and brings back retirees through its "Reserves at the Ready" program (described in *Searching for the Silver Bullet*).
- Monsanto Corporation has a Resource Re-entry Center, a program available to former employees, whether they are retired or not (described in *Searching for the Silver Bullet*).
- Several companies offer "third-party solutions" to rehiring retirees. For example, Kelly Services manages a pool of claims examiners for an insurance company. They are called in times of greater need, such as after major storms. Kelly Services also manages the substitute teacher programs for some school districts. Kelly Services offers people registered with

them the opportunity to work in diverse locations (described in the *Gray Skies, Silver Linings* from TCB¹⁰).

- Some organizations offer “snowbird” programs allowing employees to work at different locations during different parts of the year. Examples of organizations with such programs include Home Depot, CVS and Walgreens. These are creative work options well suited to retirees and other older workers.

One organization identified in the TCB report, Bon Secours Health System, uses three different approaches to phased retirement.

1. Employees may “retire” at the age of 65 but continue working part time (not more than 24 hours per week) while collecting their full pension.
2. Employees who work past the age of 70½ begin receiving a pension check in April of the following year, regardless of whether they continue to work for Bon Secours.
3. Employees who prefer to retire altogether may come back to work after an absence of at least three months. They continue to receive retirement benefits after they are rehired, regardless of how much they work.

Employees who choose any of the options continue to earn pension credit if they work over 1,000 hours in a year. Their benefit is then recalculated when they stop working.

This organization has 85% female employees, many of whom have spouses who retire before they are ready. They love the phased retirement options. As of September 2008, of 170 employees who were over the age of 65, 80 were participating in a phased retirement option.¹¹

In a TCB Webcast, Dawn Malone from Bon Secours Health System described some case studies of employees and how they had moved from job to job. Here is one example:

“In this next scenario, we’ll look at Nettie’s career. She began nursing in 1957. She worked on three units. She was one of the first ‘working mothers’ to request flex scheduling to accommodate child-care issues. Her husband was in the military and was gone for months at a time. She was originally hired to work 3:00 to 11:00 p.m. However, with small children at home and child-care issues interfering with her work schedule, Nettie lobbied the nursing director to allow her to flex her schedule. She worked 7:00 a.m. to 7:00 p.m. for many years.

“In 1975, she transferred to Employee Health. During this time, she also worked PRN evenings, and weekends on the units. This made her the first em-

ployee allowed to work in more than one cost center—another flex scheduling milestone. In 1999, she retired. Then in January 2000, she returned to work for Employee Wellness. Among other duties, she performs TB skin tests on employees. She has gradually reduced her hours since retirement. She currently works two days per week.”¹²

This and several other examples made phased retirement much more understandable and demonstrated how individuals use a range of options to apply skills in different roles.

AARP has a National Employer Team (www.aarp.org/money/careers/findingajob/featuredemployers/info.html). The organizations listed with this service have a commitment to hiring seniors and are likely places for seniors to seek out employment. The listed organizations span retail, financial services, health care, communications, caregiving, staffing and security, the federal government, and transportation and travel.

WHY CREATIVE AND RESTRUCTURED WORK ARRANGEMENTS: THE EMPLOYER PERSPECTIVE

One can ask the question whether from an employer perspective it is not simply more efficient and desirable to work with full-time employees. Certainly full-time employees are the majority of the workforce in most organizations. But there are a number of situations where alternative arrangements can be a strong support and complement to the regular full-time workforce. Here are some examples relating to the aging workforce:

- As many organizations have cut their regular staffs to the bare minimum, many special projects wait for time to do them. Former employees are often ideally suited to assist with such projects.
- Former employees may be ideally suited to assist in running special training classes and seminars.
- Some organizations have peak loads related to external events, some of which may be unpredictable. For example, utilities need extra help after major storms to restore power. There is also a lot of building and home repair, construction and other work after natural disasters. Insurance companies and banks are also involved in claim payment and financing the consequences of these events.
- Some organizations need to offer customer service around the clock or beyond one work shift. Health care, banking and retail organizations

are examples of industries with such requirements. Using a mix of part-time and extra help can work very well for such organizations, particularly since their need for help is not constant around the clock.

- Mining and manufacturing companies may also need to operate around the clock. Depending on the situation, their needs may be more uniform around the clock.
- Some organizations use a mix of regular employees and added employees, depending on work load, and work with on-call people. For example, hospitals supplement their regular nursing staff with on-call nurses.
- Some organizations have very seasonal work patterns or additional work loads. Full-time workforces need to be supplemented. Examples of industries with seasonal variation in work loads include agriculture, travel and tourism, cosmetics and toy manufacture, and retail.
- It is important for promotion paths to be open to people who are building careers. There are many situations where it would be very helpful to have senior experienced people who are expecting to retire move into different roles so that they can help mentor and facilitate knowledge transfer. They can also be invaluable in continuing to build intellectual capital.
- Temporary help is needed when people are out on disability or maternity leave, as well as for longer vacations. Usually temporary help is not from the organization where they are working, but people who know the organization can often be much more effective. Some organizations have set up pools of their own retirees to fit into temporary jobs. Substitute teachers are an example of a temporary pool where there is clearly a long-term, well-established need.

