

**HOUSE . . . . . No. 13**

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**The Commonwealth of Massachusetts**

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PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION  
5 MIDDLESEX AVENUE, 3RD FLOOR  
SOMERVILLE, MASSACHUSETTS 02145

The Honorable Steven James  
*Clerk of the House of Representatives*  
State House, Room 145  
Boston, Massachusetts 02133

Dear Mr. James:

Pursuant to the provisions of Section 33 of Chapter 30 of the General Laws, I hereby submit the attached legislative recommendations from the Public Employee Retirement Administration Commission for consideration during the 2007-2008 legislative sessions.

The attachments to this letter contain summaries of the proposed recommendations and the actual legislative drafts incorporating the recommendations.

The proposed bills are:

AN ACT RELATIVE TO PENSION REFORM

AN ACT RELATIVE TO CHAPTER 32, SECTION 91A  
HEARINGS

Please feel free to contact me should you have any questions about the content of these recommendations or need any additional information. Thank you for your assistance.

Sincerely,

JOSEPH R. CONNARTON,  
*Executive Director.*

**LEGISLATIVE RECOMMENDATIONS OF THE  
PUBLIC EMPLOYEE RETIREMENT  
ADMINISTRATION COMMISSION  
2007-2008 Legislative Session**

1. AN ACT RELATIVE TO PENSION REFORM

Under the enactment of Chapter 306 of the Acts of 1996, PERAC was established for the oversight, guidance, monitoring and regulation of all public pension systems throughout the Commonwealth. After ten years in operation, the Commission conducted a major reexamination of PERAC's statutory authority to oversee the 106 retirement systems. This bill seeks to update PERAC's ability to effectively and efficiently oversee these systems. It also provides governance enhancements for their boards to help ensure their sound operation and thereby further safeguard the assets of the members.

Among the major areas impacted are:

1. Updating outdated retirement board investment restrictions;
2. Instituting financial disclosure requirements for retirement board members;
3. Mandating a competitive bidding process for services provided to retirement boards including: money management, audit, accounting and legal;
4. Instituting mandatory yet reasonable continuing education requirements for all board members;
5. Clarifying PERAC's ability to take strong concerted action to protect the assets of the systems, including the removal of board members when a violation of law, regulation or fiduciary responsibility has taken place; and,

6. Requiring that any employer entering into a collective bargaining agreement with an employee organization must provide a copy of said agreement to the retirement board to which the employees covered by the agreement are members. All retirement systems must maintain files of all active collective bargaining agreements which cover the systems members. The retirement board shall review collective bargaining agreements for compliance with the provisions of chapter 32. Each board shall maintain copies of all collective bargaining agreements which cover the systems members and shall make such agreements available to the commission for review at such time as the commission shall specify.

## 2. AN ACT RELATIVE TO CHAPTER 32, SECTION 91A HEARINGS

Chapter 32 of the Massachusetts General Laws charges PERAC with general responsibility for the efficient administration of the Commonwealth's retirement systems. Section 91A provides that "Every person pensioned or retired ... for disability ... shall in each year ... file a statement ...certifying the amount of earnings from earned income during the proceeding year." Section 91A further provides that if a retiree's annual earnings exceed an amount which when added to the member's retirement allowance is greater than the current regular compensation which the retiree would have earned had he continued in service plus the sum of \$5000.00 the retiree shall refund the portion of his retirement allowance that exceeds the earnings limit for the previous year. The local board shall hold the retiree's current pension as security until such excess is refunded.

Chapter 32 Section 91A provides that "Prior to any termination or reduction of benefits ...the member ... shall be given an opportunity to be heard by the retirement board and, upon such termination ...shall have the right to appeal to the contributory retirement appeal board." The Legislature, through Chapter 306 of the Acts of 1996, gave the enforcement of this section to PERAC. However, while PERAC actually applies and enforces this section of the law, local retirement boards are required to hold the hearings contemplated by the statute. Currently, every board applies this provision differently.

There is no uniformity as to the methodology of the hearing, who has the burden and what is the burden of proof during the hearing. This has resulted in an unequal application of the statute. This bill would expedite the process by allowing retirees to request a hearing directly with PERAC and still have the right to appeal to CRAB. This bill would provide a level playing field for all retirees, and bring uniformity to the statute. It would also reduce the cost to the local retirement boards because they would not need to hold a hearing. PERAC will assume all associated costs of the hearings, and will utilize its in-house counsel to represent PERAC's position at the hearing.