These are examples of situations where retirees who want to work on an occasional basis can fit well into organization needs.

THINKING ABOUT REHIRE OF RETIREES

Much of the phased retirement today is in the form of hire or rehire of retirees, either by their prior employer or by a new employer. Much of the literature is about phasing out and payment of pension benefits for people who are partly retired. This article focuses on rehire because it is often neglected in the literature, and the author believes that it is the most common form of phased retirement in the private sector. And modest policy

changes related to rehire would ease barriers and not be costly to anyone.

Rehire by the same employer where there are pensions being paid requires a bona fide termination of employment.¹³ There are complexities involved in the rehire of retirees because of provisions in the pension and employment law and employee benefit plans and because these individuals may often want to have creative work arrangements.¹⁴

Whether phased retirement will fit the needs of an organization depends on its demographics, talent mix and gaps in talent. Planning for phased retirement is part of the talent management and planning process. ◀

The author's understanding is that different employers handle rehire of retirees in various ways:

- Avoid rehire entirely
- Make people wait a period to be rehired
- Limit work of rehires to less than 1,000 hours—usually done in connection with wait
- Engage retirees as consultants
- Use an independent contractor arrangement
- Work through a third party like a temp agency or a specialized consulting firm.

These different methods of handling rehires can be used in combination. For example, a rehired retiree might be an independent contractor, not allowed to work more than a certain number of hours and not being able to be hired as a contractor until six months have elapsed from termination of employment. The author's impression is that informal phased retirement is more common than formal programs. Of 63 respondents to a polling question in a 2007 Webcast sponsored by The Conference Board, one had a formal phased retirement program and 21 had informal programs.¹⁵

Employers seeking to rehire retirees are faced with a tangle of legal complexities and ill-defined

rules. It would be a great help to clarify and define what is a bona fide termination of employment and offer safe harbors so that employers could know what approaches are safe and could choose the best for them. Ideally, safe harbors should deal with the combination of issues related to termination of employment and age discrimination and should serve to keep independent contractor status issues from raising added roadblocks. For example, an arrangement that does not include a regular ongoing job and involves less than 750 hours of work per year could meet a safe harbor test. Participation in a pool with a limit on total work should also qualify.

RECOMMENDATIONS TO HELP FACILITATE PHASED RETIREMENT

Phased retirement can be facilitated by better public information and by policy changes. Employers can also adapt their environment to phased retirement. The focus of this discussion is heavily on supporting further development of creative work arrangements and encore careers and to make hire (and rehire) of retirees easier. There is a related set of issues dealing with pension benefits and the broad approaches to phased retirement.

RECOMMENDATIONS FOR EMPLOYERS

Integrate with talent management: Whether phased retirement will fit the needs of an organization depends on its demographics, talent mix and gaps in talent. Planning for phased retirement is part of the talent management and planning process.

Build an organized process: The following is a checklist¹⁶ for including phased retirement in the people management process in an organization:

- Build the program on a solid needs analysis, identifying talent issues and employee preferences. Integrate the program into the organization's talent management strategy so that it is aligned with other programs and consistent with underlying culture and values.
- Integrate phased retirement with efforts to promote knowledge transfer.
- Communicate to business units about available options. Provide guidance on appropriate use of phasers.
- Align health benefits with the work options the company wants to promote.
- Give supervisors and division managers leeway to structure the job to meet the needs of the organization and the employee.

- Make paperwork clear and easy.
- Minimize red tape to prevent bottlenecks in the approval process or in getting people paid.
- Start small, keep good records, evaluate and refine.

Recognize that working retirees have specific issues. Many organizations that want to hire retirees (their own or others) as independent contractors have problems dealing with these people since they are not employees and they are different from the typical contractor they deal with. Contracting departments have little knowledge about the characteristics of retirees and the work for which they are typically hired. Standard contract requirements that work well when an organization is outsourcing its technology or doing other outsourced functions can be impossible for the retiree who is an independent contractor. Infrastructure and model documents are needed to accommodate this situation. The issues that need to be considered depend on the type of work to be done, but in some cases there are tricky issues surrounding intellectual property as well as confidentiality.

RECOMMENDATIONS FOR INDIVIDUALS

- Keep skills up to date.
- Build your dream and decide what you would most like to do in terms of work in retirement. Explore options and try to make it work. Ask rather than assume that it will not happen.
- Evaluate the implications of retiring at different times before you retire, or start to retire.

RECOMMENDATIONS FOR PUBLIC INFORMATION

Information paper for employers: Employers may be reluctant to implement programs because of uncertainties and ambiguities. An information paper on creative job options, including hiring and rehiring retirees, would lay out special issues and options relating to the employment relationship, including use of pools, third parties and independent contractor arrangements. Legal issues surrounding rehire, including bona fide termination of employment, independent contracting and age discrimination, should be included.

Such a paper would enable employers to understand what they can do in the current environment and make it easier to do it. A paper would also enable the benefits and human resources people working on employment programs to deal more effectively with others in their organizations.

Information paper for individuals: A useful information paper for individuals would be one that would help those seeking work opportunities better understand how to navigate issues with a prior employer without causing difficulty with their benefits, how to manage contracting issues, etc. Recent research on encore careers has identified difficulties with making transitions and bridges. The paper should also assist individuals in identifying opportunities with others and identifying specialized third-party services focused on encore careers.

Public education about implication of retirement age: The author believes that gradually exiting the labor force is desirable for many people, regardless of the age at which they exit. The age at which people claim Social Security and pension benefits and the age at which they start using accumulated DC plan assets will have a major impact on whether people are likely to run out of money. Many have inadequate funds at retirement. Materials for retirement education should strongly encourage and make it easy for individuals to see the implications of starting to use retirement assets at different ages.

POLICY CHANGES TO SUPPORT PHASED RETIREMENT AND CREATIVE WORK OPTIONS

Develop safe harbors for creative work arrangements and rehire of retirees with key focus on bona fide termination of employment: The author has separated safe harbors from the information paper because there is a lot that can be done now (and is being done). The next step is to develop and publish safe harbors with regard to bona fide termination of employment. This would enable more of the people seeking work in retirement to return to prior employers and make it easier for employers to know what is acceptable. Safe harbors that work well may cross several different legal areas. Such safe harbors would be helpful regardless of whether the outstanding pension policy issues are solved.

Pension-related policy: Pension policy issues are beyond the scope of this article, but in the long run it would be very desirable to resolve the DB plan-related issues linked to phased retirement. ◀

Endnotes

1. Note that programs provided for tenured faculty in universities are excluded from this discussion. Those programs are more like “buyout of tenure” programs and are very different since the employment deal is very different from typical private sector jobs.

2. Gendell, Murray, “Older workers: increasing their labor force participation and hours of work,” *Monthly Labor Review*, January 2008, Table 5.

3. Gendell, Murray, “Older workers: increasing their labor force participation and hours of work,” *Monthly Labor Review*, January 2008, Table 6.

4. Encore-careers is a term used in the MetLife Foundation/Civic Ventures Encore Career Study. It says, “Men and women in midlife and beyond are crafting a new phase of work that offers not only continued income but the promise of greater meaning and the chance to do work that means something beyond themselves.” The study called these careers encore-careers.

5. The Conference Board operates as a global independent membership organization working in the public interest. It publishes information and analysis, makes economics-based forecasts, assesses trends and facilitates learning by creating dynamic communities of interest that bring together senior executives from around the world. The Conference Board is a not-for-profit organization and holds 501(c)(3) tax-exempt status in the United States. For additional information about The Conference Board, visit www.conference-board.org.

6. Survey conducted in April 2008, MetLife Foundation/Civic Ventures Encore Career Study.

7. Employee Benefit Research Institute, Retirement Confidence Study Series, Washington, D.C.

8. For more information on YourEncore, see www.yourencore.com. Data in this paragraph is unpublished data supplied to the author by YourEncore in July 2008.

9. MetLife Mature Market Institute®, November 2007, David DeLong & Associates; available at www.metlife.com/FileAssets/MMI/MMIStudiesSearchingSilverBullet.pdf.

10. Gray Skies, Silver Linings: How Companies are Forecasting, Managing, and Recruiting a Mature Workforce,” Mary Young with Diane Pikatialis and Anna Rappaport, The Conference Board, December 2007, available at www.conference-board.org/publications/describe.cfm?id=1392.

11. Unpublished data supplied by Bon Secours to the author in September 2008.

12. Several examples are published in *Pension Section News*, the Society of Actuaries, January 2008, “Some Interesting Information About Phased Retirement” by Anna M. Rappaport.

13. Bona fide termination of employment—if a retiree collecting pensions from a plan covered by the pension law covering private sector plans, ERISA and related laws, is to be rehired, there must first be a bona fide termination of employment. Otherwise the qualified (or tax-preferred) status of the pension plan is in

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danger. However, there are no regulations or general agreements about what is a “bona fide termination.”

14. The barriers related to getting hired by a former employer arise from the interaction of legal concerns, company rules and provisions of employee benefit plans. The barriers that relate to getting hired either by a former employer or a new employer relate to not having an established category of engagement that fits well to the status of being a phased retiree. For example, contracts used for independent contractors may be designed more for working with information technology companies than individual experts.

15. *Pension Section News*, the Society of Actuaries, January 2008, “Some Interesting Information About Phased Retirement” by Anna M. Rappaport.

16. Checklist is from Anna Rappaport and Mary Young, *Phased Retirement After the Pension Protection Act*, 2007, The Conference Board, New York.

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